

Procedural Guidance

INTRODUCTION

1. The purpose of this guidance is to provide information about how the Victims' Payments Board will determine applications to the Troubles Permanent Disablement Payment Scheme ["the Scheme"]. This guidance is designed to help applicants understand the processes underpinning the Scheme which has been established by [The Victims' Payments Regulations 2020](#) (the 2020 Regulations).
2. This guidance provides general information only. Every effort has been made to ensure that the information is accurate but it is not a full and authoritative statement of the law. The Scheme regulations are the authoritative document. This guidance may be suspended, amended or updated as necessary.
3. The purposes of the Scheme are to:-
 - a) acknowledge the harm suffered by those injured in the Troubles, and
 - b) promote reconciliation between people in connection with Northern Ireland's troubled past.
4. The Scheme is designed to provide those living with permanent disablement (either physical or psychological) caused by injury through no fault of their own in a Troubles-related incident with payments primarily in acknowledgement of the harm they have suffered.
5. The process set out in the legislation for the determination of applications to the Scheme is not an adversarial process and the Victims' Payments Board will ensure that a non-adversarial process is maintained throughout. In accordance with regulation 12, all applications will be determined by a panel appointed by the President of the Victims' Payments Board.
6. The normal process for the determination of applications for an award from the Scheme will broadly follow these steps:-
 - Step 1: Submission of an application
 - Step 2: Verification of an application
 - Step 3: Assessment of permanent disablement
 - Step 4: Consideration of offsetting payments
 - Step 5: Determination Process
 - Step 6: Notice of Determination to applicant
 - Step 7: Appeal process

7. A high level process map has been included at [Annex A](#) of this document.

STEP 1: SUBMISSION OF AN APPLICATION

8. Application forms for the Scheme will be available on the Victims' Payments Board website from **31 August 2021 at 12:00 noon**.
9. Applications to the Scheme may be made anytime up to 31st August 2026 (unless that date is extended by the Secretary of State for NI). This time limit maybe waived, however, where there has been a material change of circumstances or where, having regard to the exceptional circumstances of the case, the President considers it appropriate in line with the Regulations.
10. Applications can be made in one of two ways, either:-

- a) Electronically, using the online portal – you can complete your application, upload any relevant supporting documents and electronically submit the application to the Victims' Payments Board. This is the most efficient means of submitting an application and will minimise any potential delay in processing your application. It will also reduce the risk of the loss of applications / personal information.
- b) Paper – you can download a paper application form from the Victims' Payments Board website. You can also request a hard copy (and application guidance, if required) by contacting one of the support organisations or by emailing vpb@justice-ni.gov.uk or writing to us at **PO Box 2305, Belfast BT1 9AX**.

Completed paper forms should be forwarded to the Victims' Payments Board at the address above, attaching any hard copies of relevant supporting documentation that you may hold. **Please do not send original documents as these cannot be returned.** Documents you provide will be scanned and attached to your case on the IT system (documents submitted with your application will be shredded within 3 months of receipt). You may also wish to consider some form of tracking delivery of any information.

11. Guidance is available on the website to help you work through the application form – this includes guidance on what information to complete at each stage and what documentation you may need to upload or attach in support of your application. **We would strongly encourage you to read this guidance before you commence an application.**
12. A number of organisations have appointed Welfare Advisers who will be able to provide advice on the applications process for the Scheme and, if required, assist you with completion of the application form. You can find the details of the relevant organisations [here](#).

13. In support of your application, you should provide copies of any additional relevant information that you already have about any Troubles-related incident in which you were involved, or the injuries you sustained. This could include:

- Police reports or witness statements,
- Media / newspaper clippings,
- Previous compensation awards,
- Court awards / settlements,
- Evidence submitted in support of benefit claims,
- Contacts with hospital and/or community-based social work departments,
- Employment records,
- Medical records and documentation that describe
 - your diagnosis and severity of the injury
 - the impact the injury has had on your life
 - the current (and previous) treatment you are receiving as well as any changes to this treatment over time
 - any planned new treatments, for example, surgery or consultations with additional healthcare professional.

This documentation might include:-

- consultation reports from consultants
- surgical / discharge notes in relation to exact procedures carried out following trauma
- clinic follow-up notes in relation to recovery from injury
- evidence pertaining to injury permanence
- GP, consultant or hospital notes or referral letters.

