

# Jersey Redress Scheme: Closing Report

## Introduction

1. This report captures learning from the Government of Jersey (“GoJ”) Redress Scheme that was launched on 1 July 2019 and which provided financial redress for people:
  - a. who, while accommodated at Les Chênes secure residential unit, suffered due to the harsh regime and whose experiences there had a negative impact on their childhood
  - b. who were sexually abused and/or physically abused while a full-time resident in a Government of Jersey children’s home or while in a Government of Jersey foster care placement. Or, while accommodated at Les Chênes secure residential unit, were sexually abused and/or physically abused resulting in significant injury or long-term harm.
2. The report includes:
  - a. Section 1: executive summary
  - b. Section 2: background information on establishment of the Scheme
  - c. Section 3: statistical information about the operation of the scheme
  - d. Section 4: lessons learnt
  - e. Appendices.
3. The purpose of this report is to capture a record of the establishment and delivery of the scheme and associated learning.

## Section 1: Executive summary

4. On 1 July 2019 a new Redress Scheme (“the Scheme”) was established by the Government of Jersey (“GoJ”) to provide redress to people who, as children, were abused or suffered harm between 9 May 1945 and 31 December 2005 while:
  - a. resident in a Government of Jersey children’s home
  - b. in a Government of Jersey foster care placement
  - c. accommodated at Les Chênes secure residential unit.
  
5. The Scheme opened on 1 July 2019 and closed on 31 August 2020. It was further to a previous 2012 Historic Abuse Redress Scheme (“HARS I”) but extended to provide redress in relation to GoJ foster care and Les Chênes. HARS I had been limited to residential care.
  
6. Under the Scheme applicants could receive financial redress and an individual letter of apology, where the applicant wished to receive an apology. It was considered important that the GoJ said sorry to applicants on an individual basis.
  
7. The Scheme’s overall objective was to provide fair redress to eligible applicants. It built on lessons learnt from HARS I and was designed to:
  - a. ensure applications were processed in a reasonable, proportionate and timely manner
  - b. avoid protracted assessment processes and heavy reliance on external experts, as associated with some HARS I applications, so as to avoid unnecessary distress to applicants in having to retell their story.
  
8. The numbers of applications received and offers made under the Scheme was:

	<b>Total</b>	<b>Part 1 applications Les Chênes</b>	<b>Part 2 applications children’s home / foster care</b>
Applications received	215	145	70
Applications not admitted into Scheme	34	6	28
Applicants offered a settlement	181	139	42
Total settled*	179	139	40*
Total value of offers <sup>1</sup>	£1,750,000	£1,374,500	£375,500
Value settled <sup>2</sup>	£1,782,750	£1,374,500	£408,250 <sup>3</sup>
Total applicants’ lawyers’ fees	£181,810	£124,000	£57,810 <sup>4</sup>

\* At the date of publication of this report 2 of the 181 applications admitted into the scheme were awaiting settlement.

<sup>1</sup> Not including therapy monies.

<sup>2</sup> Not including therapy monies.

<sup>3</sup> The value settled was, in some cases, higher than the value offered as revised offer was negotiated.

<sup>4</sup> Legal fees includes; fixed fee paid to applicants’ lawyers; costs incurred where applicants in person received independent legal advice on settlement agreement which was lower than standard fixed fee; additional payments to applicants’ lawyers where an expert report was required.

9. In developing the Scheme, work was undertaken to forecast the number of applications that may be received and the associated costs. Projections, which stood at 280 applications and an overall cost of c.£5.6 million, were modelled on the upper end of HARS I to ensure sufficient monies would be available. There was very limited other information available. The number of applications received and the overall costs were, therefore, lower than projected.
10. One of the objectives of the Scheme was to ensure that monies were directed at applicants, as opposed to being absorbed by overhead costs and legal fees. The public and Ministers had expressed concern about HARS I overhead costs and associated legal fees. To this end:
- a. the Law Officers' Department (LOD) established a team of legal advisers to determine applications, as distinct from contracting external lawyers as per HARS I
  - b. all applicants' lawyers were paid fixed fees, and
  - c. LOD negotiated reduced hourly costs for approved experts involved in the Scheme.
11. Whilst caution has to be applied in drawing comparisons between HARS I and the Redress scheme:
- a. under HARS I, for every £1 spent on overheads, c. 63p was provided to applicants<sup>5</sup>
  - b. under the Redress scheme, for every £1 spent on overheads, c. £4.11 was provided to applicants<sup>6</sup>

	<b>Redress scheme</b>	<b>HARS I<sup>7</sup></b>
Payments to applicants' lawyers	£181,810	£1,000,000
Scheme lawyers' costs	£251,726 <sup>8</sup>	£3,000,000 <sup>9</sup>
Payments to applicants	£1,782,750	£2,500,000
<b>Total scheme costs (excluding therapy)</b>	<b>£2,216,286</b>	<b>£6,500,000</b>
Applicants' payments as % of total costs	80%	38%
Overhead costs as % of total costs	20%	62%

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<sup>5</sup> Not including therapy monies.

<sup>6</sup> Not including therapy monies.

<sup>7</sup> data from answer given to WQ209/2018.

<sup>8</sup> Costs do not include GoJ civil service staff costs incurred in the set-up / management of the Scheme.

<sup>9</sup> Costs do not include GoJ civil service staff costs incurred in the set-up / management of the Scheme.

## Section 2: Background

### Decision to establish the Scheme

12. In December 2010, Jersey's Chief Minister issued an apology acknowledging that the care system that had operated historically in Jersey had failed some children in GoJ residential children's homes in a serious way.
13. In March 2012, the Historic Abuse Redress Scheme ("HARS I") was launched by the Council of Ministers ("CoM") to provide financial redress for people who suffered unlawful physical or sexual abuse in GOJ residential care between 1945 and 1994. HARS I was open for applications for 6-month period, closing to new applications on 30 September 2012. However, further to that deadline, numerous late applications were accepted into the scheme on an exceptional basis by CoM, with HARS I applications not being fully finalised until mid-2019.
14. In March 2013, the States Assembly agreed terms of reference for an Independent Jersey Care Inquiry ("IJCI") established to investigate what went wrong in the Island's care system and to find answers for people who suffered abuse as children.
15. The IJCI held hearings between July 2014 and June 2016, with its final report being published on 3 July 2017. During those hearings the IJCI heard evidence relating to alleged abuse that was outside of the scope of HARS I, namely allegations of:
  - a. abuse in foster care
  - b. physical abuse, a harsh regime and alleged false imprisonment at the Les Chênes secure residential school ("Les Chênes")
  - c. abuse in residential children's homes after 1994.
16. As this alleged abuse fell outside of the scope of HARS I, people who had suffered were ineligible for redress under the terms of HARS I.
17. During 2017, the GoJ received letters of claim related to alleged unlawful imprisonment at Les Chênes, plus an influx of associated subject access requests directed at the Judicial Greffe, Probation, the Prison and HCS. In the same year, the UK Supreme Court handed down judgment in the case of *Armes v Notts CC*<sup>10</sup> where a local authority was held vicariously liable for tortious acts of foster carers (i.e. the authority was responsible for the harm that foster carers had inflicted on children placed in their care by the authority).
18. In June 2018, CoM gave consideration as to whether:
  - a. a modified HARS I scheme should be established to provide for abuse in foster care
  - b. a new redress scheme should be established with regard to unlawful imprisonment at Les Chênes.

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<sup>10</sup> [2017] UKSC 60

19. In December 2018, CoM agreed, in principle, that a new redress scheme should be launched in 2019. A public statement was issued to that effect.
20. On 13 May 2019, the Jersey Redress Scheme (“the Scheme”) was established as a non-statutory scheme to provide appropriate redress to people who, as children, were abused or suffered harm between 9 May 1945 and 31 December 2005 while:
  - a. a resident in a Government of Jersey children’s home, or
  - b. in a Government of Jersey foster care placement, or
  - c. accommodated at Les Chênes secure residential unit.
21. In June 2019, the Chief Minister delegated to the Children and Housing Minister political oversight for the Scheme ([Ministerial Decision MD-C-2019-0070](#)).
22. Total projected costs for the Scheme were £5.9m to £6.6m. In order to ensure the scheme was not underfunded, costs were based at the top end of potential projected number of applications. In the event, that number of applications was not received. See below for more information about costs.

### Scheme lawyers

23. In December 2018, CoM directed Officers to seek to negotiate fixed rate legal fees for applicants’ lawyers and for lawyers to administer the Redress Scheme. Ministers wished to ensure an appropriate balance between the costs of administering the scheme and the monies paid to applicants. CoM instructed officers to undertake a competitive tender process, if appropriate, for the appointment of scheme lawyers.
24. In April 2019, CoM decided it was preferable that LOD act as scheme lawyers, as doing so would minimise any further delay in introducing the scheme. CoM recognised that arrangements could be put in place to manage actual or perceived conflicts of interest which might arise from the LOD operating the Scheme.
25. The dedicated group of LOD staff who worked on the Scheme formed the Redress Team.
26. In determining that LOD should act as Scheme Lawyers, CoM stated that provision should be made for applications to be outsourced to an external legal advisor where an applicant had legitimate objections to their applications being determined by the Redress Team<sup>11</sup>. In the event, this was not required as no applicants objected to LOD’s involvement.

### Scheme development

27. During Autumn 2018, the Department for Strategic Policy, Planning and Performance (SPPP) and LOD, in consultation with the HARS I scheme lawyers and others, considered several different models including:
  - a. HARS I scheme

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<sup>11</sup> See paragraph 29 of Scheme terms and conditions

- b. Lambeth Council's residential children's home abuse scheme<sup>12</sup>
  - c. Australia's victims of institutional child sex abuse scheme
  - d. UK Diffuse Mesothelioma payment scheme
  - e. Irish residential institutions redress board.
28. The design, implementation and management of the Redress Scheme was informed by lessons learnt from HARS I, including:
- a. Legal costs of HARS I were high relative to monies paid to applicants
  - b. HARS I ran for significantly longer than anticipated due to the length of time taken to finalise applications and the continued admission of late applications
  - c. time and resources expended in matters relating to disclosure of records.
29. The principles underpinning the Scheme, as agreed by CoM in December 2018, were to design a scheme that would:
- a. *"be simple for claimants to understand and apply to, and equally straightforward to administer*
  - b. *provide fair redress to people who suffered harm including fair and equal treatment with people who claimed under HARS I. In doing so it will provide that any person who accepts an award will not then issue legal proceedings*
  - c. *provide a range of payment bands to reflect degrees of harm*
  - d. *support a re-balancing of cost; more of the money to go to claimants, less to lawyers*
  - e. *allow a light touch decision making process for more straightforward claims. This includes balancing the risk of false claim payments against the risk of onerous evidence/assessment requires that drive up overhead costs".*
30. The format of the Scheme was developed by SPPP and LOD during the first half of 2019. It was designed, from the outset, to be subject to appropriate governance arrangements.
31. Features included:
- a. Applicants' lawyers: where an applicant instructed a lawyer, those lawyers were paid fixed fees:
    - Part 1: Les Chênes application: £1,000
    - Part 2: Children's homes and foster care application: £2,200.
  - b. Scheme lawyers: LOD acted as Scheme Lawyers (the Redress Team). The Redress Team had fixed costs which were based on projections relating to number and complexity of applications.
  - c. Approved expert advisors: A panel of approved expert advisors was assembled by the Redress Team at a pre-agreed competitive hourly rate.

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<sup>12</sup> Significant thanks to London Borough of Lambeth who kindly held several virtual meetings, telephone conferences and shared information in relation to the Lambeth Scheme which informed the development of Part 1 of the Scheme.

The Redress Team determined experts should only be instructed where necessary and proportionate, which primarily related to applications that could potentially fall within Part 2, Band 4 of the Scheme.<sup>13</sup> The independent expert, who would most typically be a psychiatrist or psychologist, would meet with the applicant and report on any psychiatric and/or psychological harm they had suffered, in order to support the Redress Team to appropriately assess the total monies awarded. The costs of the assessment and applicants travel costs were paid by the Redress Team.

- d. Settlement discussions: An applicant could ask to hold a settlement discussion with the Redress Team either before an offer was made or after the offer was made. If held after an offer was been made, the Redress Team could make a revised offer. Applicants' lawyers did not receive additional fees for participating in settlement discussions. Settlement discussions were also a feature of HARS I.
- e. Appeals: Where an applicant did not accept an offer / revised offer, the applicant could ask for review by Independent counsel. If, on review, the offer increased by more than 20%, GoJ paid for the review. If the offer decreased, or increased by less than 20%, the applicant paid for the review<sup>14</sup>. Applicants' legal fees for an appeal were also fixed:
- Part 1 application review: £500
  - Part 2 application review: £1,100.

The appeals arrangements (with the exception of the fixed legal fees for an applicant's legal advisor) mirrored those for HARS I. The Redress Team made arrangements with three independent counsel to take on appeals, but in the event, none were received.

- f. Application period: The Scheme opened for applications on 1 July 2019 for a 12-month period (until 31 June 2020). On 20 May 2020, the Children's Minister agreed that, in light of Covid-19, the application deadline date should be extended by two months until 31 August 2020 (i.e. 14-month application window). By contrast, HARS I had a 6-month application window.

It was agreed by CoM that, in providing for a longer application period than HARS I, the Scheme should not admit late applications unlike HARS I<sup>15</sup>.

- g. Independent Panel: An Independent Panel was established with powers to determine principles relating to the admissibility of applications, or parts of applications, which do not fully meet the scheme criteria. See Appendix 1 for terms of reference as approved by the Children and Housing Minister. Four panel members were appointed by Ministerial Decision and all signed a data sharing agreement.<sup>16</sup> The names of the Panel members were not made public to ensure confidentiality.

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<sup>13</sup> In the event, whilst experts were instructed as set out below, no Part 2 applications were settled in Band 4

<sup>14</sup> See paragraph 15 of the Scheme Terms and Conditions

<sup>15</sup> See Para 3 of the Scheme Terms and Conditions

<sup>16</sup> Panel established by the Chief Minister - Ministerial Decision (MD-C-2019-0070)

- h. Apology: All eligible applicants received an individual letter of apology from the Minister for Children unless they opted out of receiving a letter. This was not a feature of HARS I. It reflected the recognised need for people to receive an individual apology, as distinct from a collective statement of apology. The individual letters of apology were acknowledged by the IJCI in its two-year review report published in September 2019.
- i. Settlement and social security benefit: As per HARS I, the capital value of payments made under the Scheme were disregarded when calculating income support and other benefit entitlements.
- j. Support for applicants: A dedicated telephone counselling service was available to applicants under HARS I, but uptake of this service was very low. Therefore the Scheme, with the consent of Victim Support, directed applicants to them in the first instance.
- k. Data sharing agreements: Recognising that significant resources had been absorbed by HARS I on matters relating to disclosure of records, data sharing agreements were entered into with various parties including those listed below. This provided for more timely disclosure of information:
- Minister for Health and Social Services
  - States of Jersey Police
  - Independent Counsel
  - several applicant representatives
  - Minister for Children and Housing
  - Independent Panel
  - Jersey Probation and Aftercare Service.

See Appendix 2 for data sharing agreement and schedule

- l. Policy approach: HARS I involved a very robust process of examination of claims with many applicants required to undergo psychiatric examination (see “Expert Advisors” section above). This resulted in long assessment periods. In the absence of detailed analysis, it has been estimated that HARS I applications took between 4 to 36 months to settle. It was decided by CoM that the Scheme should take a more pragmatic approach to settlement of claims, in part because the IJCI provided a source of evidence about harm/abuse in care settings which was not available when HARS I was established. Furthermore, the high levels of spend on HARS I legal fees indicated it was not cost effective to engage in protracted examination of claims and negotiations between lawyers<sup>1</sup>.

