

2020 No. 50

HISTORICAL INSTITUTIONAL ABUSE

The Historical Institutional Abuse Redress Board (Applications and Appeals) Rules (Northern Ireland) 2020

Made - - - - - *27th March 2020*

Coming into operation - - *31st March 2020*

The Executive Office, in exercise of the powers conferred by sections 5(4) and (5), 6(4), 9(2), 16(3) and 19(1), (2), (5) and (6) of the Historical Institutional Abuse (Northern Ireland) Act 2019(a), makes the following Rules.

In accordance with section 20(1) of that Act, the Executive Office has obtained the approval of the Lord Chief Justice to the making of these Rules.

Citation and commencement

1.—(1) These Rules may be cited as the Historical Institutional Abuse Redress Board (Applications and Appeals) Rules (Northern Ireland) 2020.

(2) These Rules come into operation on 31st March 2020.

Interpretation

2.—(1) In these Rules, “the Act” means the Historical Institutional Abuse (Northern Ireland) Act 2019.

(2) The Interpretation Act (Northern Ireland) 1954(b) applies to these Rules as it applies to an Act of the Assembly.

(3) In the application of section 24 of that Act (service of documents by post etc.) to these Rules, subsection (1) has effect as if “, registering” were omitted.

(4) Section 25 of that Act (deviation in forms) applies to a form determined by the Board under these Rules as if it were prescribed by an enactment.

(5) In these Rules, “electronic communication” has the meaning given in section 4(1) of the Electronic Communications (Northern Ireland) Act 2001(c).

(6) A reference in these Rules to something in writing includes a reference to something in writing that is delivered by way of electronic communication.

(7) In these Rules, “oral hearing” means a hearing under section 9(3)(b) of the Act; and a reference in these Rules to an oral hearing includes a reference to any part of the hearing at which evidence is given for the purposes of section 10(1)(b) of the Act.

(a) 2019 c. 31
(b) 1954 c. 33 (NI)
(c) 2001 c.9 (NI)

Application for compensation: basic matters

3.—(1) An application for compensation under the Act—

- (a) must be in writing,
- (b) must be in such form as the Board may from time to time determine,
- (c) must be signed by the applicant or the applicant's solicitor, and
- (d) must be submitted to the Board by electronic communication, by post or by direct delivery to the Board (including delivery by courier or messenger service).

(2) An application for compensation under the Act (other than an application which is only for compensation under section 12(2)(c) of the Act (child sent to Australia under the Child Migrants Programme)) must specify—

- (a) the name and address of the institution to which the application relates, and
- (b) the dates on which, to the best of the applicant's knowledge, the applicant or, where the application is in respect of a deceased person, the deceased person was resident in the institution.

(3) The reference in paragraph (2)(a) to the name and address of the institution is a reference to its name and address at the time when the applicant or, where the application is in respect of a deceased person, the deceased person was resident in the institution.

(4) Where the application relates to more than one institution, paragraphs (2) and (3) have effect as if the references to the institution were references to each of the institutions concerned.

(5) An application for compensation under section 12(2)(c) of the Act (whether or not the application is only for compensation under that provision) must specify the date on which, to the best of the applicant's knowledge, the applicant or, where the application is in respect of a deceased person, the deceased person was sent to Australia.

(6) An application for compensation under the Act is to be regarded as being made on the day on which it is received by the Board.

Application for compensation: supporting material

4.—(1) An application for compensation under the Act other than one in respect of a deceased person must, subject to paragraphs (3) to (5), be supported by—

- (a) a certified copy of the applicant's birth certificate,
- (b) a certified copy of a form of photographic identity of the applicant which is permitted by the Chief Electoral Officer of Northern Ireland as proof of entitlement to vote in an election,
- (c) if the applicant's name has changed since the person was resident in an institution to which the application relates, evidence of the change of name that is sufficient to satisfy the Board,
- (d) if the application is being made for the applicant by a person appointed as the controller for the applicant or acting under an enduring power of attorney or under an authority conferred in accordance with the law relating to mental capacity in the country or territory in which the applicant is residing, evidence of the authority to act for the applicant,
- (e) a copy of such of the medical records of the applicant as the applicant or the applicant's solicitor considers relevant to the application, and
- (f) any expert report relating to the applicant which the applicant or the applicant's solicitor considers relevant to the application (whether or not the report was obtained for the purpose of supporting the application).