14. You should only include medical information that is considered relevant for your application. Examples of medical information that would not be useful include:-

- confirmation of appointment letters
- information / evidence without a date
- information / evidence without identified source / author
- delivery notes, for example occupational therapy equipment
- details of hospital site maps.

15. If you don't have much information readily available that should not prevent you from making an application. The Victims' Payments Board has developed Information Sharing Agreements with a number of organisations to request relevant information on your behalf to support consideration of your application. These organisations include:-

- PSNI
- Public Record Office of Northern Ireland (PRONI)
- Victims and Survivors Service (VSS)
- Ministry of Defence (MOD)
- The National Archives
- Health & Social Care Organisations

16. You do **not** need to approach these organisations to seek this information yourself. It is important that you do not contact your GP or hospital specialist either by phone or by appointment to ask for past records about your injuries, diagnosis or treatment, even though this information would be helpful to your application. **You should only attach to your application relevant medical information that is currently in your possession.** The Victims' Payments Board will seek to obtain any other relevant information.
17. If you want to submit audio / video material in support of your application you should forward to the Victims' Payments Board at the above address. This material cannot be uploaded on to the online portal as file sizes are likely to exceed upload limits.
18. It is recognised that completing an application might be a difficult and distressing experience. If you are in distress and need to speak to someone urgently you can call Lifeline for free on 0808 808 8000 from UK landlines and mobiles, 24 hours a day, 7 days a week.
19. By submitting an application to the Scheme you should not draw any inference or expectation as to when your case will be determined. Processing will be on a case by case basis, and some cases may take longer to process than others.

STEP 2: VERIFICATION OF AN APPLICATION

20. When an application is received, the Victims' Payments Board will check all of the information provided as part of the application. Where necessary, you may be requested to provide information not previously submitted; this might include:-
 - Birth certificate
 - Identity documentation
 - Death Certificate (for posthumous applications)
 - Proof of relationship with deceased (for posthumous applications)
21. It is important that any missing information or material requested is supplied promptly; failure to do so could lead to delays in processing your application.
22. If the material provided in support of an application includes video or audio recordings these may be viewed or listened to by members of the Victims' Payments Board, or they may be transcribed for the use of the Board.
23. As part of the verification process, and in accordance with regulation 29 of the 2020 Regulations, the Victims' Payments Board may make contact with a range of other organisations in order to confirm the details of the Troubles-related incident referred to

in your application or to seek additional information to assist with assessing your application to the Scheme.

24. A Panel comprising members of the Victims' Payments Board may review your application and other evidence to decide if the application is eligible for the Scheme (regulations 5, 6 and 7). If your application is ineligible you will be advised accordingly, with a reason for that decision. Applicants will be able to appeal this decision – see Step 7.

STEP 3: ASSESSMENT OF PERMANENT DISABLEMENT

25. Regulation 13 of the 2020 Regulations requires the Victims' Payments Board to appoint a health care professional to assess the degree of permanent disablement as a result of injuries sustained due to a Troubles-related incident. Capita has been appointed to carry out those assessments.
26. Separate guidance on the [assessment of degree of relevant disablement](#) has been developed for those health care professionals within Capita which sets out how the clinical assessment process for the Scheme will be delivered.
27. You will be advised when your case has been referred for assessment of permanent disablement. The health care professional may, on behalf of the Victims' Payments Board, seek additional medical / clinical information to help inform their assessment; that could include information from GPs, Health and Social Care Trusts or other medical / clinical professionals.
28. On completion of the disablement assessment, the health care professional will provide the Victims' Payments Board with a report specifying the permanence and degree of relevant disablement, with reasons.

Interim Assessments

29. In accordance with regulation 14 of the 2020 Regulations, where the condition of the applicant does not allow the degree of permanent disablement to be assessed, Capita must assess:-
 - the period of time for which it is reasonable to assess the degree of disablement; and
 - degree of disablement during the interim period.
30. The Victims' Payments Board is required to make arrangements for the applicant to be reassessed within 2 years of the date of the Interim Assessment. This may be extended in certain circumstances.

31. Where an Interim Assessment has been made, the appropriate rate of the award is the amount corresponding to the degree of relevant disablement indicated in the Interim Assessment.