Taking a programmatic approach to settling claims helped avoid unnecessary distress for applicants in having to retell their story. Furthermore it helped to reduce overhead costs. The Scheme was, in effect, a form of Alternative Dispute Resolution.

32. The Scheme documents were prepared in May and June 2019. This included Terms and Conditions which governed the operation of the Scheme and which had primacy over all other documentation relating to the Scheme<sup>17</sup>:
- a. application form – See Appendix 3
  - b. scheme application guide – See Appendix 4
  - c. terms and conditions – See Appendix 5
  - d. privacy Policy – See Appendix 6
33. Internal GoJ governance arrangements and process documents were prepared. This included, the Redress Team, in consultation with SPPP, developing case management tools in LOD's P+ case management software to manage applications and easily export Scheme statistical data at the "touch of a button".

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<sup>17</sup> Paragraph 1.4 of the Scheme terms and conditions

## Final scheme design

34. The final Scheme had two parts:
- Part 1: Les Chênes
  - Part 2: Children's homes and foster care. Part 2 applicants could also apply for therapy monies.
35. Part 1: Les Chênes

Redress for people who, while accommodated at Les Chênes secure residential unit, suffered due to the harsh regime and whose experiences there had a negative impact on their childhood. From 2003, Les Chênes secure residential unit was also known as Greenfields.

The total amount of time a person lived at Les Chênes determined their payment. This was based on the number of nights or weekends spent at Les Chênes. It did not include time spent at Les Chênes during the school day, or any time when the person was on the Les Chênes register but were staying at home or elsewhere.

Some applicants received an additional payment if, while they were living at Les Chênes, they were subject to inappropriate and unlawful physical abuse. This could include manhandling by staff or treatment that constitutes physical abuse, but which did not result in significant injury or long-term harm. Applicants had to provide details of the inappropriate physical treatment on their application form.

<b>Total time living at Les Chênes</b>	<b>Redress payment</b>	<b>Additional payment for inappropriate physical treatment</b>
7 days or less	£1,000	£ 500
Between 8 days and 50 days	£2,500	£1,000
Between 51 and 100 days	£4,000	£1,500
Between 101 days and 270 days	£8,000	£2,500
Over 271 days	£10,000	£4,000

### Part 2: Children's homes and foster care

Redress for people who were sexually abused and/or physically abused while a full-time resident in a Government of Jersey children's home or while in a Government of Jersey foster care placement. Or redress for people who, while accommodated at Les Chênes secure residential unit, were sexually abused and/or physically abused resulting in significant injury or long term harm.

The amount of the payment was determined based on the nature, severity and frequency of the abuse suffered, and any physical and psychological injuries or long-term effects.

<b>Band</b>	<b>Description</b>	<b>Redress payment</b>
1	Physical abuse and/or sexual abuse: limited long-term effects	Up to £11,500
2	Aggravated physical abuse with significant long term psychiatric/psychological effects and/or  Aggravated sexual abuse	£11,500 to £23,000
3	Prolonged aggravated physical abuse with significant long term psychiatric/psychological effects and/or  Rape and/or sexual abuse involving penetration (with or without physical abuse)	£17,500 to £41,000
4	Rape and/or sexual abuse involving penetration (with or without physical abuse) with significant long term psychiatric/psychological effects	£29,000 to £70,000

36. Part 2 payments were based on the payments provided under HARS I, but were uplifted to take account of changes to inflation between 2012 (HARS I launched date) and 2019.

#### Therapy monies

37. Part 2 applicants could apply for up to £3,000 to pay for therapeutic or medical treatment for the psychiatric or psychological effects of the abuse they suffered. Monies were provided under the following conditions:
- a. the treatment was recommended by a relevant medical expert (for example, the applicant's GP) or there is evidence about the need for the treatment
  - b. the type of treatment to be undertaken was agreed in advance (this included the Chief Associate for Allied Health Professions confirming the appropriateness of proposed therapeutic intervention)
  - c. the therapy monies would only be released on receipt of invoices or bills setting out the details of the treatment provided.
38. Under the terms and conditions of the scheme therapy monies had to be used 30 June 2022 however, on 30 September 2021 the Minister for Children determined that this deadline should be extended to 31 December 2024 to counterbalance the potential impact that COVID may have had on access to therapy.
39. The therapy monies arrangements under the Scheme were based on HARS I arrangements. All therapy monies provided under HARS I had to be used within two years of the publication of

the IJCI report. That report was published in July 2017 with monies having to be used by July 2019.

#### Abuse / harm falling outside scheme criteria

40. Part 2 of scheme provided for children in residential care or GoJ foster care only. During 2019 and 2020 a small number of queries were received regarding harm or abuse alleged to have occurred at St James School. St James was previously a school in Jersey for children with emotional and behavioural difficulties. It was not, to any degree, a residential facility and as such it fell outside the Redress scheme. It also fell outside of the remit for IJCI. As it clearly sat outside the Scheme criteria, as the children who attended were not within GoJ care, the Independent Panel was not asked to consider this matter.
41. Applications were also received relating to Oaklands Alternative Curriculum; D'Hautree House and HMP La Moye. There were not determined unless the applicant had also been at Les Chênes, in GoJ residential Care or in GoJ foster care, in which case the part of the application relating to Les Chênes, in GoJ residential Care or in GoJ foster care was determined. A total of three applications received related solely to HMP, D'Hautree House and Alternative Curriculum. There were not admitted into the Scheme.
42. A small number of other applications were received that fell clearly outside the scheme criteria including, for example; where an individual had been in private foster care, as opposed to GoJ foster care, or where they were in foster care and suffered alleged abuse or harm that was not connected to the care arrangements.

## Section 3: Scheme statistics

43. The information below is quantitative data only. Qualitative data is not available as there is no formal mechanism for capturing such data. Some qualitative insights are provided via the quotes and feedback set out in Appendix 7.

### Total applications received and settled

44. The total number of applications received and settled:

	Part 1	Part 2	Total
Applications submitted to Part 1 and Part 2	145	70	215
Applications submitted but not admitted into scheme	6	28	34
Applications to Part 1 and Part 2 - offered settlement	139	42	181
Applications submitted to Part 1 and Part 2 - settled*	139	40*	179
Part applicant settled under (9 Part 2 applications settled under Part 1)	148	31	179
Total value of offers	£1,374,500	£375,500	£1,750,000
Value settled (not including therapy monies)	£1,374,500	£408,250	£1,782,750
Total fees paid to applicants' lawyers	£124,000	£57,810	£181,810

\* At the date of publication of this report, 2 of the 181 applications admitted into the scheme are awaiting settlement. The Scheme terms and conditions set out that an applicant has 6 months from the date of an offer to accept that offer.

### Applicants settled under Part 1

45. A total of 139 applicants who applied to Part 1 settled under Part 1. Settlements were based on the numbers of nights spend at Les Chênes, with some applicants also receiving an additional payment for inappropriate physical treatments:

Settlement based on nights accommodated at Les Chênes <sup>18</sup>	No. of applications settled	Settlement based on nights accommodated at Les Chênes plus payment for inappropriate physical treatment	No. of applications settled	Grand total
£1,000 – £5,000	19	£1,000 – £5,000	5	
£5,001 - £10,000	38	£5,001 - £10,000	3	
		£10,001 - £14,000	74	
<b>Total applicants</b>	<b>57</b>		<b>82</b>	<b>139</b>
<b>Total payments</b>	<b>£397,000</b>		<b>£982,500</b>	<b>£1,374,500</b>

### Applications settled under Part 2 by band

46. A total of 40 applicants submitted to Part 2 of the scheme have been settled. 9 of which were settled under Part 1 of the Scheme, as opposed to Part 2, because they did not meet the Part 2 criteria for Part 2. Therefore a total for 31 applicants to Part 2 of the Scheme settled under Part 2. The breakdown of the bands under which those 31 applications settled is:

<b>Band</b>	<b>Number of applications settled</b>
Up to £11,500	21
£11,500 to £23,000	4
£17,500 to £41,000	6
£29,000 to £70,000	0
<b>Total</b>	<b>31</b>

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<sup>18</sup> Information relating to Applicants to Part 1 who settled under Part 1 is shown in broad payment bands to ensure confidentiality.

### Applications relating to abuse in foster care

47. 5 of the 31 applications settled under Part 2 of the Scheme related to alleged abuse in foster care. A total of 8 foster care applications were received but 3 were not admitted as they did not meet the Scheme criteria:

	Number	Reason
Application accepted	5	4 related to allegations of sexual abuse  1 related to physical abuse  Average settlement: £14,100
Application not admitted into the scheme	3	1 related to non-GOJ private foster  2 alleged emotional abuse as opposed to physical or sexual abuse

### Applications submitted to Part 2 but settled under Part 1

48. 9 applications submitted to Part 2 were settled under Part 1. The total value of the settlement provided to all 9 applicants was £90,000.

### Applications not admitted into the scheme

49. A total of 34 applicants were not accepted into the scheme because they did not meet the Scheme criteria:

Reason for not being admitted into the Scheme	Number of applications
Fully Settled under HARS I	3
Part 1 – eligibility criteria not satisfied	1
Part 1 – not accommodated at Les Chenês	2
Part 2 – not resident at GOJ children’s home prior to 31 December 2005	5
Part 2 – alleged abuse not committed by staff, other resident or someone connected with the children’s home	4
Part 2 – applicant did not establish abuse to the requisite test	18
Applicant deceased prior to the making of the application	1
<b>Total</b>	<b>34</b>

50. All recommendations not to admit an application into the scheme were considered and authorised by LOD’s Director of the Civil Division in accordance with the Governance Arrangements agreed with SPPP.

## Time taken to determine applications

51. A number of HARS I applicants had criticised the time taken to determine and settle application. Therefore, under the terms of the Scheme, GoJ committed to pay an applicant's award, and their legal advisor's fees, within 72 days of the Redress Team receiving a signed valid settlement agreement from the applicant<sup>19</sup>. This service standard was met in over 99% of all settled applications.
52. Under the scheme the average (mean) number of days taken from receipt of a complete application was:

	Part 1	Part 2
No. of days to offer made	90 days	190 days
No. of days to settlement	121 days	224 days

53. The median number of days taken from receipt of a complete application was:

No of days offer made	59 days
No. of days to settlement made	91 days

54. Comparative timeframes are not available from HARS I, however, in the absence of detailed analysis, it has been estimated that HARS I applications took between 120 days to 1,080 days.

## Expert evidence

55. Expert advisors were instructed on two occasions.

## Appeals

56. There were no appeals to Independent Counsel. The Redress Team reiterated the availability of the appeal process to applicants' legal advisors on several occasions but on each occasion the applicant settled without going to appeal. This may reflect the fact that prior to making formal offers the Redress Team, where appropriate, provided detailed records and chronologies to the applicants to support the offer made, and entered into discussions with applicants and/or their lawyers with a view to reaching agreement where appropriate.

<b>No. of Appeals to Independent Counsel</b>
0

## Independent Panel

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<sup>19</sup> See paragraph 19 of Scheme Terms and Conditions.

57. No applicants were referred to the Independent Panel established to determine principles relating to the admissibility of applications / part of applications which did not fully meet the scheme criteria. (Terms of reference: Appendix 1)

### Therapy monies

58. Therapy monies offered to:

No. of Part 2 applicants requesting therapy monies	19
No. authorised therapy monies <sup>20</sup>	18
Value of therapy monies offered	£57,000 (£3,000 per applicant)
Use of monies to date	2 applicants have commenced use of their therapy monies

59. Therapy monies offered under HARS I:

Total applicants requesting therapy monies	N/A
No. authorised therapy monies	51
Value of therapy monies offered	£180,560 <sup>21</sup> (most applicants received £3,000)
Applicants using / commencing drawn of therapy monies before 3 July 2019 deadline	£47,000 drawn down before deadline

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<sup>20</sup> One application requesting therapy monies was not admitted into the scheme. In all cases where therapy monies were requested, and the application was admitted into the scheme, the monies have been awarded.

<sup>21</sup> Does not include higher awards made under HARS I in accordance with the HARS I terms and conditions.

## Applicants' legal advisors

60. Of the 215 applicants received (of which 34 applications were not admitted into the scheme) the following appointed legal advisors:

	<b>Applications received</b>	<b>Applications settled</b>	<b>Applications not admitted</b>	<b>Value of settlement</b>	<b>Legal fees</b>	<b>Applicants offered therapy monies</b>
UK legal advisor	148 Part 1: 108 Part 2: 40	124 <u>Applicants to Part</u> Part 1: 103* Part 2: 21*  <u>Part settled under</u> Part 1: 112 Part 2: 12	24  16% of applications submitted	£1,161,250	£139,000	5  42% of eligible applicants
Channel Islands legal advisor	26 Part 1: 17 Part 2: 9	26 Part 1: 17 Part 2: 9	0	£395,000	£37,000	8  89% of eligible applicants
Applicant in person / represented by third party <sup>22</sup>	41 Part 1: 20 Part 2: 21	29 Part 1: 19 Part 2: 10	10  25% of applications submitted	£226,500	£5,810	5  50% of eligible applicants
<b>Total</b>	<b>215</b> Part 1: 145 Part 2: 70	<b>179<sup>23</sup></b> <u>Applicants to Part</u> Part 1: 139* Part 2: 40*  <u>Part settled under</u> Part 1: 148 Part 2: 31	<b>34</b>  16% of applications submitted	<b>£1,782,750<sup>24</sup></b>	<b>£181,810</b>	<b>18</b>  58% of eligible applicants

\*112 Part 1 applicants represented by UK legal advisors included 9 applicants who submitted a Part 2 application but who settled under Part 1. Hence the difference between number of applications to Part 1 and 2 and number who settled under Part 1 and Part 2.

<sup>22</sup> Included representation by States Members.

<sup>23</sup> 2 applicants have been made an offered but, as of the date of this report, have not yet settled.

<sup>24</sup> Not including therapy monies.

### External legal adviser

61. No applicant requested that their application was determined by an external legal adviser as opposed to the Redress Team.

### Letter of apology

62. Nearly 70% of applicants requested a letter of apology. Each letter was drafted to ensure it addressed the applicant and the circumstances of their application. Feedback from applicants indicated that the letters were of importance to them and were well received.

Number letters requested	% of applicants	Number letters sent
119	66%	118 <sup>25</sup>

### Projected costs

63. The projected costs for the Scheme were based on two different scenarios modelled on HARS I:

	Scenario 1	Scenario 2
Projected no. of applications admitted into the Scheme	120 Part 1 + 105 Part 2	120 Part 1 + 160 Part 2
2019	£1,713,875	£2,453,750
2020	£2,122,425	£3,124,800
2021	£43,450	£103,950
	<b>£3,879,750</b>	<b>£5,682,500</b>

64. There was very limited information on which to estimate the number of potential applications, therefore projections were based on the upper end to ensure sufficient monies would be available:
- the total number of children in residential care in Jersey for the period 1945 to 2005 is not known, and whilst the IJCI provides evidence of widespread abuse over a significant period, the number of children abused, or the extent of abuse in each case, could not be known
  - whilst it was known that between 1978 and 2006, 278 young people were directed to reside at Les Chênes, the numbers who suffered during the harsh environment similarly could not be known, nor could the extent of the harm or abuse suffered be known.

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<sup>25</sup> Letters are sent on settlement. One applicant who has requested a letter has yet to settle.

## Costs of scheme

65. LOD Redress Team costs chargeable to the Redress Scheme, not including costs of:
- Director of the Civil Division of LOD in relation to oversight of the Redress Team
  - LOD resource associated with information governance.