(2) An application for compensation under the Act in respect of a deceased person must, subject to paragraphs (3) to (5), be supported by—

- (a) a certified copy of the death certificate of the deceased,

- (b) if the deceased died leaving a will, a certified copy of the will,
- (c) a certified copy of the grant of probate or letters of administration,
- (d) a certified copy of a document proving that the relationship between the applicant and the deceased is of a kind referred to in section 6(1)(a) or (b) of the Act,
- (e) a certified copy of a form of photographic identity of the applicant which is permitted by the Chief Electoral Officer of Northern Ireland as proof of entitlement to vote in an election,
- (f) if the deceased person's name changed after the person was resident in an institution to which the application relates, evidence of the change of name that is sufficient to satisfy the Board,
- (g) if the application is being made for the applicant by a person appointed as the controller for the applicant or acting under an enduring power of attorney or under an authority conferred in accordance with the law of mental capacity in the country or territory in which the applicant is residing, evidence of the authority to act for the applicant,
- (h) a copy of such of the medical records of the deceased as the applicant or the applicant's solicitor considers relevant to the application, and
- (i) any expert report relating to the deceased which the applicant or the applicant's solicitor considers relevant to the application (whether or not the report was obtained for the purpose of supporting the application).

(3) If it is not possible for the application to be supported by the material referred to in paragraph (1)(a) or (b) or (as the case may be) paragraph (2)(e), the application must be supported by alternative evidence of the identity of the applicant or deceased.

(4) If material referred to in paragraph (1)(e) or (f) or (2)(h) or (i) was provided to the Inquiry (within the meaning of section 9(9) of the Act), the application need not be supported by that material.

(5) If the application is only for compensation under section 12(2)(c) of the Act (child sent to Australia under the Child Migrants Programme), it need not be supported by a copy of any medical records.

(6) The application may be supported by any other material which the applicant or the applicant's solicitor considers relevant to the application and wishes the panel appointed under section 8 of the Act to consider; and that material may include material in the form of audio or video recordings.

(7) A reference to a "certified copy" of a document is—

- (a) in the case of a birth, death or marriage certificate, a reference to a copy certified by the General Register Office of Northern Ireland or by a solicitor or notary public, and
- (b) in any other case, a reference to a copy certified by a solicitor or notary public or by the office of the Chancery Division of the Court of Judicature which deals with probate business.

(8) A reference to a person appointed as the controller for an applicant is a reference to a person appointed as such under Article 101 of the Mental Health (Northern Ireland) Order 1986(a).

(9) "Enduring power of attorney" means an enduring power of attorney within the meaning of the Enduring Powers of Attorney (Northern Ireland) Order 1987(b).

Applicant dies before application determined: continuance of application

5.—(1) Where an applicant for compensation under the Act dies before the application is determined and there is only one person who would have been entitled under section 6(1) of the

(a) 1986 No. 595 (N.I. 14)

(b) 1987 No. 1627 (N.I. 16)

Act to make the application if the applicant had died already, that person may proceed with the application.

(2) Where an applicant for compensation under the Act dies before the application is determined and there are two or more persons who would have been entitled under section 6(1) of the Act to make the application if the applicant had died already—

- (a) one of them may proceed with the application, or
- (b) some or all of them may jointly proceed with the application.

(3) A panel appointed by the President of the Board may, on behalf of the Board, agree to allow a person to proceed with the application if, in circumstances where the applicant had died already, the panel would have agreed under section 6(2) of the Act to receive the application from the person; and a panel appointed for the purposes of this paragraph is to be treated as if it had been appointed under section 6(2) of the Act (and is accordingly entitled by virtue of section 8(4) of the Act to determine the application).

(4) In a case where a person is allowed under paragraph (3) to proceed with the application, references in paragraphs (1) and (2) to a person who would have been entitled to make the application are to be read as including a reference to that person.

(5) To exercise the power under paragraph (1) or (2), the person or persons concerned must give a written notification to the panel appointed under section 8 of the Act to determine the application of the intention to proceed with the application.

(6) A notification under paragraph (5) must be accompanied by the material referred to in rule 4(2)(a) to (e) and (g); and for that purpose paragraphs (3) and (6) of rule 4 apply accordingly.

(7) Where a notification under paragraph (5) is given, the application proceeds accordingly.