STEP 4: CONSIDERATION OF OFFSETTING PAYMENTS

32. Regulation 19 of the 2020 Regulations require the Victims' Payments Board to reduce victims' payments by the aggregate amount of relevant payments received by the applicant in respect of the same disablement to which the victims' payments relate. Examples of relevant payments within the Regulations include:-

- Any Social Security Disablement Pension i.e. industrial injuries disablement benefit in respect of the same injury.
- Any retired pay, pension, allowance or other continuing benefit awarded under the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions i.e. War Pension in respect of the same injury.
- Any payment received through the Armed Forces or Reserve Forces Compensation Scheme in respect of the same injury.
- Any pension, award or allowance or other continuing benefit awarded under the Police Service of Northern Ireland or Police Service of Northern Ireland Reserve in respect of the same injury
- An ill health or disablement pension under a Firefighters' Pension Scheme in respect of the same injury.
- Any pension, allowance, gratuity or other payment awarded under a Civil Service Compensation Scheme or Civil Service Injury Benefit Scheme in respect of the same injury.
- Any payment under a National Health Service Injury Benefit in respect of the same injury.
- Any benefit equivalent to those above including benefits awarded under the legislation of another country or dependent territory in respect of the same injury.

33. In deciding the amount of an award, regulation 20 requires the Victims' Payments Board to consider the payment of other compensation paid, in respect of the same disablement, either in proceedings on a claim, in settlement of a claim (whether or not proceedings on the claim were brought before a court), or under a scheme established under a statutory provision. The Board may adjust the amount of award where it exceeds the amount of exempted compensation¹.

¹ See page 29 of [A legal framework for a Troubles-related incident Victims' Payments Scheme - Government response](#)

34. The applicant is required to disclose the details of any of the above payments, as appropriate, on their application.

STEP 5: DETERMINATION PROCESS

35. Regulation 11 of the 2020 Regulations allows the Victims' Payments Board to decide the order of priority in which applications to the Scheme will be determined and requires the Board to have particular regard to the age and, so far as it is disclosed in the application, the health of each applicant. The Board **must** give priority to applications made by applicants who are terminally ill and who disclose that fact to the Board.
36. Thereafter, and in accordance with the prioritisation decided by the Board, the application (including the application form and all relevant supporting material) will be passed to the panel appointed under regulation 12 to make a determination on it.
37. A panel of the Board at this stage can comprise of:-
- one Legal member; or,
 - three members, including at least one legal member, one ordinary member and one other member.
38. In reaching a determination for each application, the panel will be required to consider a range of information, including the following:-
- Application form;
 - Proofs of identity and other relevant matters (such as relationship to the deceased, if appropriate);
 - Supporting documentation in respect of the Troubles-related incident(s), including the victim's presence at the incident(s) or in the immediate aftermath (regulation 7);
 - Any convictions relating to the victim / beneficiary, or the views of the President of the Board in respect of exceptional circumstances (regulation 6);
 - The assessment report from the health care professional;
 - Any written information provided in response to a Board request (regulation 29);
 - Any other written statements or relevant material provided in support of the application;
 - The amounts in respect of payments, including Backdating, Lump Sum and Monthly payments; and
 - Any offsetting payments.
39. Should the panel consider it appropriate, the applicant may be invited to attend a panel hearing. Further information regarding hearings is set out in paragraph 48 below.

STEP 6: NOTICE OF DETERMINATION TO APPLICANT

40. The applicant will be notified in writing of the Victims' Payments Board's decision. The written notification will be accompanied by a summary of the Board's reasons for the determination. If the decision of the Board is accepted, the applicant will be required to sign and return the relevant documentation to the Victims' Payments Board.
41. The applicant's notification of acceptance must specify the details of the bank account into which the award should be paid. Depending upon the circumstances of the application, and in addition to any relevant Backdating amount (regulation 21), the applicant may, if certain circumstances apply (regulation 24), be able to choose for their award to be paid as a Lump Sum – if this is an option, they will be required to indicate as such in their acceptance documentation.
42. It is essential that the applicant decides whether to accept or appeal the award within 12 months of the Notice of Determination. If notification of acceptance or rejection has not been received within this time period, and no appeal is received, the award may be deemed to have been rejected. In these circumstances, no award will be paid and the applicant may have lost their right to appeal.