2019	£70,402
2020	£161,324
<b>Total</b>	<b>£251,726</b>

## Rebalancing the money paid to applicants and lawyers

66. CoM instructed officers to ensure that the legal fees associated with the Redress Scheme were proportionate and represented a rebalancing of proportion of legal costs / applicants' costs incurred under HARS I.

	<b>Redress scheme</b>	<b>HARS I<sup>26</sup></b>
Payments to applicants' lawyers	£181,810	£1,000,000
Scheme lawyers' costs	£251,726 <sup>27</sup>	£3,000,000 <sup>28</sup>
Payments to applicants	£1,782,750	£2,500,000
<b>Total scheme costs (excluding therapy)</b>	<b>£2,216,286</b>	<b>£6,500,000</b>
Applicants' payments as % of total scheme costs	80%	38%
Overhead costs as % of total scheme costs	20%	62%

67. Under HARS I, for every £1 spent on overheads, c. 63p was provided to applicants<sup>29</sup>. Under the Redress scheme, for every £1 spent on overheads, c. £4.11 was provided to applicants<sup>30</sup>
68. Direct parallels cannot be drawn between the costs incurred under HARS I and the Redress scheme. Under HARS I, all applications would have been comparable to Part 2 applications under the Redress scheme and would, therefore, be more complex to determine. However, it is clear that overheads were significantly reduced by:
- a. LOD acting as scheme lawyers

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<sup>26</sup> Data from answer given to WQ209/2018

<sup>27</sup> Costs do not include GoJ civil service staff costs incurred in the set-up, management and delivery of the scheme

<sup>28</sup> Costs do not include GoJ civil service staff costs incurred in the set-up, management and delivery of the scheme

<sup>29</sup> Not including therapy monies

<sup>30</sup> Not including therapy monies

- b. introduction of fixed fees for applicants' lawyers
- c. LOD negotiating reduced hourly costs for approved experts
- d. processing applications in a reasonable and proportionate way and avoiding protracted assessment processes with heavy reliance on external experts
- e. use of data sharing agreements to reduce costs / time associated with information exchange.

## Section 4: Learning

### Governance and Scheme terms and conditions

69. SPPP and LOD invested considerable time in preparing the Scheme Governance documentation and the Scheme Terms and Conditions. The draft governance arrangements were reviewed by internal audit, and subsequently amended, prior to the Scheme commencing.
70. The Terms and Conditions did not need to be amended during the life of the Scheme, however, there are minor changes which would be made if the Terms and Conditions are used as a template for any future Scheme. These minor amendments, which include those set out below and others related to readability, would not affect the outcome in any of the applications considered.
71. The investment in preparing the scheme documentation, including the time spent in discussion with Lambeth Council about their experiences, was invaluable. The Governance arrangements meant that there was a clearly agreed path for dealing with applications at all stages of the process.
72. There were regular meetings between the LOD and SPPP to review the operation of the scheme, as well as ad hoc discussions when required, which assisted in ensuring that the scheme ran smoothly.

### Applicants in person

73. Paragraph 19 of the Terms and Conditions should make it clear that applicant in person was required to receive independent legal advice on the settlement agreement. This was implicit from the paragraph 28 of the Terms and Conditions, which provided a £200 fixed fee to legal advisors, but should be made clear in paragraph 19. In practice, despite this not being clear, the Redress Team recommended to all applicants in person that they receive independent advice, and all did so.
74. Requiring applicants in person to take independent legal advice upon the settlement agreement is a necessary and sensible measure. It helps ensure that the interests of applicant in person are protected and that the applicant is supported to understand the settlement agreement prior to signing.
75. 25% of applications received from applicants in person were not admitted into the scheme. It is to be expected that a relatively large percentage of applicants in person may not meet the scheme criteria, so this does not indicate any particular learning except for the requirement to ensure that, where an applicant in person is not admitted into the scheme, they are redirected to independent legal advisors.
76. Only c. 50% of applicants in person who were potentially eligible for therapy monies applied for therapy monies, which is broadly comparable to applicants represented by UK legal advisors (42%). Whilst these differences may be due to factors such as the applicant not requiring / already having access to therapeutic support, any future scheme should give

consideration as to how best to ensure that applicants in person are fully aware of, and encouraged to access, all aspects of the scheme.

### Application management

77. It was determined, from the outset, that a case management system should be developed allowing for capture all management information essential to the oversight of the Scheme. This was provided via LOD's P+ case management system. The Redress Team developed several precedents which were incorporated into P+, including:
- a. offer letters
  - b. letters not admitting applications into the scheme
  - c. template emails
  - d. settlement agreement
  - e. payment authorisation forms
  - f. Part 2 Negotiating parameter forms.
78. As an ensemble, the case management systems developed enabled the smooth processing of applications. It provides a template for management of any future scheme.

### Part 2 comparator information

79. The Redress Team were directed by CoM to ensure that offers made under Part 2 of the Scheme were fair and consistent with other offers made under the Scheme and with offers made under HARS I (subject to inflationary uplift).
80. The Redress Team prepared relevant comparators on an application-by-application basis, building up comparator information as the Scheme progressed. This resulted in the production of a reasonably detailed schedule of comparator information which allowed for speedy assessment of quantum in Part 2 applications.

### Access to Records

81. The Redress Team made approximately 15 requests to the States of Jersey Police (SOJP) for records and/or information that was required to assist in the determination of an application. This was considerably fewer than under HARS I, due to:
- a. Part 2 applications being related to alleged abuse that was generally less grave than under HARS I
  - b. SOJP information was not needed in relation to Part 1 applications.
82. The Information Governance Team in Health and Community Service ("HCS") was required to produce significant numbers of historic records held by the Children's Service.
83. Despite the time and effort involved in these requests, all records requested were received by the Redress Team. However, any future scheme should allow for more resourcing related to records requests and the development of associated memoranda of understanding

between parties. Note: The resources expended by SoJP and HCS in providing records is not included in the Scheme costs.

#### Late applications

84. The Scheme has received five enquiries between Sept 2020 and May 2021 in relation to requests for the submission of late applications. In accordance with Paragraph 3 of the Scheme Terms and Conditions, the requests for late admission to the Scheme have been refused. This has ensured consistency of treatment; no late applicants have been admitted as opposed to some being admitted but not others, on the grounds that they were received significantly outside the application window, as opposed to marginally outside the application window.

#### Personal injury trusts

85. GoJ sought to commission the set-up of personal injury trusts, into which redress monies would be paid, from a third party provider. This was to address legitimate concerns about some applicants' ability to manage their redress payments. Whilst this initiative was not delivered due to resourcing concerns from third party providers it should, nevertheless, be given consideration in all other such schemes.

# Appendices

# Appendix 1: Independent Panel terms of reference

## Background

1. On 12 December 2018 the Council of Ministers determined that, in principle, a new Redress Scheme should be established providing redress to people who, as children, were abused or suffered harm between 9 May 1945 and 31 December 2005:
  - a. whilst a resident in a Government of Jersey children's home
  - b. whilst in a Government of Jersey foster care placement
  - c. whilst accommodated at Les Chênes secure residential unit.
  
2. On 3 April 2019, CoM determined that:
  - a. the scheme should be launched on 1 July 2019
  - b. the Law Officers' Department would establish a team of legal advisers to determine applications for redress (the "Redress Team") on behalf of the Government of Jersey.
  
3. On June 2019 (MD-C-2019-0070) the Chief Minister determined to delegate to:
  - a. the Independent Panel to be established under the Redress Scheme powers to determine principles relating to the admissibility of applications/part of applications which do not fully meet the scheme criteria
  - b. the Assistant Health Minister/Children's Minister (the "Children's Minister") the power to determine the terms of reference of the Panel.

## Independent Panel: Terms of reference

### Purpose

4. To make recommendations to the Minister on whether to amend the Redress scheme criteria where applications are received which do not fully meet those criteria.
  
5. The Minister will consider the recommendations of the Panel. Where the Minister accepts a recommendation to amend the eligibility criteria the scheme criteria will be amended accordingly.

### Working practice

6. The Redress Team will request that the Panel consider the facts of an application that does not fully meet the scheme criteria but where the Redress Team believe there may be compelling grounds for the Panel to consider the matter.
  
7. The Redress Team will provide to the Panel the following information:
  - a. a summary of the facts of the application/s
  - b. a summary of the reasons why the application/s does not meet the scheme criteria

- c. a summary of the reasons why the Redress Team is asking the Panel to consider the matter.
8. If the Panel requires any further information than that provided by the Redress Team in order to consider the matter it may request such further information from the Redress Team but this will not include a copy of the application/s or the name/s of applicants.
9. The Panel will not determine applications (i.e., whether a redress payment should be made, or the amount of the payment). It will recommend to the Minister whether, based on the information provided by the Redress Team, the scheme criteria should be amended to admit such applications to the scheme.
10. The Panel will only consider matters referred to it by the Redress Team or the Children's Minister. It will not consider matters on the request of applicants/applicants' representatives or other third parties.
11. The Panel will not consider applications that have already been rejected by the Redress Team as not meeting the scheme criteria.
12. The Panel will only make recommendations to the Children's Minister. The Children's Minister will decide whether to accept or reject a Panel recommendation. The Children's Minister may seek advice from the Redress Team or may consult the Council of Minister where the Minister deems it necessary.

#### Panel Membership

13. The Children's Minister to appoint three to five people as members of the Panel.
14. Quorum: 3 members.
15. Each member will have one vote. Where the Panel does not need to reach a consensus or majority view on recommendations to present to the Minister, the divergence of views will be set out for the Minister in order for the Minister to make his determination.
16. Each member will be asked to sign a confidentiality agreement.

#### Panel meetings

17. The Redress Scheme will be open to applications from 1 July 2019 to 31 June 2020. It is not known how many applications will be received in that time period which the Redress Team consider should be considered by the Panel. Based on the Government of Jersey's previous Redress Scheme, it is not anticipated that it will be more than 20.
18. It is proposed that a series of 1 hour meetings will be set up at approximately 8 weekly intervals. In the event that meetings are not required, they will be cancelled. In the event that more meetings are required, or a matter needs to be urgently considered, this can be done via email.

#### Panel Members

19. Panel members:

- cannot be a member of the States Assembly
- cannot be employed by GoJ or contracted to deliver services to GoJ except for where they are contracted as a post holder in an independent body
- cannot be a claimant/potential claimant to the Scheme
- cannot represent a claimant to the Scheme
- must have skills, experience or knowledge which is relevant to the role or must hold a position/role in the community which will help ensure claimant's and claimant's representatives will have confidence in their ability to make independent decisions.

## **Appendix 2: Data Sharing Agreement and Schedule**

**Data Sharing Agreement (the “Agreement”) for the sharing of personal data**

**between**

**The Controllers as listed in the Schedules**

**and**

**Government of Jersey Redress Team**

## **Parties to the Agreement:**

The responsibility for the proper handling of the Shared Data (as defined herein) will be by:

The Controllers as listed in the Schedules

and

Government of Jersey Redress Team

Morier House

Halkett Street

St Helier.

JE1 1DD

[www.gov.je/redress](http://www.gov.je/redress)

[enquiries@redress.je](mailto:enquiries@redress.je)

01534 441014

(together the “Parties” and each a “Party”)

### **1) Definitions**

The definitions in this MOU are the same as set out in the Data Protection (Jersey) Law 2018 (the “DPL”) unless otherwise stated in this Agreement.

### **2) Aim of the Agreement**

2.1) To allow data sharing between the Controllers listed in the Schedules (the “Scheduled Controllers”) and the Government of Jersey Redress Team (“Redress Team”) and to ensure that sharing is carried out in accordance with the requirements of the DPL for the sole purpose of enabling the Redress Team to assess whether to provide appropriate redress to people who, as children, were abused or suffered harm between 9 May 1945 and 31 December 2005:

- i. Whilst a resident in a Government of Jersey children’s home; or,
- ii. Whilst in a Government of Jersey foster care placement; or,
- iii. Whilst accommodated at Les Chênes Secure Residential Unit.

2.2) 2.1 to include (but not limit) the provision of information from the Redress Team to the Scheduled Controllers, legal Representatives and Independent Counsel, where necessary for the purposes of the application process.

### **3) Schedules**

- a) By signing a Schedule to this Agreement, each Party agrees to abide by the principal provisions of this Agreement, having regard to the terms set out in the relevant signed Schedule.
- b) The relevant Schedule will specify the relevant Parties for that individual processing activity.
- c) Each sharing and processing activity will be clearly defined in the relevant Schedule.

#### **4) Roles of the Parties**

For the purposes of this Agreement the Parties will each act as controllers in respect of the personal data they hold.

#### **5) Data protection principles**

In entering into this Agreement, the Parties have carefully considered the requirements of the six Data Protection Principles (the "DP Principles") as set out in Article 8 of the Law. The Parties agree that they have complied with and will continue to comply with the DP Principles in respect of the sharing and processing of the Shared Data.

#### **6) Security and confidentiality of the Shared Data**

- 6.1) The Parties acknowledge that the Shared Data includes Special Category Data and therefore the Parties will keep the Shared Data secure and confidential at all times.
- 6.2) The Parties shall ensure that any Shared Data that is exchanged by email, will be exchanged via a secure email system. The Government of Jersey internal email system is considered to be secure. Any emails exchanged externally will be risk assessed on the Data Protection Privacy Impact Assessment ("DPIA") in accordance with clause [xx] and any risks will be mitigated in accordance with that assessment.
- 6.3) The Parties will ensure that any Shared Data exchanged in hard copy, will be transported by courier in secure boxes. They will only be signed for by a Party to this Agreement and will be stored in a secure and confidential area.
- 6.4) The Parties will ensure that any Shared Data exchanged by USB stick will ensure the USB stick is encrypted. The USB stick will either be couriered securely or sent in the post by 'signed-for' delivery only. Any USB sticks will be kept in a secure and confidential area.

#### **7) Data quality**

Data quality is a perception or an assessment of data's fitness to serve its purpose in a given context. Aspects of data quality include (but are not limited to): Accuracy; completeness; status; consistency; reliability; accessibility. The Parties agree it is crucial to operational and transactional processes. Before sharing data, the relevant sharing Party will check that the Shared Data is accurate and up to date to the best of their knowledge. Special category data is being shared which could harm the Applicant if it was inaccurate or result in an Application being refused, therefore particular care must be taken to ensure the quality of the Shared Data.

#### **8) Data breaches**

In the event that the Shared Data is subject to a "*personal data breach*" (as defined in Article 1 (1) of the DPL), the Redress Team must be informed immediately. The Redress Team will be responsible for escalating this through the Government of Jersey's security incidents reporting system, in accordance with the Law Officers' Department's data breach process. The Redress Team will be responsible for informing the other Parties to the Agreement of the data breach as soon as possible.

#### **9) Freedom of Information ("FOI") requests**

The Redress Team will be responsible for handling any requests received from members of the public in respect of the Scheme pursuant to the Freedom of Information (Jersey) Law 2011. All Parties are required to inform the Redress Team if they are in receipt of an FOI request.

#### **10) Subject Access Requests (“SARs”), queries and complaints**

The Redress Team will be responsible for handling any SARs, dealing with general data protection queries and complaints received from members of the public in respect of the Scheme and will be with in accordance with the relevant Party’s policies and procedures.

#### **11) Data retention**

The Shared Data shall be retained by the Redress Team in accordance with the Law Officers’ Department’s retention schedule.

