



Historical Institutional Abuse (Northern Ireland) Bill [HL] HL Bill 7 of 2019–20

On 28 October 2019, the second reading of the [Historical Institutional Abuse \(Northern Ireland\) Bill \[HL\]](#) is scheduled to take place in the House of Lords.

Summary

The Historical Institutional Abuse (Northern Ireland) Bill [HL] provides the legal framework to enable the victims and survivors of historical institutional abuse in Northern Ireland to access support and receive compensation. In September 2011, the Northern Ireland Executive announced there would be an investigation and inquiry into historical institutional abuse in Northern Ireland between 1922 and 1995. This statutory inquiry was chaired by Sir Anthony Hart and its final report was published in January 2017. The report recommendations included the creation of:

- A publicly funded compensation scheme for victims and survivors of historical institutional abuse. The report recommended a Historical Institutional Abuse Redress Board should be created to administer the compensation scheme. The Redress Board would be responsible for receiving and processing applications for compensation by victims and survivors and making payments.
- A commissioner, whose role would be to act as an advocate for the victims and survivors of historical institutional abuse. The commissioner would also ensure victims and survivors were able to access services and that these services were properly co-ordinated. The report recommended the commissioner be assisted by an advisory panel of victims and survivors.

The Northern Ireland Assembly [debated the findings of the report in January 2017](#). However, a motion to approve the report has yet to be passed by the Assembly following the collapse of devolved institutions since elections in March 2017. As a result, the Northern Ireland Executive Office has requested a bill to be introduced in Parliament. The Northern Ireland Executive Office has also held a consultation on draft legislation to implement the inquiry's recommendations.

The Government announced at the time of the 2019 Queen's Speech that it was introducing the Historical Institutional Abuse (Northern Ireland) Bill [HL]. The bill had first reading in the House of Lords on 16 October 2019. The publication of the bill has been welcomed by the group representing the victims and survivors, Survivors and Victims of Institutional Abuse.

Edward Scott | 23 October 2019

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Northern Ireland Executive Office Consultation on Draft Proposals

In 2018, the Northern Ireland Executive Office published draft legislation for the creation of a Redress Board and a commissioner.¹ A consultation on the proposals ran from November 2018 to March 2019. Following the consultation, the Head of the Northern Ireland Civil Service, David Sterling, wrote to the then Secretary of State for Northern Ireland, Karen Bradley, asking that legislation be introduced in Parliament.² Karen Bradley consulted with political parties in Northern Ireland about the legislation and several changes were made on the basis of the consultation that had taken place.³ In July 2019, David Sterling wrote to Karen Bradley again, asking that the matter be given urgent consideration and the legislation be taken through Westminster.⁴ The Government stated it intended to publish legislation before the end of that year.⁵

Northern Ireland (Executive Formation) Bill

During the 2017–19 session, the Government introduced the Northern Ireland (Executive Formation) Bill. The bill proposed extending the period for forming an executive in Northern Ireland, following the collapse of the Northern Ireland Executive in 2017.⁶ During the committee stage in the House of Commons of the bill on 9 July 2019, the Leader of the Opposition, Jeremy Corbyn, tabled amendments concerning historical institutional abuse.⁷ New Clause 6 and amendment 12 proposed that the Government should be required to report on the progress being made towards implementing the recommendations made by the Hart report. These were agreed without a division.⁸ During proceedings, MPs paid tribute to Sir Anthony Hart who had died earlier that day.⁹

An amendment to the Northern Ireland (Executive Formation) Bill was also moved in the House of Lords on 15 July 2019, by the Leader of the Opposition, Baroness Smith of Basildon.¹⁰ This would have required the Secretary of State to introduce a compensation scheme through delegated legislation. Responding on behalf of the Government, the Parliamentary Under-Secretary at the Northern Ireland Office, Lord Duncan of Springbank, noted the urgency of establishing a scheme. He stated the Government would introduce primary legislation to implement this before the end of 2019. Following a debate this motion was withdrawn.

¹ Northern Ireland Executive Office, '[Historical Institutional Abuse Consultation](#)', accessed 22 October 2019.

² Jayne McCormack, '[Historical Abuse Compensation: Call for Westminster to Act](#)', BBC News, 9 May 2019.

³ Explanatory Notes, p 5.

⁴ BBC News, '[Historical Abuse Compensation: Party Leaders Urge Bradley To Act](#)', 16 May 2019.

⁵ House of Commons, '[Written Question: Offences Against Children: Northern Ireland](#)', 22 July 2019, 277666.

⁶ Further information on the bill is provided in the House of Lords Library briefing, '[Northern Ireland \(Executive Formation\) Bill: Briefing for Lords Stages](#)', 10 July 2019.

⁷ [HC Hansard, 9 July 2019, cols 161–267](#).

⁸ Further information is provided in the House of Lords Library briefing, '[Northern Ireland \(Executive Formation\) Bill: Briefing for Lords Stages](#)', 10 July 2019.

⁹ BBC News, '[Sir Anthony Hart: Historical Abuse Inquiry Chairman Dies](#)', 9 July 2019.

¹⁰ [HL Hansard, 15 July 2019, cols 136–8](#).

