

Cabinet 17 September 2018

Report title: Lambeth Children's Homes Redress Scheme Update

Wards: All

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Lambeth Children's Homes Redress Scheme

The Lambeth Children's Homes Redress Scheme is compensating survivors of sexual, physical and psychological abuse suffered at the borough homes which were open from the 1930s until the 1980s and 1990s. The scheme gives survivors swift and compassionate redress without having to go through the courts. By simplifying the redress process, the scheme means far more of the compensation goes to survivors of abuse, rather than being taken up by legal fees. It also means no survivor will have to restate their experience of abuse in court.

Lambeth is the first local authority in England and Wales to develop its own redress scheme. The scheme, which was developed through extensive consultation, has independent support for survivors, with each being given access to independent legal representation funded by the council, and any appeal will be heard by an independent multi-disciplinary panel. Survivors will not be ruled out of time while the scheme is in operation, and each survivor is entitled to receive a formal apology from the council, a meeting with a senior officer and the continued provision of free counselling support.

The Lambeth redress scheme is now the most comprehensive redress scheme in the country, and could be used as a model for a national version. It provides compensation of up to £125,000, with all former residents of a Lambeth Children's Home who were living in and subjected to a harsh environment eligible to receive a Harm's Way Payment of up to £10,000.

The Harm's Way Payments are available to former Lambeth Children's Home residents who feared that they would be physically and/or sexually abused, and/or who were neglected and/or suffered cruelty. Separate Individual Redress Payments available to those who suffered sexual abuse and/or physical abuse and/or psychological injury at a Lambeth Children's Home.

Complex cases where compensation for loss of earnings could result in a higher award of compensation will be dealt with outside of the Scheme as these cases involve a more detailed forensic analysis of

expert evidence to assess and ensure the appropriate level of compensation is made to applicants. However, these cases will be handled in the spirit of the Scheme to provide a swift and compassionate resolution to each case.

Lambeth council has secured a capitalisation direction from the Government to borrow the £100million needed fund the scheme. It is estimated 3,000 people in total will apply.

Report summary

This report provides Cabinet with an update on the operation of the Lambeth Children's Homes Redress Scheme since its launch and an overview of finance and performance for the first six months (Q2) 2018/19.

The Redress Scheme was opened to applications on 2 January 2018 since when a total of 552 applications have been received within the first six months of the Scheme's operation, with the majority of these being applications for combined harm's way and individual redress payments. Generally, the volume of applications received have been increasing each month since the Scheme launch with a downturn in June.

The processing of Harm's Way applications have taken an average of 31 working days from receipt of the completed application form until payment is processed to applicants. In the first six months of operation the number of individual Harm's Way Payments that have been made is 343 with a total of £3,223,500 having been paid to applicants.

The processing of Individual Redress Payments is still ongoing for most applications received in Q2 as the assessment of these requires a more detailed analysis of records and medical reports. As at the end of Q2 a total of 50 offers of Individual Redress had been made with 3 applicants having accepted their offer, and 1 interim payment made. At Q2 a total of £45,000 in Individual Redress Payments have been paid with a further £458,000 of offers awaiting acceptance by the remaining 46 applicants. Whilst the processing times for Individual Redress applications takes longer these are still expected to be concluded within months rather than years (as is typically the case when similar cases proceed by a traditional litigation route). It is understandable that many applicants will wish to take time to carefully consider and consult on offers of redress that have been made and therefore the Scheme places no immediate time pressures on applicants to accept offers. Naturally the time taken to conclude these types of applications will be reflective of this.

Ongoing efforts to review and improve operational processes and procedures have been made since the Scheme launch and a revised version of the application form has been made available as well as a range of information published on the Redress website. The multi-disciplinary Independent Appeal Panel chaired by Sir John Goldring has also now been established. The Appeal Panel is independently administered and is ready to start considering the first appeals.

The next update on the operation of the Scheme and an overview of finance and performance will be presented to Cabinet in March 2019 after the Scheme's first full first year of operation.

Finance summary

The Council has received independent actuarial advice in assessing the cost and value for money of operating the Redress Scheme compared to following a more conventional approach to the handling of abuse claims. The original forecast estimated that the possible number of applications received during the life of the scheme (two years) to be around 3,000 at a potential total cost of £100m for claims within the Scheme and a potential £40m for some complex claims dealt with outside of the Scheme due to the level of compensation exceeding the maximum £125,000 threshold of the Scheme.

The actuary has further reviewed the performance of the Scheme as at the end of the first three months (Q1) and six months (Q2) of its operation. The actuary's review as at the end of Q2 notes that the number of applications made is 90% of the expected forecast at this stage and that the incurred Scheme costs are c100% of forecast. He advises that at this stage there is no evidence to require a re-forecast of the estimated Scheme cost. Therefore, the original cost estimate remains reasonable and the data supplied by the Council to enable him to reach this conclusion was good. The council has secured a capitalisation direction from the Government to borrow the £100million needed fund the scheme.

The total compensation paid to applicants (Harm's Way and Individual Redress) as at the end of Q2 is £3,268,500. The cost of the Scheme administration including applicant's and Council's legal costs and staffing is £504,374. The total cost of the Scheme operation as at Q2 is therefore £3,772,874.