#### **12) Audits and inspections of the Shared Data**

- 11.1) The Parties shall make available to each other all information necessary to demonstrate compliance with the obligations laid down in this Agreement and allow for and contribute to audits, including inspections, conducted by the other Party or another auditor mandated by the relevant Party as set out below.
- 11.2) Upon a relevant Party’s reasonable request, the other Parties agrees to provide that Party with any documentation or records which will enable it to verify and monitor that Party’s compliance with its data protection and security obligations under the terms of this Agreement, within 14 days of receipt of such request, and to notify the relevant Party of the relevant person who will act as the point of contact for provision of the information required. For this purpose, a Party may present up-to-date attestations, reports or extracts thereof from independent bodies (e.g. external auditors, internal audit, the data protection officer, the IT security department or quality auditors) or suitable certification by way of an IT security or data protection audit.
- 11.3) Where, in the reasonable opinion of either Party, such documentation is not sufficient in order to meet the obligations of the Law, either Party will be entitled, upon reasonable prior written notice to the other Party and upon reasonable grounds, to conduct an on-site audit of the other Parties premises used (save for domestic premises), solely to confirm compliance with its data protection and security obligations under this Agreement.
- 11.4) Any audit carried out a Party will be conducted in a manner that does not disrupt, delay or interfere with the other Party’s performance of its business. The Parties shall ensure that the individuals carrying out an audit are under the same confidentiality obligations as set out in this Agreement.

#### **12. Amendments to this Agreement**

- 12.1) Any Party wishing to amend this Agreement will send a request to the Redress Team outlining what the amendments are and why they are necessary. The Redress Team will consider such requests and will not unreasonably refuse such requests. The Redress Team will notify the Parties in writing of any changes to this Agreement.
- 12.2) This Agreement will also be reviewed in the event of any significant changes to any of the following:
  - (i) the use of the personal data by a Party;
  - (ii) data security arrangements; or

(iii) Jersey data protection legislation.

Agreement drafted	Date: 01 July 2019	Drafted by: Redress Team
Agreement reviews	Dates	Reviewed By

**13. Termination and ongoing obligations**

13.1) This Agreement will terminate on the date the Scheme closes 5pm 30 June 2020. Any Controller obligations under the DPL and confidentiality obligations under this Agreement will continue in perpetuity.

**14. High risk data processing**

14.1) The data sharing activity is deemed to be high risk because of the Special Category Data that is being shared. Accordingly, a data protection impact assessment (the "DPIA") has been completed, in accordance with the requirements of Article 16 of the DPL. A copy of the DPIA is appended to this Agreement.

# Data Sharing Schedule

Controller of:

- a) Completed Redress Scheme Application Forms
- b) Medical records;
- c) Mental health records;
- d) Social services records;
- e) Time in care;
- f) Time in Les Chênes; and
- g) Statements to Police

## 1) Commencement Date

- a) The Agreement and this Schedule 5 shall take effect from the date on which the Scheduled Controller (as defined herein) commenced processing of personal data, being [DD] [Month] 20[YY].
- b) The terms of the Agreement and this Schedule 5 commenced on the date on which the last party signed this Schedule 5.

## 2) Parties to Schedule 5

[Name of Firm] (the “Representative”) and the Redress Team are the parties to this Schedule 5 (together the “Parties” and each a “Party” for the purposes of this Schedule 5).

### Controller Contact Details

Controller	Point of contact for Controller
[Name of Firm]	Name Position Name of Firm Tel. Email

## 3) Aim of this Schedule

To ensure that the Parties will comply with the requirements of the DPL, for the sole purpose of processing data of enabling the Redress Team to assess whether to provide appropriate redress to people who, as children, were abused or suffered harm between 9 May 1945 and 31 December 2005:

- i. Whilst a resident in a Government of Jersey children’s home; or,
- ii. Whilst in a Government of Jersey foster care placement; or,
- iii. Whilst accommodated at Les Chênes Secure Residential Unit.

and to provide the Representative with the necessary information to enable the Representative to advise their client(s), the Applicant(s) in connection with the application process.

## 4) Roles of the Parties

- a) For the purposes of this Schedule 5, the Representative and the Redress Team will each act as the Controller in respect of the data they respectively hold.

- b) For these purposes, [the Representative is registered with the Authority under notification number [nnnn] and] the Redress Team is registered with the Authority under notification number 57535.
- c) The Parties warrant to undertake the obligations relevant to them as Controller as defined under the DPL and the terms of the Agreement and this Schedule 5.
- d) The Parties shall comply with any registration requirements under the DPL and will only process the personal data as necessary to fulfil the aims stated in paragraph 3.

## **5) Data to be shared**

- a) The Representative may require the following personal data about their client(s) from the Redress Team, which includes special category data, as defined in Article 1 (1) of the Law:
  - i. Medical records;
  - ii. Mental health records;
  - iii. Social services records;
  - iv. Time in care;
  - v. Time in Les Chênes; and
  - vi. Statements to Police
- b) The Redress Team requires the following personal data about the applicants from Representative:
  - i) Completed Redress Scheme Application Forms(together (a) and (b) are the “Shared Data”).
- c) The Shared Data will be limited to only data which is strictly necessary for the activities of the Parties to enable them to achieve their relevant objectives.

## **6) Data sharing process**

- 6.1) The Redress Team will provide the Representative with:
  - i) Hard copies of the category (a) Shared Data, which will be couriered to the Representative in secure boxes. They will be signed for on collection by a member of the Representative’s staff and retained within their offices;
  - ii) Certain electronic copies of the category (a) Shared Data. Such information will be sent via the Government of Jersey Outlook Redress Team email address.
  - iii) Certain category (a) Shared Data on an encrypted USB stick, which will be couriered to the Representative’s address securely. They will be signed for on collection by a member of the Representative’s staff and retained within their offices.
- 6.2) The Representative will provide the Redress Team with:
  - i) Electronic copies of the category (b) Shared Data only. The Representative will email the Redress Team via their Government of Jersey Redress Team email address.

## **7) Purpose/justification of data sharing**

- 7.1) The Jersey Redress Scheme (“the Scheme”) has been established by the Government of Jersey to provide for appropriate redress to be given to people who, as children, were abused or suffered harm between 9 May 1945 and 31 December 2005:

- i. Whilst a resident in a Government of Jersey children's home; or,
- ii. Whilst in a Government of Jersey foster care placement; or,
- iii. Whilst accommodated at Les Chênes Secure Residential Unit.

7.2) The Scheme has two parts:

- i. Part 1: Les Chênes.

Redress for people who, whilst accommodated at Les Chênes Secure Residential Unit, suffered due to the harsh regime and whose experiences there had a negative impact on their childhood.

- ii. Part 2: Children's homes and foster care

Redress for people who were sexually abused and/or physically abused whilst a full-time resident in a Government of Jersey children's home or whilst in a Government of Jersey foster care placement.

7.3) Once an application has been received by the Redress Team, they have to check the application contains all the necessary information, and that an Applicant is eligible to apply for a payment under the Scheme.

7.4) Depending on whether an Applicant is making an application under Part 1 or Part 2 of the Scheme, the Redress Team may need other information to help determine their claim. This could include the Shared Data.

7.5) The Redress Scheme Application Form and Privacy Notice and Terms and Conditions explain that the Redress Team may need to obtain and read the information provided in the Application Form and the Shared Data.

7.6) Without the Shared Data the Redress Team will not be able to determine an application.

7.7) The Redress Scheme is a form of Alternative Dispute Resolution.

7.8) An Applicant may appoint a Representative to advise them on their application. The Representative may require the Shared Data to be provided to them in order that they can fully advise their client(s).

7.9) Whilst the same could be achieved through individuals, either by themselves or through their Representative, exercising their subject access rights under the DPL (Article 28), that information would need to redacted for third party data.

7.10) When information is released in accordance with Article 28, any "health records" are required to be assessed prior to release by an appropriate health professional for the potential to cause harm (Article 29 DPL), given that information which would be likely to cause serious harm to the physical/mental health of the data subject or any other person is exempt from disclosure in accordance with Article 61 of the DPL.

7.11) In relation to any "social work" data, in accordance with Article 61 of the DPL, information may also be exempt from disclosure if it is likely to cause "serious harm". The Redress Team are at all times mindful of protecting individuals receiving copies of their records, recognising how difficult it can be to read them, even if the "serious harm" threshold test is not met.

7.12) Subject to the safeguards set out in the Agreement, providing the Representative the category (a) Shared Data in unredacted form, will ensure disclosure in a timely and efficient manner and assist the Representative in interpreting and understanding the records, thereby enabling applicants to benefit from legal advice on their claims as soon as possible. It also means the time-intensive exercise of redacting third party data from category (a) Shared Data will not be necessary and will save public expense.

## **8) Legal basis for data sharing**

The legal basis for exchanging the Shared Data is in accordance with executive implied powers of the Government of Jersey Council of Ministers, whose decision to set-up the Scheme is minuted and dated 03 April 2019.

## **9) Processing Conditions**

9.1) The Applicant is required on the Application Form to give the Redress Team permission to obtain and read the information provided on the Application Form and the Shared Data.

9.2) Once the Application Form has been received and any Shared Data has been exchanged the Shared Data will be processed in accordance with:

- i) Schedule 2, Part 2, Paragraph (12) of the DPL, which permits the processing of special category data by public authorities for the purposes of legal proceedings;
- ii) Schedule 2, Part 2, Paragraph (13) of the Law, which permits the processing of special category data by public authorities, when performing public functions.

## **10) Additional Security and confidentiality of the Shared Data**

10.1) In addition to paragraph 6 of the Agreement, the Representative undertakes:

- a) not to disclose or communicate any content or provide a description of the content of any of the category (a) Shared Data with any external party, including for the avoidance of doubt, with their clients, where such disclosure or communication:-
  - (i) would identify, or could risk identifying, a third party; or
  - (ii) could risk causing the client or other party serious physical or mental harm
  
- b) if the Representative is required by law or wishes to disclose any pages or extracts of the category (a) Shared Data to the client to whom they relate, those pages will be identified by the Representative to the Redress Team and they will accordingly be redacted by the relevant Controller to the extent that:-
  - (i) it is third party data; or
  
  - (ii) there is a likely risk of the data causing serious harm to the data subject or another person. In the event of such perceived risk, the risk may be assessed in conjunction with an appropriate practitioner identified by the relevant Controller prior to redaction and disclosure.

10.2) The Parties acknowledge and agree that disclosure of third party data, beyond the Parties to this Schedule, or in accordance with this Agreement, is not considered to be “necessary” for the purpose of an Applicant obtaining advice on any matter relating to their application to the Redress Scheme.

**11) Signatures**

For and on behalf of the Representative: I confirm that I have read the Agreement and its Schedule 5 and agree to fulfil the requirements as stated.

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

Print name: \_\_\_\_\_ Role: \_\_\_\_\_

For the Redress Scheme: I confirm that I have read the Agreement and its Schedule 5 and agree to fulfil the requirements as stated.

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

Print name: \_\_\_\_\_ Role: \_\_\_\_\_

# Jersey Redress Scheme

Application form

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[gov.je/redress](http://gov.je/redress)

July 2019

The information you provide in this application form is needed to help determine your redress payment. You need to answer the questions as accurately and as fully as possible to help us process your application.

The Redress Team will contact you if they need additional information.

If there is not enough room on the form for your answer, please use a separate sheet of paper and send it to the Redress Team along with your application.

If you do not know or cannot remember the answer to any of the questions below, just write 'do not know' or 'cannot remember' on the form.

Before you complete this form you should read the Redress scheme application guide. You might also want to read the Redress Scheme's full terms and conditions which you can get from the Redress Team or online ([www.gov.je/redress](http://www.gov.je/redress)).

## 1 Your details

Forenames	Surname
Former name or names	
Current permanent address	
Postcode	
Contact telephone number	
Email	
Town and Country of birth	Date of birth / /

Tick if you do **not** consent to us communicating with you by email

## 2 Proof of identity

The Redress Team will need to confirm your identity.

When you send your application form please could you include:

a certified copy of your current passport or driving licence or national identity card. The document must include a photograph of you and your signature.

and

a certified copy of a bank statement or an original copy of a utility bill, for example, an electric, water or telephone bill. The document must show your current address and must be no more than 3 months old.

You can get a copy of document certified as a true copy of the original by asking a professional person to sign and date it. That could include, for example, a lawyer, a bank or building society official, a teacher or a chartered accountant.

The person certifying the copy of the document must write on it "I certify that this is a true copy of the original which has been shown to me". They need to sign and print their name, state their occupation and endorse the copy with their official stamp, if they have one, or write their address.

If you would rather not get certified copies, you can take the original documents to the Redress Team who will check them in your presence, take a copy, and return the documents to you straight away. Just call or email the Redress Team in advance and arrange a time for this to happen.

### 3 Your representative's details

You only need to complete this section if you have appointed a lawyer or another representative who you want the Redress Team to speak with about your application

Name of representative	
Name of representative's company or organisation	
Address of representative	
	Postcode
Contact telephone number	
Email address	Work
Relationship of representative to you (for example, lawyer)	

You may want to be represented by someone who is not a lawyer but if you are, the Redress Team will need you to sign an additional consent form. They will send you a copy of that form once they have received your application.

### 4 Part 1 or Part 2 application

The Redress scheme has two parts. You may only apply for Part 1 or Part 2

	Tick to indicate if you are applying for Part 1 or Part 2
<b>Part 1: Les Chênes</b> Redress for people who, while accommodated at Les Chênes secure residential unit, suffered due to the harsh regime and whose experiences there had a negative impact on their childhood.  The harsh regime at Les Chênes included children being placed in isolation and being required to sleep or spend time in a 'secure unit'.	
<b>Part 2: Children's homes and foster care:</b> Redress for people who were sexually abused and/or physically abused while a full-time resident in a Government of Jersey children's home or while in a Government of Jersey foster care placement.  Or, redress for people who, while accommodated at Les Chênes Secure Residential Unit, were sexually abused and/or physically abused resulting in significant injury or long term harm	

### 5 Dates in care

If you do not know the exact dates you were in care, just tell us approximate dates and the Redress Team will try and find out.

#### A. Les Chênes

Were you accommodated at Les Chênes secure residential unit?	Yes / No	(please circle)
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Accommodated at Les Chênes means you stayed there at night or at weekends, as opposed to just being at Les Chênes during the school day. Redress is calculated based upon the number of nights you were required to stay at Les Chênes. The reason why you were accommodated there is not relevant to your application.

If yes, what dates were you accommodated at Les Chênes?
---

## B. Children's home

Were you a full time resident in a Government of Jersey children's home/s? **Yes / No** (please circle)

If yes, what was the name of the children's home/s?

What dates were you a full-time resident?

## C. Foster Care

Were you in Government of Jersey foster care? **Yes / No** (please circle)

If yes, what was the name of the foster parent/s?

What dates were you in foster care?

## 6 Your experience of being accommodated at Les Chênes

The Redress Team need information about your experience of living at Les Chênes, in a children's home or in foster care, in order to determine your application and the amount of the redress payment you will be offered.

If there are events or matters that you do not feel able to put in writing, because it will be distressing to do so, please contact the Redress Team or your lawyer to talk about how best to proceed.

Describe your experience of living at Les Chênes and the impact it had on your childhood?

While you lived at Les Chênes, were you subject to inappropriate and unlawful physical treatment?    **Yes / No**    (please circle)

This could include manhandling by staff or treatment that constitutes physical abuse but which did not result in significant injury or long term harm.

Please describe that physical treatment?

Date/s or time period when you suffered that treatment?

Name of person(s) who inflicted that treatment?

Role of person (s) who inflicted that treatment (for example, foster parent, staff member at children's home, other resident at children's home)?