Applicant dies before application determined: dismissal of application

6.—(1) If the Board is informed that an applicant for compensation under the Act has died without the application being determined and without any person expressing an intention to proceed with the application in accordance with rule 5, the Board must make whatever enquiries it considers reasonable for contacting relatives of the deceased.

(2) If, at the end of the period of three months beginning with the day on which the Board begins enquiries under paragraph (1), no person has expressed an intention to proceed with the application in accordance with rule 5, the application is dismissed.

(3) But paragraph (2) does not prevent a fresh application for compensation being made on behalf of the deceased under the Act after the expiry of the three-month period referred to in that paragraph.

Notice of application to be given to institution

7.—(1) The Board, having received an application for compensation under the Act, must give written notice to the body, society or organisation which provided residential accommodation in an institution to which the application relates that the application has been made.

(2) The secretary to the Board must stamp each notice under this rule with the date on which the notice is issued (“the notice issue date”) and must secure that the notice is delivered to the last-known address for the body, society or organisation concerned on the notice issue date or the next day by such means (electronic or otherwise) as the Board may decide.

(3) A notice under this rule must specify—

- (a) the name of the applicant and, where the application is in respect of a deceased person, the name of the deceased person;
- (b) the name and address of the institution in which the applicant or deceased person was resident;
- (c) the period during which the applicant or deceased person was resident in the institution;

(d) the name of any person referred to in the application as having responsibility for the abuse to which the application relates.

(4) The notice must also include a request for the body, society or organisation concerned—

(a) to provide information as to whether compensation in connection with any of the matters to which the application relates has been paid and, if it has, information as to the amount of compensation and when, by whom and to whom it was paid,

(b) to indicate whether or not the body, society or organisation is able to verify the accuracy of the information specified in the notice under paragraph (3)(a) to (c), and

(c) to indicate whether or not the body, society or organisation intends to provide written evidence in response to the notice.

(5) The body, society or organisation must, within seven days of the notice issue date, respond in writing to the Board's request under paragraph (4); and any evidence to be provided pursuant to paragraph (4)(c) must be submitted to the Board within 28 days of the notice issue date.

(6) If the applicant or deceased person provided evidence to the Inquiry (within the meaning of section 9(9) of the Act) and the body, society or organisation either does not respond in accordance with paragraph (5) or indicates in its response that it does not intend to provide written evidence, the panel appointed under section 8 of the Act to determine the application may immediately begin its consideration of the application.

(7) If the body, society or organisation informs the Board that a person whose name is specified in the notice under paragraph (3)(d) has died, it is for the Board to decide whether to make further enquiries.

Case management

8.—(1) A panel appointed under section 8 of the Act to determine an application for compensation under the Act—

(a) may adjourn or postpone an oral hearing;

(b) may transfer the application to a different panel appointed under section 8 of the Act;

(c) may give whatever other directions, and may take whatever other steps, it considers necessary for managing the application and securing its efficient determination.

(2) A power under paragraph (1) may be exercised on behalf of the panel by the chair acting alone.

Request for further material

9.—(1) A request for material under section 9(1)(b) of the Act made by a panel appointed under section 8 of the Act—

(a) must be in writing, and

(b) must specify the period within which the panel wishes the material to be provided to it.

(2) The period specified under paragraph (1)(b) must be a period of at least 21 days beginning with the date of the request.

(3) If the material requested is not provided to the panel within the period specified under paragraph (1)(b), the panel must send a written notice to the person concerned requiring the material to be provided to the panel within the specified period.

(4) The period specified under paragraph (3) must be a period of at least 14 days beginning with the date of the notice.

(5) If the material requested is not provided before the end of the period specified under paragraph (3), the panel may proceed to determine the application in accordance with section 9 of the Act.

Power to compel giving of oral evidence

10.—(1) A notice under section 10(1)(b) of the Act (requirement to attend hearing and to give oral evidence) must specify the venue at which the oral hearing is to be held and the time at which the person to whom the notice is given must attend.

(2) The notice must be given at least 21 days before the date specified in the notice for the purposes of section 10(1)(b) of the Act (or, where more than one date is so specified, the first of those dates), unless the person to whom the notice is given has already indicated to the Board that the person is content for the notice to be given on a day which comes after the beginning of that 21-day period.

(3) A solicitor or counsel acting for the person to whom the notice is given may attend the oral hearing and speak on behalf of the person, present evidence and make submissions.

(4) The person to whom the notice is given may be accompanied at the oral hearing by a companion for support.

