

VPB GUIDANCE NOTE 08/22

DEATH OF AN APPLICANT PRIOR TO APPLICATION DETERMINATION

May 2022

In the unfortunate event that an applicant, who has made an application in accordance with regulation 8 of the Victims' Payment Regulations 2020 (the "Regulations"), dies prior to a determination of their application, a decision is required as to how the application should progress through the Troubles Permanent Disablement Scheme (the "Scheme").

Under regulation 9, on the death of a person entitled to victims' payment (such entitlement found at a panel determination), a nominated person may receive such payments for a period of 10 years beginning with the date of death of the applicant.

Regulation 10 (Posthumous applications), however, allows for an application to be made by an individual who meets the regulation 9 nominee criteria, in respect of a person who would have been, before death, entitled to victim's' payments had they submitted an application under the Scheme.

The following questions therefore arise:

- whether, on the death of an applicant after an application has been submitted but prior to a determination of their application by the Victims' Payments Board, should the existing application be closed down and a new posthumous application (under regulation 10) be required to be made? or;
- should the existing application continue forward with the view that if determined to be eligible, payments should be made to the nominated individual for the period of 10 years in line with regulation 9?

Taking into account the purpose of regulation 9, regulation 10 and considering the principles of the Scheme set out at regulation 4 (in particular, the need to be responsive to the needs of victims; for the Scheme to be straightforward and simple to navigate; and the need for applications to be determined without delay), applications in which the applicant dies prior to a determination should be dealt with as follows:

1. A nominee is named in the application:

Proceed with the existing application for the benefit of the named nominee in line with regulation 9.

2. No nominee is named in the application but the application had been submitted on behalf of the applicant by another person (including a welfare officer or legal representative):

The existing application is to be closed down and the 'on behalf of' contact (including a welfare officer or legal representative) is to be informed of the possibility of a posthumous application, under regulation 10, being made by a person meeting the regulation 9 nominee criteria.

3. No nominee is named in the application and the application was not submitted on behalf of the applicant by another person:

The existing application is to be closed down. A suitable nominee may subsequently make a posthumous application under regulation 10.