Key Provisions of the Historical Institutional Abuse (Northern Ireland) Bill [HL]

Historical Institutional Abuse Redress Board

The bill includes the following provisions:

- Claims for compensation may be made in respect of a person who was resident as a child in an institution between 1922 and 1995.¹¹ For the purpose of this scheme, abuse includes physical, sexual or emotional abuse, neglect, or maltreatment. Compensation claims might also be made by people who were resident as a child in an institution and witnessed children being abused. A further group able to make a claim would be those who were otherwise exposed to a harsh environment. People sent as children to Australia as part of the child migration programmes might also make a claim.¹²
- For the purpose of the bill, “child” is defined as someone under the age of 18.¹³ An “institution” is defined as “a body, society or organisation” that had responsibility for children’s “care, health and welfare”.¹⁴ It also “provided residential accommodation for children, took decisions about them and made provision for their day-to-day care”. This definition includes training schools and borstals but excludes other types of schools.¹⁵
- The bill would enable claims to be made on behalf of the deceased.¹⁶ However, these claims could not be made on behalf of someone who died before 1 April 1953.
- A president of the Redress Board would be appointed by the Lord Chief Justice of Northern Ireland.¹⁷ The president would have the power to appoint a panel to process applications for compensation on behalf of the board.¹⁸ This panel would consist of one judicial member, who would lead the panel, and two other non-judicial members.
- The panel would receive evidence submitted by the claimant.¹⁹ The panel would also request information from the body responsible for the institution where the abuse happened, as far as practicable. The panel could also hold oral hearings, with evidence being given under oath. Further to the assessment of the claim, the panel would also have the power to require someone to provide evidence and to access records.²⁰
- The panel would be able to issue restriction orders to prevent the disclosure of information or protect someone’s identity.²¹

¹¹ Clause 2.

¹² The child migrant programmes took place under successive governments before and after the Second World War. It was the subject of a report by the Independent Inquiry into Child Sexual Abuse published in March 2018, entitled [Child Migration Programmes](#). This report recommended the establishment of a dedicated compensation scheme. This scheme was established by the Government and has been open to claimants since March 2018. Department of Health and Social Care, ‘[Payment Scheme for Former British Child Migrants](#)’, 26 February 2019.

¹³ Clause 31.

¹⁴ Clause 2(3).

¹⁵ Clause 2(4).

¹⁶ Clause 6.

¹⁷ Schedule 1, paragraph 5.

¹⁸ Clause 8.

¹⁹ Clause 9.

²⁰ Clause 10.

²¹ Clause 17.

- The minimum amount of compensation that could be awarded would be £10,000.²² This could rise to a maximum of £80,000 if the panel decided this was justified by the severity of the matters raised. People sent as children to Australia might receive a separate amount of £20,000. These awards would be tax exempt.²³

Commissioner for Survivors of Institutional Childhood Abuse

- The commissioner would be appointed by the Northern Ireland Executive Office.²⁴ The bill states the commissioner's principle aim would be to promote the interests of those who suffered historical institutional childhood abuse.²⁵
- The commissioner would be required to establish an advisory panel made up of the victims and survivors.²⁶
- The commissioner's general duties would include providing advice to the Executive Committee of the Northern Ireland Assembly and those providing services to victims and survivors.²⁷ The commissioner's remit would also include the coordination of relevant services and monitoring the operation of the Redress Board.²⁸
- The commissioner would be required to promote its role and ensure victims and survivors are aware of its work.²⁹
- The bill would also require the First Minister and Deputy First Minister to commission an independent review of the operation of the commissioner every five years.³⁰

Further Information

- Historical Institutional Abuse Inquiry, [Report of the Historical Institutional Abuse Inquiry](#), 20 January 2017, pp 227–56

Summary of the inquiry's recommendations.

- Northern Ireland Executive Office, [Historical Institutional Abuse—A Consultation Paper](#), November 2018

Summary of the draft legislation, put forwards for consultation, to implement the recommendations of the Historical Institutional Abuse Inquiry.

²² Clause 12.

²³ Clause 15.

²⁴ Clause 21.

²⁵ Clause 22.

²⁶ Clause 23

²⁷ Clause 24.

²⁸ Clauses 26–28.

²⁹ Clause 24(1)(2).

³⁰ Clause 29.

- HM Government, [Queen's Speech 2019: Background Briefing Notes](#), 14 October 2019, pp 109–11

Briefing published at the time of the 2019 Queen's Speech, outlining the Government's proposals.

- House of Commons Library, [Devolution in Northern Ireland, 1998–2018](#), 16 November 2018, pp 29–30

Information regarding the Northern Ireland Assembly and other devolved institutions in Northern Ireland since the March 2017 extraordinary Assembly election.

Parliamentary Debate, Statements and Questions

- [Debate on Amendment 26 During House of Lords Committee Stage of the Northern Ireland \(Executive Formation\) Bill](#), *HL Hansard*, 15 July 2019, cols 136–8

Press Articles and Comment

- Alan Erwin, '[Historical Abuse Victims Secure Judicial Review in Bid to Win Compensation](#)', *Belfast Telegraph*, 13 April 2018
- BBC News, '[Institutional Abuse Victim Wins Judicial Review Case](#)', 12 April 2018
- BBC News, '[Historical Abuse Compensation: Party Leaders Urge Bradley to Act](#)', 16 May 2019
- BBC News, '[Sir Anthony Hart: Historical Abuse Inquiry Chairman Dies](#)', 9 July 2019
- BBC News, '[HIA Inquiry: Government Bill Aims to Compensate Abuse Victims](#)', 14 October 2019
- Claire Simpson, '[Victims' Group Asks for More Clarity Over Institutional Abuse Bill Progress](#)', *The Irish News*, 18 October 2019