(5) A claim under section 10(2)(a) or (b) of the Act by the person to whom the notice is given must be made to the Board as soon as is reasonably practicable and, in any event, at least 14 days before the date specified in the notice for the purposes of section 10(1)(b) of the Act (or, where more than one date is so specified, the first of those dates).

Determination of application

11.—(1) The determination of an application for compensation under the Act is to be based on a simple majority of the members of the panel appointed under section 8.

(2) The secretary to the Board must stamp each notification under section 9(7) of the Act (determination of application) with the date on which the determination is made (“the notification issue date”) and must secure that the notification is issued by such means (electronic or otherwise) as the Board may decide.

(3) The notification must include—

- (a) an explanation of the consequences of failing, within the period of 21 days beginning with the notification issue date, either to give the Board written acceptance of the award or to bring an appeal under section 16 of the Act, and
- (b) an explanation of the right of appeal under section 16 of the Act.

(4) The notification must (in addition to being given to the applicant in accordance with section 9(7) of the Act) be given to—

- (a) a solicitor acting for the applicant,
- (b) the body, society or organisation which provided residential accommodation in an institution to which the application relates, and
- (c) a solicitor acting for that body, society or organisation.

(5) A written acceptance of the amount of the award must specify the details of the bank account into which the person wishes the award to be paid.

Appeal

12.—(1) Rules 8 to 10 and 11(2) to (5) apply in relation to an appeal under section 16 of the Act as they apply in relation to an application for compensation, but with references to the panel appointed under section 8 of the Act to be read as references to the single judicial member of the Board selected under section 16 of the Act.

(2) An appeal under section 16 of the Act may not be made if the applicant has given a written acceptance of the amount of the award of compensation before the end of the 21-day period referred to in rule 11(3)(a).

(3) An appeal under section 16 of the Act—

- (a) must be in such form as the Board may from time to time determine, and

- (b) must be submitted to the Board by electronic communication, by post or by direct delivery to the Board (including delivery by courier or messenger service), so that the Board receives the appeal before the end of the period of 21 days beginning with the notification issue date (as defined by rule 11(2)).

(4) A notification under section 9(7) of the Act as applied by section 16(6) of the Act (notification of determination of appeal) must (in addition to being given to the applicant in accordance with those provisions of the Act) be given to—

- (a) a solicitor acting for the appellant,
- (b) the body, society or organisation which provided residential accommodation in an institution to which the appeal relates, and
- (c) a solicitor acting for that body, society or organisation.

Payment of award

13.—(1) Where a decision is taken to make an award of compensation under the Act and a written acceptance of the amount of the award is given to the Board before the end of the period of 21 days beginning with the notification issue date (as defined by rule 11(2)), the secretary to the Board must instruct the designated Department to arrange for payment of the award to be made on behalf of the Board by BACS transfer to the bank account the details of which are specified in the written acceptance.

(2) Where a decision is taken to award a person compensation under the Act, the panel appointed under section 8 of the Act or the single judicial member of the Board selected under section 16 of the Act making the decision may order that the award is to be held on trust for the person and may specify terms on which it is to be held.

(3) If the Board discovers that a payment of compensation has been made in error, it must inform the recipient of the payment that it requires the amount specified by the Board to be repaid within the period so specified; and the Board may for that purpose permit the recipient to make the repayment by instalments.

(4) The amount of a payment made in error as mentioned in paragraph (3) is recoverable by the designated Department on behalf of the Board as a debt due to the Board.

(5) A reference in this rule to a decision to make an award of compensation under the Act to a person includes a reference to a decision to make a payment of £10,000 to the person under section 14 of the Act.

(6) A reference in this rule to the designated Department is a reference to the Department designated under paragraph 3 of Schedule 1 to the Act.

Legal advice and assistance etc: case where no oral hearing held

14.—(1) In a case where an application for compensation under the Act is determined without an oral hearing being held, a solicitor who acts for the applicant is entitled in accordance with this rule to a payment by the Board in respect of the solicitor's costs in providing legal advice and assistance to the applicant.

(2) Where the applicant is awarded compensation for having suffered the abuse referred to in section 2(2)(a), (b) or (c) of the Act, whether or not the application was also for compensation for having suffered the abuse referred to in section 2(2)(d) of the Act, the solicitor is entitled to the amount specified in the second column of Table 1 in the Schedule for the amount or range of compensation specified in the first column which is or includes the amount of the award of compensation for having suffered the abuse referred to in section 2(2)(a), (b) or (c) of the Act.