**7 Abuse or harm you suffered in a Government of Jersey children's home or Government of Jersey foster care (only answer the questions in this section if you are applying to Part 2)**

Please describe the abuse or harm suffered?

[Empty text box for detailed description of the incident]

Date/s or time period of abuse or harm suffered?

Name of person(s) who caused the abuse or harm?

Role of person (s) who caused the abuse or harm (for example, foster parent, staff member at children's home, other resident at children's home)?

## Help and support

If you have been affected by abuse in residential or foster care and would like to speak to someone, you can contact Victim Support Jersey on tel: 01534 440496. Their volunteers will listen and provide emotional support, practical help and information. They can also direct you to the right services if you need more support. Or, if you want to talk to someone out of hours, call Jersey Samaritans on Freephone: 116123

Other services that can help include:

- Dewberry House, Sexual Assault Referral Centre tel: 01534 888222
- Jersey Action Against Rape tel: 01534 482800
- States of Jersey Police tel: 01534 612612

## 8 Telling people about the abuse or harm

Did you tell anyone who was responsible for your care or in a position of authority about the abuse or harm you suffered? This could include, for example, a social worker, a teacher, a doctor, a member of staff or a police officer. You may have told them at the time of the abuse or harm or afterwards.

Yes / No

(please circle)

If yes, who did you tell?

When did you tell them?

Do you know what action, if any, they took?

If the person you told was a police officer did you make formal statement?

Yes / No (please circle)

If yes, which police force was that police officer from (for example, States of Jersey Police)?

### 9 Criminal proceedings

Do you know if any of the people you have named have been charged by the police for abusing or harming you or other people (whether or not they were found guilty)?

Yes / No (please circle)

If yes, what was the name of Court they were tried at?

What was the date of the trial?

### 10 Jersey's Criminal Compensation Board

Have you ever applied to Jersey's Criminal Injuries Compensation Board for compensation for the abuse or harm you suffered?

Yes / No (please circle)

If yes, did you receive a payment?

How much did you receive?

**11 Jersey's previous Historic Abuse Redress Scheme**

Did you apply to the Government of Jersey's previous redress scheme? This was called the Historic Abuse Redress Scheme and was launched in 2012.	Yes / No	(please circle)
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If yes, did you receive a payment?
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How much did you receive?
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**12 Other applications for compensation or redress payments**

Have you ever taken any other action to claim compensation or damages for the abuse or harm you suffered? This could include, for example, going to Court or preparing to go to Court. (This could include whether you took this action yourself or someone else, such as a lawyer, did so on your behalf).	Yes / No	(please circle)
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If yes, when did you take this action?
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Did you receive a payment?
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How much did you receive?
---------------------------

Who made the payment or decided how much you should be paid (for example, name of the Court, the redress scheme or the organisation)?
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**13 Apology**

The Government of Jersey recognises that, over a period of many years, it did not act as it should have to protect children from harm and abuse. The Government will write to you to apologise for any harm you suffered unless you tell the Redress Team that you do not want to receive a letter of apology. We appreciate that some people may not want to receive an apology.

Tick if you <b>do not</b> want to be sent a letter of apology	
---	--

#### 14 Your consent to the Redress Team receiving, reviewing and sharing information

In order to consider your application the Redress team may need to receive, review and share information with other people. You need to give them your consent to do so. You can withdraw your consent at any time. If you do not give your consent or you withdraw your consent, the Redress Team may not be able to make decisions about your application and may reject it.

Please see the Redress Scheme privacy notice for more information. You can get a copy of the privacy notice from the Redress team or online ([www.gov.je/redress](http://www.gov.je/redress)).

By ticking each of the boxes below you acknowledge that you understand the basis on which you provide your information and give your consent to the following:

<input type="checkbox"/>	I consent to any police authority releasing to the Redress Team any documents in their possession in respect of any statements I have made about the alleged abuse or harm I have suffered.
<input type="checkbox"/>	I consent to the Criminal Injuries Compensation Board releasing to the Redress Team any documents in their possession in respect of any application submitted by me in relation to the alleged abuse or harm.
<input type="checkbox"/>	I consent to the Redress Team sharing the information provided on this application form with the States of Jersey Police, the Criminal Injuries Compensation Board, or the lawyers for the Government of Jersey's previous historic abuse redress scheme.
<input type="checkbox"/>	Except for as explained in the application form above, I confirm that I have not received any form of damages or compensation or financial redress payment from any source in respect of any of the allegations put forward in this application form.
<input type="checkbox"/>	I confirm that any records held by the Government of Jersey can be provided to the Redress Team, who can review them in order to consider my application. This can include social services records, hospital records, education records, medical/health records and mental health records and other records as required.
<input type="checkbox"/>	I understand that in order for my application to proceed I may be required to meet with and discuss my application with a psychiatrist, psychologist or other relevant expert, in order that they may report on any psychiatric and/or psychological harm I have suffered. I confirm that I agree to co-operate fully in such a report being prepared and provided to the Redress Team. I further agree that any material obtained in relation to this application may be shared with the person preparing that report. I understand that this will only happen if I am applying to Part 2 of the scheme.
<input type="checkbox"/>	I consent to the release of my private medical records (including general practitioner records and records held by any hospital or other medical practice, as I have authorised on the attached medical practitioners records form) to the Redress Team. I understand that the Redress Team will only ask for these records if they need them to help determine my application, and if I am applying to Part 2 of the scheme.
<input type="checkbox"/>	I consent to the Redress Team providing my bank or building society details to the Government of Jersey finance team in order that they may make any agreed payments to me. I understand that this will only happen if payments are made directly to me as opposed to my lawyer.

## 15 Declaration of truthfulness

By signing below:

- I confirm and declare the contents of the application form to be true to the best of my knowledge, information and belief.
- I agree that to the best of my abilities I will provide any relevant information to the Redress Team, or documents that are in my possession, so that they may determine my application.

Applicant's signature

Date

Please print your name

### Responsible person

If this form has been completed by an applicant's responsible person (ie. the person who manages the applicant's affairs because the applicant lacks capacity), the responsible person must:

- a. sign the application below
- b. provide proof of their identity (the proof required is the same as the applicant's proof of identity as set out in **2** above)
- c. provide proof of their authority to act as the applicant's responsible person (for example a copy of the act of court or the lasting power of attorney).

Responsible person's signature

Date

Responsible person's name

Authority of responsible person (for example, lasting power of attorney)



Redress Team  
Morier House  
Halkett Place  
St Helier  
Jersey  
JE1 1DD

Telephone: 01534 441014  
Email: [enquiries@redress.je](mailto:enquiries@redress.je)  
[www.gov.je/redress](http://www.gov.je/redress)

# Jersey Redress Scheme

Application guide  
July 2019

This application guide provides background information about the Jersey Redress Scheme. Full details are set out in the Redress Scheme's terms and conditions which you can get from the Redress team or online at [www.gov.je/redress](http://www.gov.je/redress).

## 1 About the Jersey Redress Scheme

The Scheme deals with applications for redress for people who, as children, were abused or suffered harm between 9 May 1945 and 31 December 2005;

- while a resident in a Government of Jersey children's home
- while in a Government of Jersey foster care placement
- while accommodated at Les Chênes secure residential unit.

The Government of Jersey is also known as the States of Jersey.

The Scheme is managed by a dedicated team of people known as the Redress Team.

The Scheme has two parts:

### PART 1

#### Les Chênes

Redress for people who, while accommodated at Les Chênes secure residential unit, suffered due to the harsh regime and whose experiences there had a negative impact on their childhood.

From 2003 Les Chênes secure unit was also known as Greenfields.

### PART 2

#### Children's homes and foster care

Redress for people who were sexually abused and/or physically abused while a full-time resident in a Government of Jersey children's home or while in a Government of Jersey foster care placement. Or, redress for people who, while accommodated at Les Chênes secure residential unit, were sexually abused and/or physically abused resulting in significant injury or long term harm.

## 2 Who can apply to the Jersey Redress Scheme?

You need to say on your application form if you are applying for a Part 1 payment or a Part 2 payment. You cannot apply for both.

You can apply for a Part 1 payment if you can answer 'yes' to all three questions below:

Question 1	Were you accommodated at Les Chênes secure residential unit? Accommodated at Les Chênes means you stayed there at night or at weekends, as opposed to just being at Les Chênes during the school day
Question 2	Did you live there before 31 December 2005? From 2003 Les Chênes was also known as Greenfields
Question 3	Did your experiences at Les Chênes have a negative impact on your childhood?

You can apply for a Part 2 payment if you can answer

- 'yes' to either question 1A or question 1B below and
- 'yes' to both questions 2 and 3 below.

Question 1A	Did you live full-time in a Government of Jersey children's home or were you in a Government of Jersey foster care placement between 9 May 1945 and 31 December 2005?
Question 1B	Were you accommodated at Les Chênes Secure Residential Unit before 31 December 2005? From 2003 Les Chênes was also known as Greenfields
Question 2	While you lived there did you suffer sexual abuse and/or physical abuse? If you were accommodated at Les Chênes and did not suffer sexual abuse, you can only apply for a Part 2 payment if the physical abuse resulted in significant injury or long term harm.
Question 3	Was that abuse committed by a member of staff, another resident or someone connected with the children's home or, if you were in foster care, was that abuse committed by your foster parent/s?

A redress payment will not be awarded if:

- the applicant died before an application was made
- you were in private foster care as opposed to Government of Jersey foster care
- you were in adoptive care
- you were not placed in a Government of Jersey children's home or in a Government of Jersey foster care placement
- you were not accommodated at Les Chênes (for example, you were only there during the school day but not at night or during the weekend)
- you have already been awarded damages by a Court for the abuse or harm you suffered.

### Criminal Injuries Compensation Board

If you have already received a payment from the Criminal Injuries Compensation Board, this payment will be deducted from any award you may be given under this scheme. This will only apply if the Criminal Injuries Compensation payment was for abuse or harm suffered in a children's home, foster care or Les Chênes.

You will be asked on the application form to give the Redress Team your permission to obtain any relevant criminal injuries compensation records.

### Government of Jersey Historic Abuse Redress Scheme

If you received a payment under the Government of Jersey's previous historical abuse redress scheme, you may apply to this scheme but any monies you have already received for any abuse or harm you suffered, or for the effects of that abuse or harm, will be taken into consideration when assessing any payment you may receive under this scheme.

### 3 Can I apply for both a Part 1 and a Part 2 payment?

You can only apply for a Part 1 or a Part 2 payment. However, if you apply to the wrong Part of the scheme, the Redress Team will automatically consider your application under the right Part. They will write and tell you, or your lawyer, if this happens.

### 4 How to apply

You need to complete an application form and submit it to the Redress Team. The application form will ask you questions about your experiences living in a children's home, foster care or at Les Chênes. You will need to provide as much information as possible to help us process your application.

If the person to whom the application applies lacks capacity, the application form can be completed by the person who is responsible for managing their affairs.

### 5 Where to get an application form

You can get an application form:

- online ([www.gov.je/redress](http://www.gov.je/redress))
- by email: [enquiries@redress.je](mailto:enquiries@redress.je)
- by phone: 01534 441014
- by post: Redress Team, Morier House, Morier House, Halkett Place, St Helier, JE1 1DD

Or you can pick one up from:

- Jersey Citizens Advice Bureau, St Paul's Centre, St Helier, JE2 3WP
- Customer and Local Services, Philip Le Feuvre House, La Motte Street, St Helier, JE4 8PE
- States Assembly Information Centre, Morier House, Halkett Place, St Helier, JE1 1DD
- Jersey Library, Halkett Place, St Helier, JE2 4TU.

### 6 Deadline for applications

All application forms must be submitted to the Redress Team at Morier House, Halkett Place, St Helier, Jersey, JE1 1DD by 30 June 2020 at the latest. After that date the scheme will be closed to new applications.

### 7 Help with your application

You may complete the application form yourself or ask a friend, family member and/or support group to help you.

A lawyer can also help you complete your application form. If a payment is made to you, fixed legal costs will be paid by the Redress Team direct to your lawyer for any legal advice you obtain. Those fixed legal costs are set out below.

If you submit an application which is rejected because you are not eligible to apply to the scheme (for example, you were not in Government of Jersey care) your legal fees will not be paid by the scheme.

It is possible that some people's legal costs could be more than the fixed cost which will be paid by the Scheme. Before you engage a lawyer, you must check with them what will happen if your legal costs are more than the fixed amount which will be paid by the Scheme. You need to know at the outset whether or not your lawyer will require you to pay the difference.

#### Fixed legal fees

Part 1 application: £1,000

Part 2 application: £2,200

The Redress Team may also pay your lawyer additional fixed fees in other very limited circumstances. Details are set out in the Redress Scheme's full terms and conditions which you can get from the Redress team or online at [www.gov.je/redress](http://www.gov.je/redress).

## 8 Who can apply to the Jersey Redress Scheme?

If you do not currently have a lawyer but want one to help you, the Redress Team can provide details of law firms currently assisting other applicants, but they cannot provide direct recommendations. The Law Society of Jersey may also be able to assist.

### Contact details:

- Redress Team: enquiries@redress.je, tel: 01534 441014
- Law Society of Jersey tel: 01534 613920 or email ceo@jerseylawsociety.je

## 9 The application process

There are a number of steps to dealing with an application.

### Step 1: Information to support your application

Once your application has been received by the Redress Team, they will check the application contains all the necessary information, and that you are eligible to apply for a payment under the scheme.

If you are not eligible because, for example, you were not in Government of Jersey care, the Redress Team will write to tell you your application has been rejected. If your application is rejected there is no appeals process.

Depending on whether you are making an application under Part 1 or Part 2 of the scheme, the Redress Team may need other information to help determine your application. This could include:

- medical records
- mental health records
- social services records
- records of your time in care
- copies of any relevant police statements.

You will be asked on the application form to give the Redress Team your permission to obtain and read these records. The Redress Team may need to share these records with your lawyer or other professionals whose help may be needed to determine your application. You can withdraw your permission at any time but, if you do withdraw permission or you do not give permission in the first place, the Redress Team will not be able to determine your application.

Please see the Redress Scheme privacy notice for more information. You can get a copy of the privacy notice from the Redress team or online ([www.gov.je/redress](http://www.gov.je/redress)).

If you are making a Part 2 application the Redress Team may ask you to be assessed by an independent psychiatrist, psychologist or other relevant expert. That expert will be able to report on any psychiatric and/or psychological harm that you have suffered. The costs of the assessment and your travel costs will be paid by the Redress Team.

### Step 2: Assessing your application

Once the Redress Team has obtained all the necessary information, they will determine your payment. They will write to you, or your lawyer, setting out the amount.

Part 2 applications will usually take longer to determine than Part 1 applications.

### Step 3: The redress payment

If you want to accept the redress payment you will need to sign an agreement confirming that:

- you accept the payment is in full and final settlement of your application. This means you cannot subsequently go to Court to seek other compensation for the abuse or harm you suffered,
- you understand that the amount of the payment is private and confidential. This means you cannot talk publicly about the amount of the payment. The Government of Jersey is also required to keep details of the payment private and confidential.

Once the settlement agreement is signed, your payment will be made. It will be paid, in one lump sum, to your lawyer, who will forward it to you or, if you have not used a lawyer, the money will be paid directly into your bank or building society account. The Redress Team will pay your lawyer's fixed legal fees at the same time.

If the money is paid directly to you, as opposed to being paid to your lawyer, the Redress Team will need to provide details of your bank or building society account to the Government of Jersey finance team.

It could take up to 72 days from the Redress Team receiving your signed settlement agreement for the payment to be made.

The Government of Jersey will also send you a letter to apologise for the harm you suffered unless you tell the Redress Team that you do not want to receive a letter of apology.