STEP 7: APPEAL PROCESS

43. If the applicant decides not to accept the Board's determination, they have the right to an appeal. In accordance with regulation 34, appeals must be made within 12 months of the date of the Notice of Determination. That will be set out in correspondence to the applicant. An appeal must be made on the appropriate form which should clearly specify the grounds on which the appeal is being made – the appeal form will be available on the Victims' Payments Board website.
44. There is discretion for an appeal to be brought beyond 12 months from the date of notification. However that will only be permitted if the President considers it equitable having regard to the circumstances.
45. The appeal panel may direct that an oral hearing is to be held if the individual making the appeal reasonably requests an oral hearing or the panel considers an oral hearing to be necessary in the interests of justice.
46. An appeal panel consisting of 3 Board members will be appointed by the President of the Victims' Payments Board to determine an appeal. An appeal panel will not include any member of the original determination panel. The appeal panel may:-
 - Confirm a determination;

- Make a new determination or vary a determination; or,
- Increase, decrease or confirm an assessment of the degree of relevant disablement.

47. The appeal panel must advise the appellant of the outcome of the appeal. A decision on appeal is final.

ORAL HEARINGS

Notice for oral hearings

48. The Victims' Payments Board will provide an applicant with at least 21 days' notice of any oral hearing. Hearings may be arranged at shorter notice by agreement. The notice of hearing will provide details of where and when the hearing is to be held; this could include video or teleconference hearings. If the applicant is unable to attend the hearing, he/she should notify the Victims' Payments Board in writing as soon as is reasonably practicable and, in any event, at least 14 days before the date of hearing.

The role of an applicant at oral hearing

49. The oral hearing will be conducted by a panel consisting of three members who have been appointed by the President of the Board as described above. A hearing clerk will also be present to provide administrative support to the panel.

50. In keeping with the non-adversarial approach to the determination of applications for awards under the Scheme, the procedure at the oral hearing will be as informal as the panel considers appropriate. The applicant may appear in person at a hearing and may be represented by any person appointed for that purpose.

51. When the applicant enters the hearing room he/she will be asked to sit at a table, along with any companion, if they have chosen to bring someone along for support. A member of the panel will welcome the applicant to the hearing and will identify and explain the role of any other person present in the room. He/she will outline what will happen at the oral hearing. If the applicant is unsure about any matter the panel will encourage and welcome requests for clarification and will try to explain things in a plain and straightforward way.

52. The chair of the panel (the Legal Member appointed by the President) will identify the particular matters for consideration at the oral hearing.

53. Any person presenting supporting information at a hearing may be asked to take an oath, or make an affirmation. Such persons are bound to tell the truth and serious penalties may be imposed if it is found that a person has been deliberately untruthful to the panel or has intentionally misled it in any way.

54. The procedure at an oral hearing may vary but normally the applicant will be asked to present their supporting information before other witnesses give their evidence (other witnesses might include, for example, someone who was present at the incident and can provide evidence in support of the application). The panel members will have read all of the relevant documentation and it may not, therefore, be necessary to go into all of the details of the application and supporting documentation. The panel will guide the applicant to any particular matters about which they would like to hear.
55. Any person presenting supporting information may be asked questions by a member of the panel to explore factual matters or clarify details provided. It is important that the panel has the full facts in relation to the application to reach a fair and just decision. Applicants may find that some of the questions are direct and sometimes probing but all questions will be asked, and all answers listened to, in a courteous and sensitive way.
56. When the panel has heard the applicant's supporting information it may want to hear from witnesses called on his/her behalf. If the applicant has any questions these should be addressed to the chair of the panel. The same procedure described in this section will be followed in respect of the questioning of any other witnesses at the oral hearing.
57. Panel members may take notes when oral supporting information is being presented to help it reach its determination.
58. When all of the oral supporting information has been given the Chair of the panel will ask for any final comments. If the panel is in a position to do so, it may, at the end of the hearing, indicate if it is satisfied that the supporting information is now complete and/or if there is a timeframe within which a determination is likely to be made.
59. The oral hearing will normally take place in private. An oral hearing will only take place wholly or partly in public if the panel consider that this would be in the interests of justice. It is anticipated that this would only be in exceptional circumstances.
60. Should the panel wish to hear from a person other than a person giving evidence in support of the application this will, save for exceptional circumstance, be scheduled for hearing on a different occasion. This is in keeping with the non-adversarial nature of the application process.

TPDPS High Level Process Map