(3) Where the application was only for compensation for having suffered the abuse referred to in section 2(2)(d) of the Act and the applicant is awarded compensation of £20,000 for having suffered that abuse, the solicitor is entitled to the sum of £150.

(4) Where the applicant applied for but was not awarded compensation for having suffered the abuse referred to in section 2(2)(a), (b) or (c) of the Act, whether or not the application was also

for compensation for having suffered the abuse referred to in section 2(2)(d) of the Act, the solicitor is entitled to the sum of £150, unless the panel appointed under section 8 of the Act to determine the application is satisfied that the application was wholly without merit.

(5) Where the application was only for compensation for having suffered the abuse referred to in section 2(2)(d) of the Act but no compensation was awarded, the solicitor is entitled to the sum of £150, unless the panel appointed under section 8 of the Act to determine the application is satisfied that the application was wholly without merit.

(6) If there is an appeal under section 16 of the Act—

- (a) the references in this rule to the application or applicant are to be read as including a reference to the appeal or appellant, and
- (b) the references in this rule to the panel appointed under section 8 of the Act are to be read as including a reference to the single judicial member selected under section 16 of the Act.

Legal advice and assistance etc: case where oral hearing held

15.—(1) In a case where an application for compensation under the Act was determined with an oral hearing being held—

- (a) a solicitor who acts for the applicant is entitled in accordance with this rule to a payment by the Board in respect of the solicitor's costs in providing legal advice and assistance to the applicant, and
- (b) if the applicant was represented by counsel at the hearing, counsel is entitled in accordance with this rule to a payment by the Board in respect of counsel's costs in providing legal assistance by way of that representation.

(2) Where the applicant is awarded compensation for having suffered the abuse referred to in section 2(2)(a), (b) or (c) of the Act, whether or not the application was also for compensation for having suffered the abuse referred to in section 2(2)(d) of the Act—

- (a) the solicitor is entitled to the amount specified in the second column of Table 2 in the Schedule for the amount or range of compensation specified in the first column which is or includes the amount of the award of compensation for having suffered the abuse referred to in section 2(2)(a), (b) or (c) of the Act, and
- (b) if the applicant was represented by counsel at the hearing, counsel is entitled to the amount specified in the third column of that Table for that amount or range of compensation.

(3) Where the application was only for compensation for having suffered the abuse referred to in section 2(2)(d) of the Act and the applicant is awarded compensation of £20,000 for having suffered that abuse—

- (a) the solicitor is entitled to the amount specified in the second column of Table 2 in the Schedule for the range of compensation specified in the first column which includes the amount of £20,000, and
- (b) if the applicant was represented by counsel at the hearing, counsel is entitled to the amount specified in the third column of that Table for that range of compensation.

(4) Where the applicant applied for but was not awarded compensation for having suffered the abuse referred to in section 2(2)(a), (b) or (c) of the Act, whether or not the application was also for compensation for having suffered the abuse referred to in section 2(2)(d) of the Act—

- (a) the solicitor and, if the applicant was represented by counsel at the hearing, counsel are each entitled to such amount as may be determined by the panel appointed under section 8 of the Act to determine the application, but
- (b) the amount so determined must not exceed the amount to which the solicitor or counsel (as the case may be) would have been entitled under paragraph (2) if the applicant had been awarded compensation of £10,000.

(5) Where the application was only for compensation for having suffered the abuse referred to in section 2(2)(d) of the Act and the applicant was not awarded compensation, sub-paragraphs (a) and (b) of paragraph (4) apply for the purposes of this paragraph as they apply for the purposes of that paragraph.

(6) The panel determining the application, having determined the amount of a payment under this rule, must inform the solicitor and (if applicable) counsel of the amount determined and give reasons for that determination.

(7) The determination of the amount of a payment under this rule is final.

(8) If there is an appeal under section 16 of the Act—

(a) the references in this rule to the application or applicant are to be read as including a reference to the appeal or appellant, and

(b) the references in this rule to the panel appointed under section 8 of the Act are to be read as including a reference to the single judicial member selected under section 16 of the Act.