If you reject the payment offered, the Redress Team will stop dealing with your application and you will not be able to submit another application. If, at a later date, you change your mind about rejecting the payment, you can ask for the payment, providing you do so within six months of the date it was offered.

### 10 What if I think the amount offered is wrong?

If you think the amount offered is too low you can ask for your application to be reviewed. The review will be undertaken by an independent legal advisor and will cost about £1,000. It could cost more, or less, depending on the complexity of your application.

If the independent legal advisor determines that the amount you were originally offered should decrease or increase by less than 20% of the original offer, the cost of the review will be deducted from your payment.

If the independent legal advisor determines the amount should increase by more than 20% of the original offer, the Redress Team will:

- pay the cost of the review and
- will pay an additional fixed fee to your lawyer for their work on the review, if you have used a lawyer.

Additional fixed legal fees paid if review result is more than a 20% increase on the original offer:

- Part 1 application review: £500
- Part 2 application review: £1,100

If the amount offered decreases on review, you cannot ask for the amount originally offered and the Redress Team will not pay the additional fixed fee to your lawyer. You must check with your lawyer what will happen in these circumstances.

### Independent Panel

The Redress Team may receive applications which do not fully meet the scheme criteria, but where the Redress Team believes there may be compelling grounds to consider the application.

Where this happens, an Independent Panel will be asked by the Redress Team to consider whether or not the scheme criteria should be amended, so that the application (and other similar applications) can be accepted under the scheme.

The Independent Panel is a group of people who are not connected with the Government of Jersey.

The Independent Panel will only provide advice to the Redress Team and to the Minister. They will not accept requests from applicants to consider whether an application should be rejected, nor will they consider appeals. As set out above, appeals will be considered by an independent legal advisor.

## 11 How much could I receive?

### Redress payments

#### Part 1: Les Chênes

The total amount of time you lived at Les Chênes will determine your payment. This will be based on the number of nights or weekends spent at Les Chênes. It will not include time you spent there during the school day, or any time when you were on the Les Chênes register but were staying at home or elsewhere.

You may also receive an additional payment if, while you were living at Les Chênes, if you were subject to inappropriate and unlawful physical abuse. This could include manhandling by staff or treatment that constitutes physical abuse, but which did not result in significant injury or long term harm. You will be asked on your application form to provide details of the inappropriate physical treatment.

Total time living at Les Chênes	Redress payment	Additional payment for inappropriate physical treatment
7 days or less	£1,000	£500
Between 8 days and 50 days	£2,500	£1,000
Between 51 and 100 days	£4,000	£1,500
Between 101 days and 270 days	£8,000	£2,500
Over 271 days	£10,000	£4,000

#### Part 2: Children's home and foster care

Your redress payment will be determined after looking at the abuse you suffered and the harm it caused you.

The amount will reflect the nature, severity and frequency of the abuse you suffered, and any physical and psychological injuries or long-term effects.

Description	Redress payment
Physical abuse and/or sexual abuse: limited long term effects.	Up to £11,500
i. Aggravated physical abuse with significant long term psychiatric/psychological effects and/or ii. Aggravated sexual abuse	£11,500 to £23,000
i. Prolonged aggravated physical abuse with significant long term psychiatric/psychological effects and/or ii. Rape and/or sexual abuse involving penetration (with or without physical abuse)	£17,500 to £41,000
Rape and/or sexual abuse involving penetration (with or without physical abuse) with significant long term psychiatric/psychological effects	£29,000 – £70,000

The Part 2 payments are based on the payments provided under the Government of Jersey's previous redress scheme, which was launched in 2012. The payment levels are slightly higher to take account of the changes in inflation between 2012 and 2019.

## 12 Therapy monies

If you are making a Part 2 application you may also be awarded up to £3,000 to pay for therapeutic or medical treatment for the psychiatric or psychological effects of the abuse you suffered.

The money will be used to pay for treatments you have received. The money will either be paid directly to the therapist who has treated you, so that you do not need to pay them yourself. Or, if you have already paid the therapist, you will be reimbursed.

However, there are some very important conditions that apply:

1. you will only be awarded therapy monies if treatment is recommended by a relevant medical expert or there is evidence about the need for the treatment
2. the Redress Team will need to agree with you the type of treatment you will be having
3. the Redress Team will only release your therapy monies on receipt of invoices or bills setting out the details of the treatment that has been provided
4. the Redress Team will only provide up to the maximum amount of therapy monies that have been awarded to you
5. you must use the therapy monies that have been awarded to you by 30 June 2022 at the latest.

## 13 Will the payment affect my tax or benefits position

If you live or pay tax in Jersey the payment will not be taken into account when calculating your Jersey income tax or any Jersey social security benefits you may be entitled to.

### Contact details

Redress Team  
Morier House  
Halkett Place  
St Helier  
Jersey  
JE1 1DD

Telephone: 01534 441014  
Email: [enquiries@redress.je](mailto:enquiries@redress.je)  
[www.gov.je/redress](http://www.gov.je/redress)

## Help and support

If you have been affected by abuse in residential or foster care and would like to speak to someone, you can contact Victim Support Jersey on tel: 01534 440496. Their volunteers will listen and provide emotional support, practical help and information. They can also direct you to the right services if you need more support. Or, if you want to talk to someone out of hours, call Jersey Samaritans on Freephone: 116123.

Other services that can help include:

- Dewberry House, Sexual Assault Referral Centre tel: 01534 888222
- Jersey Action Against Rape tel: 01534 482800
- States of Jersey Police tel: 01534 612612

# Appendix 5: Scheme Terms and Conditions

## Jersey Redress Scheme

### Government of Jersey Children's homes, Government of Jersey foster care and Les Chênes secure residential unit

#### Scheme Terms and Conditions

July 2019

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#### 1. The Scheme

1.1 The Jersey Redress Scheme ("the Scheme") has been established by the Government of Jersey to provide for appropriate redress to be given to people who, as children, were abused or suffered harm between 9 May 1945 and 31 December 2005:

- i. while a resident in a Government of Jersey children's home; or,
- ii. while in a Government of Jersey foster care placement; or,
- iii. while accommodated at Les Chênes secure residential unit.

1.2 The Scheme has two parts:

i. Part 1: Les Chênes

Redress for people who, while accommodated at Les Chênes secure residential unit, suffered due to the harsh regime and whose experiences there had a negative impact on their childhood. From 2003 Les Chênes secure residential unit was also known as Greenfields.

ii. Part 2: Children's homes and foster care

Redress for people who were sexually abused and/or physically abused while a full-time resident in a Government of Jersey children's home or while in a Government of Jersey foster care placement. Or, redress for people who, while accommodated at Les Chênes secure residential unit, were sexually abused and/or physically abused resulting in significant injury or long term harm.

1.3 An Eligible Applicant can only apply for either Part 1: Les Chênes Redress or Part 2: Children's homes and foster care Redress. An Eligible Applicant cannot apply under both parts of the Scheme. However, if an Eligible Applicant applies under the wrong part of the Scheme, the Redress Team will automatically consider the application under the correct Part. In these circumstances the Redress Team will write to the Applicant to explain that this has happened.

- 1.4 The Scheme Terms and Conditions are definitive and have primacy over all other documentation relating to the Scheme. For the avoidance of doubt, in the event of any ambiguity or dispute, reference should be made to the Scheme Terms and Conditions and not to the Application Guide, the Application Form or to any other document relating to the Scheme.

## 2 Definitions

The following definitions apply to the Scheme:-

### 2.1 Government of Jersey

The "Government of Jersey" means:

- 2.1.1 Committees and Ministers of the States of Jersey

And,

- 2.1.2 Any Office Holders, officers or employees of the States of Jersey, employees of Committees of the States of Jersey or employees of the States Employment Board or any other person who had responsibilities toward an Eligible Applicant.

### 2.2 Government of Jersey children's home

A home or other institution under the administration of the Government of Jersey for the accommodation, care and maintenance of children.

### 2.3 Definition of "lived full-time in a Government of Jersey children's home"

An applicant is considered to have been living full-time in a Government of Jersey children's home if they were placed in the home by the Government of Jersey.

### 2.4 Government of Jersey foster care

Placement of a child by the Government of Jersey with an approved foster parent and not being a privately fostered child as defined by Article 58 of the Children (Jersey) Law 2002.

### 2.5 Les Chênes secure residential unit

The residential school for children located at what is now known as Fieldview, Le Grande Route De St Martin, St Saviour JE2 7GS known as "Les Chênes" between 1977 to 2003 and known as "Greenfields" between 2003 to 2006, but not the current "Greenfields Secure Unit".

2.6 Definition of “accommodated at Les Chênes secure residential unit”

For the purposes of the scheme a person was accommodated at Les Chênes secure residential unit if they were on the register and were required to stay at the unit overnight. If they were only on the register, but not required to stay at the unit overnight, they were not accommodated at Les Chênes. The period of accommodation is based on the number of nights they stayed at Les Chênes. A person could be accommodated at Les Chênes for as little as one night.

2.7 The Redress Team

The Redress Team is a team of legal advisers to the Government of Jersey working within the Law Officers' Department. The Redress Team has been specifically set up to determine applications for redress under the Scheme. The Redress Team's contact details are:

Redress Team  
Morier House  
Halkett Place  
St Helier  
Jersey  
JE1 1DD

Telephone: 01534 441014

Email: [enquiries@redress.je](mailto:enquiries@redress.je)

[www.gov.je/redress](http://www.gov.je/redress)

2.8 Applicant / Eligible Applicant

2.8.1 A person is an Applicant if they have submitted a completed Application Form to the Redress Team.

2.8.2 A person is an Eligible Applicant where they meet the criteria as set out below at paragraph 7 and their application has been accepted into the Scheme.

2.9 Lack of Capacity

For the purposes of paragraph 13 below “Lack of Capacity” has the same meaning as under Articles 4 and 5 of the Capacity and Self-Determination (Jersey) Law 2016.

2.10 Delegate

For the purposes of paragraph 13 below "Delegate" has the same meaning as under Articles 24 and 25 of the Capacity and Self-Determination (Jersey) Law 2016.

2.11 Lasting power of attorney

For the purposes of paragraph 13 below "Lasting Power of Attorney" has the same meaning as under Part 2 of the Capacity and Self-Determination (Jersey) Law 2016.

2.12 Part 1: Les Chênes redress

Part 1: Les Chênes Redress means an application to the Scheme determined under paragraph 8 below.

2.13 Part 2: Children's homes and foster care redress

Part 2: Children's homes and foster care redress mean an application to the Scheme determined under paragraph 9 below.

2.14 Therapy monies

Monies awarded under Part 2 of the Scheme of up to £3000 to either pay directly, or reimburse an Eligible Applicant for the cost of therapeutic or medical treatment in accordance with the terms of paragraph 10 below.

2.15 Vicarious liability

The Government of Jersey may be liable for the tortious acts carried out by its employees, or those in a role akin to employment, if those acts were carried out in the course of employment.

2.16 Causation

In civil proceedings the Royal Court apportions damages between different causes/acts. Therefore, the Government of Jersey will provide redress to Eligible Applicants under Part 2 of this Scheme only where the abuse, and any psychological harm suffered as a result of that abuse, has been caused by abuse occurring in a Government of Jersey Children's Home, Les Chênes secure residential unit or in Government of Jersey foster care.

2.17 Non-monetary redress

A formal apology given under paragraph 11 below.

#### 2.18 Balance of probabilities

The standard of proof which applies to this Scheme is one of "balance of probabilities" and this is the same standard which applies to civil proceedings before the Royal Court. Whether an event occurred "on the balance of probabilities" can also be expressed as whether an event is more likely to have occurred than not to have occurred.

#### 2.19 Application Form

The official Government of Jersey Redress Scheme Application Form which is available:

online: [www.gov.je/redress](http://www.gov.je/redress)

by email: [enquiries@redress.je](mailto:enquiries@redress.je)

by phone: 01534 441014

by post: Redress Team, Morier House, Morier House, Halkett Street, St Helier, JE1 1DD

And in person from:

Jersey Citizens Advice Bureau, St Paul's Centre, New Street, St Helier, JE2 3WP.

Government of Jersey Customer and Local Services, Philip Le Feuvre House, La Motte Street, St Helier, JE4 8PE.

States Assembly Information Centre, Morier House, Halkett Place, St Helier, JE1 1DD.

Jersey Library, Halkett Place, St Helier, JE2 4TU.

#### 2.20 Application Guide

The Government of Jersey Redress Scheme Application Guide available from the same sources as the Application Form listed in paragraph 2.19 above.

#### 2.21 Independent Panel

The panel to whom the Redress Team refer points of principle arising from applications outside the scope of the Scheme for consideration as to whether

such applications should be admitted to the Scheme in accordance with paragraph 14 below.

2.22 Appeal

An appeal against an offer of redress dealt with in accordance with paragraph 15 below.

2.23 Independent Legal Advisor

A specialist Lawyer or barrister called to the Bar of England and Wales who is independent of the Government of Jersey instructed to determine an Appeal.

2.24 Lawyer

A Jersey Solicitor or Advocate who is a member of the Jersey Law Society or a practising solicitor of England and Wales; Scotland; or, Northern Ireland with a current practising certificate.

2.25 The Minister

The Minister means the Assistant Minister for Health and Social Services/The Minister for Children.

3 Commencement Date and Closing Date

The Scheme opens to applications on 1 July 2019 and closes to applications at 5pm on 30 June 2020. Applications received after the closing date will not be accepted into the Scheme.

4 Representation under the Scheme

An Eligible Applicant may represent him or herself through the Scheme, or may:

- 4.1 elect to be assisted or represented by a family member, friend, support group or individual. If an Eligible Applicant elects to be represented in this way, the Eligible Applicant must provide a signed consent form, identifying the individual or individuals who will assist and/or represent them together with the individual or individuals' correspondence and / or email addresses. The Redress Team will provide the Eligible Applicant with a copy of the consent form for completion upon receipt of the completed Application Form; or
- 4.2 appoint a Lawyer to represent the Eligible Applicant. The Government of Jersey will pay fixed legal fees in accordance with paragraph 28 below.

## 5 Applications to the Scheme

5.1 Any application for redress under the Scheme shall be made by an Applicant on the Application Form prescribed by the Redress Team. The current application is available at [www.gov.ie/redress](http://www.gov.ie/redress).

5.2 An application should be submitted to the Redress Team at either the postal or the email addresses at paragraph 2.7 above.

5.3 Unless otherwise specified, all correspondence and communications relating to either the Scheme or any applications (including any applications to review any decisions which have been made relating to an application), should be sent to the Redress Team at either the postal or the email address.

5.4 The Redress Team will provide an Applicant with a written acknowledgment of receipt of the application form. This acknowledgment will normally be sent within 7 days of receipt of the application by the Redress Team and will assign to the applicant a personal reference number which he or she should use when contacting the Redress Team.

### 5.5 Applications given priority

In its consideration of applications, the Redress Team will give priority to applicants:

5.5.1 who were born before 1 July 1949, or

5.5.2 who are at the time when the application is made suffering from a medical illness or psychiatric condition which is life-threatening, as confirmed in writing by a letter from the Applicant's regular medical adviser.

### 5.6 Further information from applicant

5.6.1 On consideration of an application and any supporting evidence, the Redress Team may request further information or further evidence from the Applicant.

5.6.2 If an Applicant fails to comply with reasonable requests for information or otherwise fails to give the Redress Team full co-operation in connection with the application, consideration of the application by the Redress Team may be delayed.

5.6.3 If the Redress Team are unable to be satisfied that the Applicant is entitled to redress and the Applicant has failed to provide the further information

requested by the Redress Team, the Redress Team may reject the application from the Scheme in accordance with paragraph 7.5 below.

## **6 Scope of the Scheme**

- 6.1 The Scheme is intended to provide appropriate redress to Eligible Applicants.
- 6.2 An Eligible Applicant under Part 1 – Les Chênes is entitled to a payment in accordance with the criteria in paragraph 8 below.
- 6.3 An Eligible Applicant under Part 2 – Children’s homes and foster care is entitled to a payment assessed in accordance with the criteria in paragraph 9 below.
- 6.4 An Eligible Applicant under Part 2 – Children’s homes and foster care may apply for Therapy Monies in accordance with paragraph 10 below.
- 6.4. All Eligible Applicants, unless they state that they do not wish to receive an Apology, will receive a letter of Apology from the Government of Jersey for the harm they have suffered for which the Government of Jersey is responsible.

## **7 Eligibility under the Scheme**

The persons entitled to redress under the scheme are as follows:

### **Part 1 – Les Chênes**

- 7.1 Any person who was:
  - i. Prior to 31 December 2005;
  - ii. Accommodated at Les Chênes secure residential unit; and,
  - iii. Can establish, on a balance of probabilities, that they suffered due to the harsh regime and their experience at Les Chênes had a negative impact on their childhood.

### **Part 2 – Children’s homes and foster care**

- 7.2 Any person who, between 9 May 1945 and 31 December 2005:
  - 7.2.1 Lived full-time in one or more Government of Jersey children’s homes and/or was placed in a Government of Jersey Foster Care Placement; and,
  - 7.2.2 While living in the children’s home or during the placement suffered sexual abuse and/or physical abuse that was committed by a member

of staff, another resident or someone connected with the children's home or the abuse was committed by the foster parent(s).

or,

7.2.3. Was accommodated at Les Chênes secure residential unit; and,

7.2.4 While accommodated at Les Chênes secure residential unit suffered sexual abuse; or, physical abuse that resulted in significant injury or long term harm; and,

7.2.5 The abuse was committed by a member of staff, another resident or someone connected with Les Chênes secure residential unit.

### 7.3 Proof of identity

7.3.1 All Applicants are required to provide the Redress Team with proof of their identity in accordance with the provisions of the Application Form.

7.3.2 If an Applicant does not have sufficient documents to prove their identification so as to satisfy the provisions of the Application Form they or their representative should contact the Redress Team who will discuss what other methods of proof of identity may be acceptable, for example, a letter of introduction by a member of Social Services who personally knows the Applicant.

7.3.3 In the event of an Applicant appointing a representative other than a Lawyer, the representative is also required to provide the Redress Team with proof of their identity.

### 7.4 Ineligibility

A Redress Payment may not be made under either Part of the Scheme if:

7.4.1 The Applicant dies prior to the submission of the application;

7.4.2 The Applicant has already been awarded damages by a Court for the abuse or harm suffered;

7.4.3 The Applicant has brought a Court Claim for damages in respect of the abuse and injuries described in the Application Form and that claim has been rejected by the Court or has been the subject of other judicial determination (not being a determination concerning Prescription/Limitation or an interlocutory matter);

- 7.4.4 The Applicant fails to make an application using a signed Scheme Application Form providing the necessary consents and authorities to the Redress Team in relation to Data Protection, Data Processing and Access to information; or,
- 7.4.5 The Applicant fails to satisfy the Redress Team that they are entitled to redress under the Scheme.

A Part 1 – Les Chênes award will not be made if:

- 7.4.6 The Applicant was not accommodated at Les Chênes secure residential unit as defined in paragraph 2.6 above.

A Part 2 – Children’s homes and foster care payment will not be awarded if:

- 7.4.7 The Applicant suffered the abuse while in private foster care as defined by Article 58 of the Children (Jersey) Law 2002;
- 7.4.8 The Applicant suffered the abuse while living with their parents after the Royal Court has made an order for the adoption of the Applicant;
- 7.4.9 The Applicant was not living full-time in a Government of Jersey Children’s Home, in a Government of Jersey foster care placement; or, accommodated in Les Chênes secure residential unit.
- 7.4.10 The abuse was committed by someone other than a member of staff, another resident or someone connected with the children’s home, Les Chênes secure residential unit or foster parent(s).

#### 7.5 Rejection of Applications

If the Application is determined to be ineligible to be admitted to the Scheme the Redress Team will write to the Applicant or their Representative to inform them that the Application has been rejected. If the Application is rejected there is no appeals procedure. However, should the Applicant provide additional information which satisfies the Redress Team as to eligibility, the Application will be admitted to the Scheme provided the additional information is received before the closing date.

### 8 Redress payments under Part 1 – Les Chênes

- 8.1 The total number of nights and/or weekends that the Eligible Applicant spent at Les Chênes determines the value of the monetary redress payment. It does not include time spent at Les during the school day, or any time when the Applicant

was on the Les Chênes register but was staying at home or elsewhere. In the table at paragraph 8.3 below this is the "Redress Payment".

- 8.2 If the Eligible Applicant, while accommodated at Les Chênes, was subjected to inappropriate and unlawful physical abuse which did not result in significant injury or long term harm an additional payment will be made "Additional payment for inappropriate physical treatment" in accordance with the table at paragraph 8.3 below.

8.3

Total number of nights accommodated at Les Chênes	Redress payment	Additional payment for inappropriate physical treatment
7 days or less	£1,000	£ 500
Between 8 days and 50 days	£2,500	£1,000
Between 51 and 100 days	£4, 000	£1,500
Between 101 days and 270 days	£8,000	£2,500
Over 271 days	£10,000	£4,000

## 9 Redress under Part 2 - Children's homes and foster care

- 9.1 The monetary redress awarded under Part 2 – Children's homes and foster care is an award of money which is paid to provide the Eligible Applicant with financial redress for the harm they have suffered. The amount of the payment will reflect the severity of the abuse which the Eligible Applicant has suffered and the long term consequences of that abuse.
- 9.2 Each application for Redress under Part 2 – Children's homes and foster care will be considered on the basis it consists of the following two components for which redress should be made:
- 9.2.1 the severity of the abuse itself and any aggravating factors; and,
- 9.2.2 the extent to which the Eligible Applicant has suffered physical injury or any recognised medical, psychological or psychiatric condition or effects as a consequence of the abuse.
- 9.3 The Monetary Redress made under the Scheme will reflect the effect of the abuse suffered by the Eligible Applicant while at the Government of Jersey Children's Home / foster placement / while accommodated at Les Chênes but

will not compensate the Eligible Applicant for those harms / difficulties / losses suffered which cannot be attributed to the abuse at the Government of Jersey Children's Home / foster placement / while accommodated at Les Chênes.

- 9.4 The Redress Payment for abuse suffered as defined in paragraph 9.2 above will be calculated by reference to the Bands which form part of the Scheme ("the Bands"). The Bands are shown in the table in paragraph 9.5 below. The most suitable award to the Eligible Applicant will be calculated by reference to the most severe harm suffered and where this sits within the table.

9.5

Description	Redress payment
Physical abuse and/or sexual abuse: limited long term effects.	Up to £11,500
i. Aggravated physical abuse with significant long term psychiatric/psychological effects and/or ii. Aggravated sexual abuse	£11,500 to £23,000
i. Prolonged aggravated physical abuse with significant long term psychiatric/psychological effects and/or ii. Rape and/or sexual abuse involving penetration (with or without physical abuse)	£17,500 to £41,000
Rape and/or sexual abuse involving penetration (with or without physical abuse) with significant long term psychiatric/psychological effects	£29,000 – £70,000

The Part 2 payments are based on the payments provided under the Government of Jersey's previous redress scheme, which was launched in 2012. The payment levels are slightly higher to take account of the changes in inflation between 2012 and 2019.

9.6 Evidence in support

- 9.6.1 In cases where the Redress Team decide that it is appropriate and necessary that expert evidence be obtained in respect of an Eligible Applicant, the Redress Team will provide the Eligible Applicant or their representative with a list of independent experts. The Eligible Applicant (or their representative) will be asked to select one of the independent experts who will be instructed to prepare a report.
- 9.6.2 The Redress Team will prepare a draft letter of instruction to the expert which will be sent to the Eligible Applicant / their representative for approval or amendment.
- 9.6.3 If the Eligible Applicant / their representative and the Redress Team are unable to reach agreement as to the wording of the letter of instruction

to the expert, both parties shall each send a letter of instruction to the expert, ensuring a copy of their letter is also sent to the other party.

9.6.4 The expert will notify both parties of the appointment date. Following receipt of the report of the expert, either party can put written questions to the expert. Copies of all questions must be provided to the other party at the time they are sent to the expert. The expert's answers to those questions must be sent to both parties.

9.6.5 The funding of the instructed expert's report, reasonable travel for the Eligible Applicant to attend the instructed expert and any replies to questions will be borne by the Government of Jersey.

#### 9.7 Onus on Applicant

It is for the Applicant to satisfy the Redress Team that he or she is entitled to redress under the provisions of the Scheme. The more information which the Applicant gives to the Redress Team in support of his or her application the more speedily the Redress Team will be able to progress and determine the application.

#### 9.8 Offer

9.8.1 When the Redress Team has obtained all the necessary information they will determine the amount of redress to be offered. The Redress Team will write to the Eligible Applicant / their representative setting out the amount.

9.8.2 If the Eligible Applicant accepts the offer of redress, they are required to sign an agreement ("the Settlement Agreement") confirming that they accept the payment is in full and final settlement of the application and all claims the Applicant may have in relation to any abuse or harm suffered by the Applicant for which the Government of Jersey may be directly or vicariously liable up to the date of the Settlement Agreement.

#### 9.8.3 Settlement discussions

9.8.3.1 The Redress Team will consider any request by the Eligible Applicant or their Representative to hold settlement discussions. The discussions can take place either before or after an offer has been made in accordance with paragraph 9.8.1 above. Any discussions will be held on a "without prejudice" basis.

9.8.3.2 Following settlement discussions the Redress Team will consider whether any offer made in accordance with paragraph 9.8.1 should be revised or confirmed.

9.8.3.3 If the confirmed or revised offer made by the Redress Team is accepted by the Eligible Applicant a Settlement Agreement will be issued in accordance with paragraph 9.8.2 above.

9.8.3.4 If the confirmed or revised offer is not accepted by the Eligible Applicant paragraphs 15 Appeal and 18 Rejection of offer and consequences below will apply.

## 10 Therapy Monies

10.1 Eligible Applicants under Part 2 of the Scheme may also be awarded up to £3,000 to pay for therapeutic or medical treatment for the psychiatric or psychological effects of the abuse suffered. In exceptional circumstances upon the recommendation of the Redress Team and based upon expert evidence regarding the need for additional therapy monies, the Minister may authorise therapy monies over and above £3,000.

10.2 The money will be used to pay for treatments the Eligible Applicant has received. The money will either be paid directly to the therapist who has treated the Eligible Applicant, so that they do not need to pay them directly or, if the Eligible Applicant has already paid the therapist, the fees will be reimbursed to the Eligible Applicant.

10.3 The following conditions apply:

10.3.1 An Eligible Applicant will only be awarded therapy monies if treatment is recommended by a relevant medical expert or there is other evidence supporting the need for the treatment;

10.3.2 The Redress Team will need to agree with the Eligible Applicant the type of treatment the Eligible Applicant will be having in advance of the costs being incurred;

10.3.3 The therapy monies will only be released on receipt of invoices or bills setting out the details of the treatment that has been provided;

10.3.4 The Scheme will only provide up to the maximum amount of therapy monies that have been awarded to the Eligible Applicant;

10.3.5 The therapy monies that have been awarded must be used by 30 June 2022. i.e. all invoices for treatment must be submitted to the Redress Team before this date, unless in exceptional circumstances, are agreed in writing with the Minister.

**11 Non-Monetary Redress**

The Government of Jersey recognises that, over a period of many years, it did not act as it should have to protect children from harm and abuse. The Government will write to all Eligible Applicants to apologise for any harm they suffered for which the Government of Jersey is responsible unless the Applicant indicates in the Application Form that they do not want to receive a letter of apology.

**12 Where an Applicant is deceased**

**12.1 Applicant who has died prior to making an Application**

The Scheme does not accept applications on behalf of Applicants who have died prior to an Application being made to the scheme. Such Applications are ineligible in accordance with paragraph 7.4.1 above.

**12.2 Applicant who dies after an Application has been accepted by the Redress Team**

Where an Applicant dies after an Application has been accepted by the Redress Team the Application will continue to be considered. The Applicant's executors or administrators will act in place of the Applicant. Any award of redress will be paid to the estate of the Applicant.

**13 Where an Applicant or Eligible Applicant lacks capacity**

13.1 Any Applicant who lacks capacity must be represented by a Lawyer; a person acting under a valid Lasting Power of Attorney; or, by a delegate appointed by the Royal Court in accordance with the provisions of the Capacity and Self-Determination (Jersey) Act 2016.

13.2 If the Redress Team suspects that an Applicant or Eligible Applicant lacks capacity to make an application to the Scheme no further action will be taken or decisions made in connection with that Applicant's/Eligible Applicant's application for redress under the Scheme until they are legally represented or a delegate/a person with a lasting power of attorney is appointed to act on behalf of the Applicant/Eligible Applicant.

**14 Independent Panel**

- 14.1 An Independent Panel is established under the Scheme in order to determine principles relating to the admissibility of claims which do not fully meet the criteria for eligibility to the Scheme in accordance with paragraph 7 above.
- 14.2 The Redress Team will request that the Panel consider the facts of an application, which does not meet the eligibility criteria under paragraph 7, but where the Redress Team consider that there may be compelling grounds for the Panel to consider the matter.
- 14.3 The principles determined by the Panel will be applied to any future applications which have the same characteristics.
- 14.4 The Independent Panel will make recommendations to the Minister as to whether the eligibility criteria should be amended.
- 14.5 The Minister will consider the recommendations of the Panel. If the Minister accepts a recommendation to amend the eligibility criteria the Scheme Terms and Conditions will be amended accordingly.
- 14.6 If an Application has previously been rejected from the Scheme in accordance with paragraph 7.5 above but following an amendment to the eligibility criteria would be eligible the Redress Team will admit the Application to the Scheme and will write to the Applicant accordingly.
- 14.7 The Independent Panel will only provide advice to the Redress Team and to the Minister. The Independent Panel will not accept requests from Applicants or from their representatives to consider whether an application should be admitted to the scheme.
- 14.8 The Independent Panel will not consider applications that have been rejected by the Redress Team.

## 15 Appeals

- 15.1 If an Eligible Applicant does not accept an offer of redress under 9.8.1 above nor a revised offer under 9.8.3.4 ("the offer") above the Eligible Applicant can ask for the offer to be reviewed.
- 15.2 The review will be undertaken by an independent legal advisor.
- 15.3 If the independent legal advisor determines that the amount of the offer should be decreased or increased by less than 20% of the offer, the cost of the review will be deducted from the redress payment to be made to the Eligible Applicant.

15.4 If the independent legal advisor determines the amount should increase by more than 20% of the offer the Government of Jersey will pay for the cost of the review and, if the Eligible Applicant is represented by a lawyer, pay the additional "Appeal Fixed Fee" in paragraph 28 below.

15.5 If the independent legal advisor determines that the award should be decreased upon the review the Eligible Applicant will receive that award and not the offer.

15.6 If the independent legal advisor determines that the amount of the offer should be decreased or increased by less than 20% of the offer no additional appeal fee will be payable to the Eligible Applicant's lawyer.

## **16 The right to discontinue**

Any Eligible Applicant who wishes to discontinue their application for redress under the Scheme may do so at any time before they have formally accepted an offer of redress. Notice of Discontinuance must be made in writing to the Redress Team.