Travel expenses for solicitors and counsel

16.—(1) Where, on an application for compensation under the Act or an appeal under section 16 of the Act, there is an oral hearing, the solicitor and, if the applicant or appellant was represented by counsel at the hearing, counsel are each entitled on a written application to the Board—

(a) if the relevant distance is at least 20 miles but no more than 50 miles, to a payment of £23 in respect of expenses incurred in travelling to the venue at which the hearing is held;

(b) if the relevant distance is more than 50 miles, to a payment of £46 in respect of expenses so incurred.

(2) The “relevant distance” is—

(a) in the case of a solicitor, the travelling distance between the solicitor’s office and the venue at which the hearing is held;

(b) in the case of counsel, the travelling distance between counsel’s chambers and the venue at which the hearing is held.

(3) Where the hearing is held on more than one day, an application under this rule may be made in respect of each of the days on which it is held.

(4) An application under this rule in respect of expenses incurred by counsel may be made by the solicitor on behalf of counsel.

(5) An application under this rule may not be made in respect of more than one oral hearing held at the same venue on the same day.

Costs of obtaining medical records and expert reports

17.—(1) Where a medical practitioner has charged a solicitor a fee for providing a copy of a person’s medical records in support of an application for compensation under the Act or an appeal under section 16 of the Act, the Board may, on presentation of the receipt of the fee from the practitioner, reimburse the solicitor the amount of the fee, in so far as the solicitor has not been and is not to be reimbursed from some other source.

(2) Where a solicitor has obtained an expert report in support of an application for compensation under the Act or an appeal under section 16 of the Act, and the Board considers it was reasonable to obtain the report, the Board may, on presentation of the receipt from the expert of the fee for preparing the report, reimburse the solicitor the amount of that fee, in so far as the solicitor has not been and is not to be reimbursed from some other source.

Witnesses’ legal costs, expenses etc.

18.—(1) Where, on an application for compensation under the Act or an appeal under section 16 of the Act, a person other than the applicant or appellant (“the witness”) is directed by the Board

to attend an oral hearing, the witness is entitled to such amount in respect of the costs incurred by the witness in obtaining legal advice or assistance in connection with the hearing, including assistance by way of representation at the hearing, as the Board may determine on a written application by the witness.

(2) Where compensation is awarded on the application or appeal, the witness is entitled to such amount as the Board may determine on the application by the witness under paragraph (1); but that amount must not exceed the total of—

- (a) the amount specified in the second column of Table 2 in the Schedule for the amount or range of compensation specified in the first column which includes the amount of the award of compensation, and
- (b) if the witness was represented by counsel at the hearing, the amount specified in the third column of the Table for that amount or range of compensation.

(3) Where no compensation is awarded on the application or appeal, the witness is entitled to such amount as the Board may determine on the application by the witness under paragraph (1).

(4) In determining an application under paragraph (1), the Board must take into account—

- (a) the witness's financial resources,
- (b) any other source of funding available to the witness, and
- (c) the question of whether granting the application under paragraph (1) would be in the public interest.

(5) The Board must not make a payment on an application under paragraph (1) in so far as—

- (a) the body, society or organisation to which the application for compensation or appeal relates has already agreed to pay the costs referred to in paragraph (1), or
- (b) the Board considers that it would, in all the circumstances of the case, be reasonable to expect the body, society or organisation to pay those costs.

(6) The Board may pay whatever amounts it decides are reasonable to an applicant for compensation under the Act or an appellant under section 16 of the Act, or to any other person in connection with proceedings on the application or appeal, by way of reimbursement for expenses properly incurred, or to be properly incurred, in attending an oral hearing, in so far as the person has not been and is not to be reimbursed from some other source.

(7) Where an applicant for compensation under the Act or an appellant under section 16 of the Act is acting without legal representation, the Board must reimburse the person for expenses properly incurred, or to be properly incurred, in so acting (including in obtaining medical records or expert reports), in so far as the person has not been and is not to be reimbursed from some other source.

Withdrawal of application or appeal

19.—(1) An applicant for compensation under the Act or an appellant under section 16 of the Act may withdraw the application or appeal by giving written notice to the Board.

(2) The Board, having received a notice under paragraph (1), must inform the other parties on the application or appeal.

Extension of time periods

20.—(1) The panel appointed under section 8 of the Act to determine an application may, if it considers it necessary do so, extend the duration of a time period provided for by these Rules in relation to the application.

(2) A single judicial member selected under section 16 of the Act to determine an appeal may, if the member considers it necessary to do so, extend the duration of a time period provided for by these Rules in relation to the appeal.