## **17 Previous awards of compensation**

### **17.1 Criminal Injuries Compensation Board**

If an Eligible Applicant has already received a payment from the Criminal Injuries Compensation Board for the abuse or harm that is the subject of the Application the payment received from the Criminal Injuries Compensation Board will be deducted from any award of redress under the Scheme.

### **17.2 The Historic Abuse Redress Scheme**

If an Eligible Applicant has received a payment under the previous Government of Jersey Historic Abuse Redress Scheme an Eligible Applicant may apply to this Scheme in relation to any abuse that was not considered in that award of redress. However, any monies received will be taken into consideration in assessing what redress should be offered under the Scheme. For example, if an Eligible Applicant has already received a payment that took into consideration the long term psychological impact of the abuse they have suffered, the Scheme will not offer further redress for those long term consequences.

## **18 Rejection of offer and consequences**

18.1 If an Eligible Applicant rejects an offer of redress under 9.8.1 above or a revised offer under 9.8.3.2 above the Eligible Applicant must notify the Redress Team in

writing that he or she rejects the offer. An offer will be deemed to have been rejected if the Eligible Applicant does not accept, request a review, Appeal or reject the offer within two months from the date of receiving the offer.

18.2 If an offer is rejected or deemed to have been rejected in accordance with paragraph 18.1 above the Redress Team will stop dealing with the Application. The Redress Team will not consider a further application from the same Applicant. If the Eligible Applicant reconsiders a rejection, the Eligible Applicant can ask for the Redress Team to pay the original offer providing the request to do so is within six months of the date of the original offer.

## **19 Settlement**

19.1 If an Eligible Applicant accepts an offer, a revised offer or an award following an appeal the Redress Team will send to the Eligible Applicant a Settlement Agreement.

19.2 The Government of Jersey will pay the redress award by way of a single lump sum together with the Eligible Applicant's legal costs within 72 days of the Redress Team receiving a signed valid settlement agreement from the Eligible Applicant.

19.3 The Eligible Applicant accepts the payment is in full and final settlement of the application and all claims the Eligible Applicant may have up to the date of the Settlement Agreement in relation to any abuse or harm suffered by the Eligible Applicant for which the Government of Jersey or other Government of Jersey persons as defined in the Settlement Agreement may be directly or vicariously liable.

## **20 Advice on financial management of redress payment**

An Eligible Applicant is advised by the Government of Jersey to take professional advice regarding the financial management of any monies awarded under the Scheme. The Government of Jersey has no responsibility for the provision of that advice.

## **21 Income tax and welfare benefits**

21.1 If the Eligible Applicant lives or pays tax in Jersey the Redress payment will not be taken into account when calculating the Eligible Applicant's income tax or any Jersey social security benefits to which they may be entitled.

21.2 If the Eligible Applicant lives or pays tax anywhere other than Jersey the Redress payment may affect tax liabilities or entitlements to benefits. It will be a matter for the Eligible Applicant to take appropriate advice as to any potential impact of any award. The Government of Jersey is not responsible for and in no way liable for the adverse effect of any award upon an Eligible Applicant's tax liability or benefits entitlement in any jurisdiction outside of Jersey.

## **22 Prescription/Limitation**

The Government of Jersey is accepting applications into the scheme irrespective of whether a prescription or limitation defence could be argued in Court. If an Application exits the Scheme for any reason, the Government of Jersey will rely upon any prescription defences available under Jersey law. However, the Government of Jersey accepts that the period of time in which the Application was within the Scheme (this period of time being from the date the Application was received by the Redress team to the date the Eligible Applicant formally withdraws (or is deemed to have withdrawn) from the Scheme) will be discounted from any calculation of any relevant prescription period.

## **23 The Government of Jersey's right to bring recovery actions**

23.1 In circumstances where the Government of Jersey accepts an application under the Scheme which leads to a redress payment being made to the Eligible Applicant, the Government of Jersey reserves the right to seek to recover payments from:

23.1.1 the perpetrator of the abuse; and/or

23.1.2 any other organisation(s) which may also be liable for the abuse.

23.2 In these circumstances the Eligible Applicant is expected to cooperate with the Government of Jersey in pursuing a recovery.

## **24 Confidentiality**

24.1 The Government of Jersey, the Redress Team, all employees of the Government of Jersey, all members of the Independent Panel and the independent legal advisor (appeal) shall deal with all applications for redress and all matters relating to those applications in the strictest of confidence.

24.2 This duty of confidentiality does not preclude any person from disclosing information protected under paragraph 24.1 above where required to do so by law.

**25 Freedom of Information**

25.1 The Government of Jersey is subject to the requirements of the Freedom of Information (Jersey) Law 2011.

25.2 The Government of Jersey is responsible for determining whether any sensitive information and/or any other information:

25.2.1 is exempt from disclosure in response to a Freedom of Information request in accordance with the provisions of the Freedom of Information (Jersey) Law 2011; or

25.2.2 is to be disclosed.

**26 Data Protection**

26.1 The Government of Jersey will comply with the Data Protection (Jersey) Law 2018.

26.2 The Law Officers' Department is administering the Redress Scheme on behalf of the Government of Jersey. The Law Officers' Department is a Controller for the purposes of the Data Protection (Jersey) Law 2018.

26.3 In administering the Redress Scheme, the Redress Team will collect and process personal and special category data about Applicants.

26.4 Applicants are referred to the Privacy Notice which is available at the Redress website or from the Redress Team for further information regarding data protection and privacy.

**27 Consents**

27.1 In order to determine an application the Redress Team may require access to other information including (non-exhaustive)

- Medical records
- Mental health records
- Social services records
- Records of the Applicant's time in care
- Records relating to the Applicant's time while accommodated at Les Chênes
- Copies of statements made to the police

- 27.2 The Applicant is required on the Application Form to give the Redress Team permission to obtain and read these records. Once the Application Form has been received and any other records have been obtained these records will be processed in accordance with paragraphs 12 and 13 of Schedule 2 of the Data Protection (Jersey) Law 2018.
- 27.3 The Redress Team may need to share these records with the Applicant's representative or other professionals (including any experts instructed).
- 27.4 The Applicant can withdraw their permission and/consent at any time, however, if permission / consent is withdrawn the Redress Team may be unable to determine the Application.
- 27.5 Whether or not an application has been determined, the Redress Team will retain copies of all relevant information relating to an application in accordance with the Law Officers' Department's established retention schedules.

**28 Applicant's legal costs**

If an Eligible Applicant has instructed a lawyer to represent them the Scheme will pay the lawyer the following fixed legal costs:

**28.1 Successful Application Fees:**

Successful Application to Part 1 of the Scheme - £1,000

Successful Application to Part 2 of the Scheme - £2,200

**28.2 Additional Fees (only one of the additional fees is claimable):**

i. Expert medical and/or psychiatric evidence is required - £200

ii. Eligible Applicant is an in-patient in a Mental Health Facility - £400

(The lawyer must provide the Redress Team with evidence of authorization for the admission under the Mental Health (Jersey) Law 2016 or the equivalent authorization of detention in other jurisdictions)

**28.3 Successful Appeal fees under paragraph 15 above**

Successful Appeal of Part 1 of the Scheme - £500

Successful Appeal of Part 2 of the Scheme - £1,100

- 28.4 If an Application is rejected by the Redress Team because the Applicant is not eligible in accordance with paragraph 7.4 above the Applicant's legal fees will not be paid by the Scheme.
- 28.5 The terms of engagement of a lawyer by an Applicant are a private matter for them. An applicant should check the circumstances in which they may personally be liable for fees to their lawyer for example if their legal fees are more than the fixed fees payable under the Scheme. An Applicant should clarify with their lawyer prior to making an Application to the Scheme whether their lawyer will require them to pay the difference. The Government of Jersey is not liable for any legal fees under the Scheme other than those detailed in this section.
- 28.6 If an Eligible Applicant is not represented by a Lawyer they are required to take independent legal advice upon the terms of the Settlement Agreement. The Lawyer is required to provide confirmation that the advice has been so provided. The Government of Jersey will pay to the Lawyer providing the independent legal advice a fixed fee of £200 for the provision of such advice.

## **29 Legitimate objection to the Redress Team**

- 29.1 If an Eligible Applicant has objections to their Application being determined by the Redress Team the Eligible Applicant or their representative must put the objections in writing providing sufficient detail so that the Redress Team can assess whether the objections are meritorious.
- 29.2 If the Redress Team consider that the objections to the Redress Team determining the Application are legitimate and meritorious the Redress Team will outsource that Application to external lawyers who will consider the Application.
- 29.3 The Scheme Terms and Conditions will apply to an Application outsourced to external lawyers.

## **30 Governing law and jurisdiction**

- 30.1 The Scheme, and any dispute or claim arising out of or in connection with it or its subject matter or formation shall be governed by, and construed in accordance with the law of the Island of Jersey
- 30.2 The Royal Court of Jersey shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with the Scheme, its subject matter or formation.

# Appendix 6: Redress Scheme's privacy policy

## a. Introduction

The Law Officers' Department is administering the Redress Scheme on behalf of the Government of Jersey. The Law Officers' Department is registered as a 'Controller' under the Data Protection (Jersey) Law 2018. In administering the Redress Scheme, we will collect and process personal information about you. We will only process and hold your information in order to assess your application to the redress scheme. In conjunction with the application guide and the application form, this notice explains how we will use and share your information. Information will be collected on a paper or online form.

## b. Information we collect about you

We collect the following types of information about you:

- forenames
- surname
- any former name or names
- current permanent address
- contact telephone number
- email address
- date of birth
- place of birth

A copy of any two of the following documents:

- passport
- driving licence
- birth certificate
- marriage certificate
- a recent utility bill
- any other official document confirming your identity.

The Redress Team may need information from other sources to help determine your claim. This could include:

- medical records
- mental health records
- social services records
- records of your time in care
- copies of any relevant police statements

The Redress Team may ask you to be assessed by an independent psychiatrist, psychologist or other relevant expert. A report may be provided about any psychiatric and/or psychological harm that you have suffered.

As much information as possible to help the Redress Team process your claim (this will include giving an account of the abuse or harm you suffered).

This will include the collection of Special Category Data. Special Category Data is sensitive information which could include, for example, information about a person's health, ethnic origin or any criminal record. Special Category Data must be dealt with in accordance with the Data Protection (Jersey) Law 2018.

### **c. Why we collect information about you**

The Scheme deals with applications for redress payments to people who, as children, were abused or suffered harm:

1. while a resident in a Government of Jersey children's home; or,
2. while in a Government of Jersey foster care placement; or,
3. while accommodated at Les Chênes secure residential unit.

The Redress Team need to collect and hold information about you, in order to:

- stay in touch with you
- verify you are who you say you are
- handle your application
- provide you with information you need
- determine your claim.

### **d. How we use information about you**

The Redress Team will use the information in a manner that conforms to the Data Protection (Jersey) Law 2018.

You will be asked on the application form to give the Redress Team your permission (consent) to obtain and read your records. Once your records have been obtained however, they will be processed under paragraphs 13 and 14 of Schedule 2 of the Data Protection (Jersey) Law 2018.

These records will be shared in accordance with a data sharing agreement which is available from the Redress Team. The Redress Team may need to share these records with your lawyer or other professionals whose help may be needed to determine your claim. You can withdraw your permission at any time, but if you withdraw your permission or if you do not give the Redress Team your permission, they will not be able to determine your application.

In any event, your information will be kept in accordance with the Law Officers' Department retention schedule which is available from the Redress Team.

If you are making a Part 2 application the Redress Team may ask you to be assessed by an independent psychiatrist, psychologist or other relevant expert. They will be able to report on any psychiatric and/or psychological harm that you have suffered.

We do not process your information overseas using web services that are hosted outside the European Economic Area.

### **e. Your rights**

#### **i. You can ask us to stop processing your information**

You have the right to request that we stop processing your personal data in relation to any of our services. However, this may cause delays or prevent us delivering a service to you. Where possible we will seek to comply with your request but we may be required to hold or process information to comply with a legal requirement.

#### **ii. You can withdraw your consent to the processing of your information**

In the few instances when you have given your consent to process your information, you have the right to withdraw your consent to the further processing of your personal data. However, this may cause delays or prevent us delivering a service to you. We will always seek to comply with your request but we may be required to hold or process your information in order to comply with a legal requirement.

Should you wish to withdraw any consent provided please email [EdCoMpliance@gov.je](mailto:EdCoMpliance@gov.je)

#### **iii. You can ask us to correct or amend your information**

You have the right to challenge the accuracy of the information we hold about you and request that it is corrected where necessary. We will seek to ensure that corrections are made not only to the data that we hold but also any data held by other organisations/parties that process data on our behalf

#### **iv. You request that the processing of your personal data is restricted**

You have the right to request that we restrict the processing of your personal information. You can exercise this right in instances where you believe the information being processed is inaccurate, out of date, or there are no legitimate grounds for the processing. We will always seek to comply with your request but we may be required to continue to process your information in order to comply with a legal requirement.

#### **v. You can ask us for a copy of the information we hold about you**

You are legally entitled to request a list of, or a copy of any information that we hold about you. However where our records are not held in a way that easily identifies you, for example a land registry, we may not be able to provide you with a copy of your information, although we will do everything we can to comply with your request.

#### **f. Complaints**

If you have an enquiry or concern regarding the States of Jersey processing your personal data you can [contact the Central Data Protection Unit](#).

You can also complain to the [Jersey Office of the Information Commissioner](#) about the way your information is being used

## Appendix 7: Scheme feedback

*“The [apology] letter arrived this morning which means that I can in some small way move on....., Thank you very much for your help with this letter as it means the world to me.”*

*“thanks should go to people like you that are actually willing to help others”*

*“Thank you for this offer that i gratefully accept”*

*“Hi I’m just writing to confirm I have received the money in my account. Thanks for your help”*

*“Just to let you know that the funds have been received, thank you very much for your assistance during this process, please let me know if there is anything else you need from me. Best of luck with everything”*

*“Please accept my sincere thanks for all your assistance”*

*“Thanks for your help as well take care enjoy the nice heat wave”*

*“Thanks again for all your help in dealing with this matter”*

*“Good morning I hope that you are well. Just a quick email to confirm that I have now received moneys from Redress Scheme. Thank you for your assistance and help. I wish you all the best in the future, thank you again.”*

*“Morning, everything is fine thanks very much for your assistance much appreciated “*

*“Thanks ever so much for your help the money has been deposited thank you.”*

*“Thank you for your time and patience with me.”*

*“I know loads of people who have applied to you, they have all said their offers were fair and none have appealed them, of course when making their applications everyone wants a million pounds but that’s never gonna happen, everyone has been happy with what they’ve been offered”*

*“Thank you again for all the work you have put in to gaining the answers I was looking for, it’s really appreciated.”*

*"As you know, I was really struggling with the process of getting the information on paper but you were very kind in your help with getting the transcript etc once I'd shared with you which anonymous witness I was. You were very professional, not once giving advise outside of your remit but you certainly helped make this a lot less painful. Well, we'll now see where this goes regarding the fact that it doesn't quite meet criteria, but hopefully the panel will sit and realise how much of my life and my children's lives have all had knock-on effect in suffering. I'll await to hear further from you XXX. Bless you and have a lovely week”*

*“When this is all done and dusted, no matter which way it goes, I’ll be praising you to your bosses or something in some way as I feel you’ve really helped me”*

*“Thank you so much for all your help”*

*“[I] appreciate your help in bringing this to a close for [my client]....this will mean a lot to [my client]... thank you for your perseverance in this.”*

*“Many thanks again for all of your help with this*