Procedural irregularities

21.—(1) An application for compensation under the Act or an appeal under section 16 of the Act is not invalidated by any irregularity resulting from a failure to comply with a provision of these Rules before the determination of the application or appeal.

(2) But if the panel or single judicial member (as the case may be) considers that a person may have been prejudiced by the irregularity, the panel or member may take whatever steps the panel or member considers necessary for dealing with the irregularity before determining the application or appeal.

Sealed with the Official Seal of the Executive Office on 27th March 2020.



Gareth Johnston
A senior officer of
The Executive Office

THE SCHEDULE

Rules 14, 15 and 18

COSTS PAYABLE TO SOLICITORS AND COUNSEL

Table 1

Cases where no oral hearing held

<i>Compensation award</i>	<i>Costs for solicitor</i>
£10,000	£298
Above £10,000 but no more than £15,000	£383
Above £15,000 but no more than £20,000	£453
Above £20,000 but no more than £25,000	£513
Above £25,000 but no more than £30,000	£583
Above £30,000 but no more than £55,000	£729
Above £55,000	£911

Table 2

Cases where oral hearing held

<i>Compensation award</i>	<i>Costs for solicitor</i>	<i>Costs for counsel</i>
£10,000	£2,463	£579
Above £10,000 but no more than £12,500	£2,709	£659
Above £12,500 but no more than £15,000	£2,955	£740
Above £15,000 but no more than £20,000	£3,992	£867
Above £20,000 but no more than £25,000	£4,381	£982
Above £25,000 but no more than £30,000	£4,833	£1,092
Above £30,000 but no more than £55,000	£5,800	£1,311
Above £55,000	£6,960	£1,573

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules, made under the Historical Institutional Abuse (Northern Ireland) Act 2019 (“the Act”), deal with matters of procedure on applications to the Historical Institutional Abuse Redress Board (“the Board”) for compensation under the Act. The Rules also deal with matters of procedure on appeals under the Act.

Rule 3 sets out the basic requirements for every application for compensation under the Act, including the methods of delivery of an application to the Board.

Rule 4 sets out the material which an applicant must provide in support of an application for compensation.

Rule 5 provides for the procedure to be followed where an applicant for compensation dies before the application is determined and an eligible family member wishes to continue the application.

Rule 6 provides for an application for compensation to be dismissed if the applicant dies before the application is determined and, within the following three months, nobody expresses a wish to continue the application.

Rule 7 requires the Board, once it has received an application for compensation, to contact any institution referred to in the application and to ask it for certain information relating to the case.

Rule 8 gives the panel determining an application for compensation case management powers. It also enables the judicial member who chairs the panel to exercise those powers on its behalf.

Rule 9 deals with requests made by the panel under section 9(1)(b) of the Act for further material.

Rule 10 deals with notices given by the panel requiring a person to give oral evidence.

Rule 11 sets out the procedure for notifying the determination of an application for compensation.

Rule 12 sets out the procedure for bringing an appeal under the Act and provides, in particular, for some of the preceding rules to apply to the appeal as they applied to the original application.

Rule 13 deals with the administrative process for making payments of compensation.

Rules 14 and 15 enable solicitors and counsel to recover costs, with the amount recoverable generally determined by the scales in the Schedule. Where compensation is awarded, the amounts recoverable vary according to whether a hearing was held or whether the application was determined merely on the papers. Where compensation is not awarded, the solicitor is generally entitled to a sum of £150.

Rule 16 enables solicitors and counsel to recover travel expenses where a hearing was held.

Rule 17 enables solicitors to recover the costs of obtaining medical records and expert reports in support of an application for compensation.

Rule 18 enables persons who are called to give evidence to a hearing on an application for compensation to recover legal costs. It also enables the recovery of other expenses.

Rule 19 requires an applicant for compensation or an appellant who wishes to withdraw the application or appeal to give written notice to the Board.

Rule 20 enables the panel determining an application for compensation, or the judicial member determining an appeal, to extend time periods imposed by the Rules.

Rule 21 provides that procedural irregularities do not invalidate an application for compensation or an appeal but enables the panel or single judicial member concerned to take steps where a person has been prejudiced by the irregularity.

The Schedule sets out the scales for determining costs payable to solicitors and counsel in cases where compensation was awarded (as provided for in Rules 14, 15 and 18).

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