Recommendations

1. Cabinet to note the contents of this report.
2. Cabinet to note the revised EQIA and in particular the adjustments made to ensure improved access to the Scheme for applicants with certain protected characteristics.
3. To receive a report to Cabinet in March 2019 to consider the first year operation of the scheme.

1. Context

- 1.1 This report presents an update on the operation of the Lambeth Children's Home Redress Scheme ("the Scheme") and the performance of the Scheme for Cabinet to review. The period this review covers is from the Scheme launch on 2 January 2018 to the end of the second quarter at 30 June 2018. All of the data used in this report is as at 30 June 2018.
- 1.2 The Scheme deals with applications for compensation payments to people who, as children, were abused or feared abuse at a Lambeth Children's Home and/or Shirley Oaks Primary School.
- 1.3 The Scheme is the first of its kind in England & Wales and will remain open to applications until 1 January 2020.
- 1.4 The Scheme provides for two types of financial redress that are available:-

Harm's Way Payment ("HWP")

This is a payment made for applicants who were resident at a Lambeth Children's Home and feared that they would be physically and/or sexually abused, and/or who were neglected and/or suffered cruelty whilst resident at a Lambeth Children's Home where specified criteria is met. A Harm's Way Payment of up to £10,000 is available to eligible applicants.

Individual Redress Payment ("IRP")

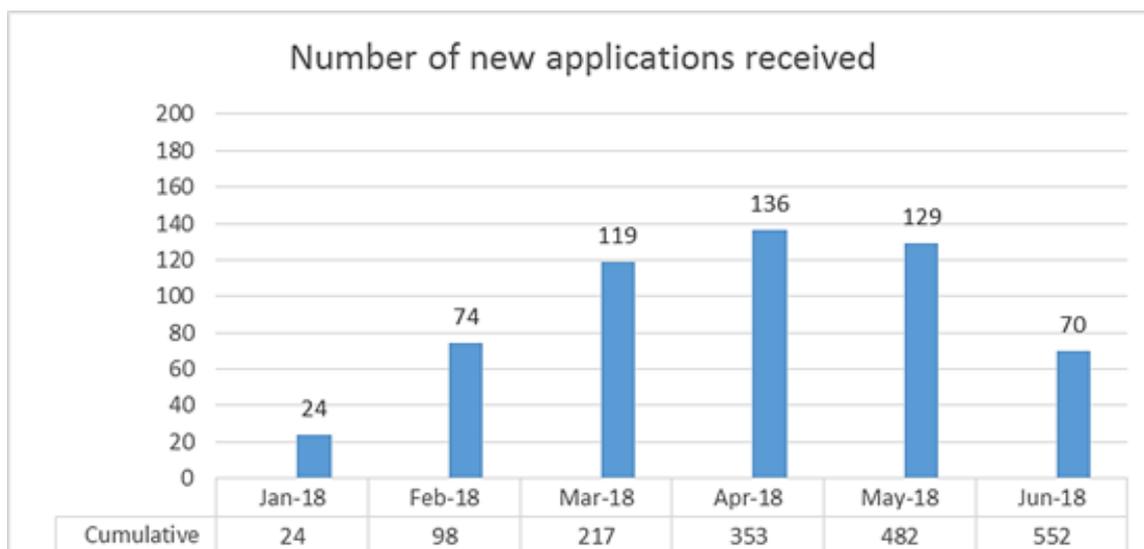
This is a payment made for applicants who suffered sexual abuse and/or physical abuse and/or psychological injury at a Lambeth Children's Home and/or Shirley Oaks Primary School where specified criteria are met.

- 1.5 In addition to financial redress the Scheme also offers a number of non-financial reparations including:-
 - A written apology acknowledging what has happened to the applicant, providing an acceptance of responsibility and giving an assurance of the measures which have been taken to prevent any further repetition;
 - A meeting with a senior representative of the council so that the applicant can feel that they have been heard and acknowledged by the council;
 - Specialist advice and support relating to housing, appropriate welfare benefits, access to further education and suitable employment;
 - Access to a specialist and dedicated confidential independent counselling support service to provide appropriate counselling to any applicant under the Scheme;
 - Reasonable legal costs funded by the council for eligible applications (fixed legal costs for Harm's Way Payments).

2. Proposal and Reasons

Applications received

- 2.1 The total number of applications received within the first six months of the Scheme operation has been 552. The number of applications received each month steadily increased from January to April but have fallen back as at the end of June as shown in the graph below. This report covers the first six months of the Scheme however applications continue to be submitted. In July we received 108 applications and in August a further 71 were received (as at the time of writing this report). The chart below shows the numbers of applications received each month:



- 2.2 Applications have been received from across the country and also from a number of other countries where former residents of Lambeth children’s homes are now living. This indicates that information about the scheme been widely distributed and follows the placing of advertisements. The council undertook initial advertising of the Scheme in January and a number of claimant solicitors have also undertaken their own promotion of the Scheme. Details of the Scheme has been reported in various media publications and through the Shirley Oaks Survivors Association.
- 2.3 A significant number of applicants (40%) reside in London of whom 13% reside in Lambeth and 4% in Croydon (where Shirley Oaks was based) with a number from Kent and Surrey although the majority of applications received (45%) have come from applicants who reside in various other parts of the country. Around 6% of applications have been received from those that are now residing overseas. The following table illustrates the main locations where applications have been received from:

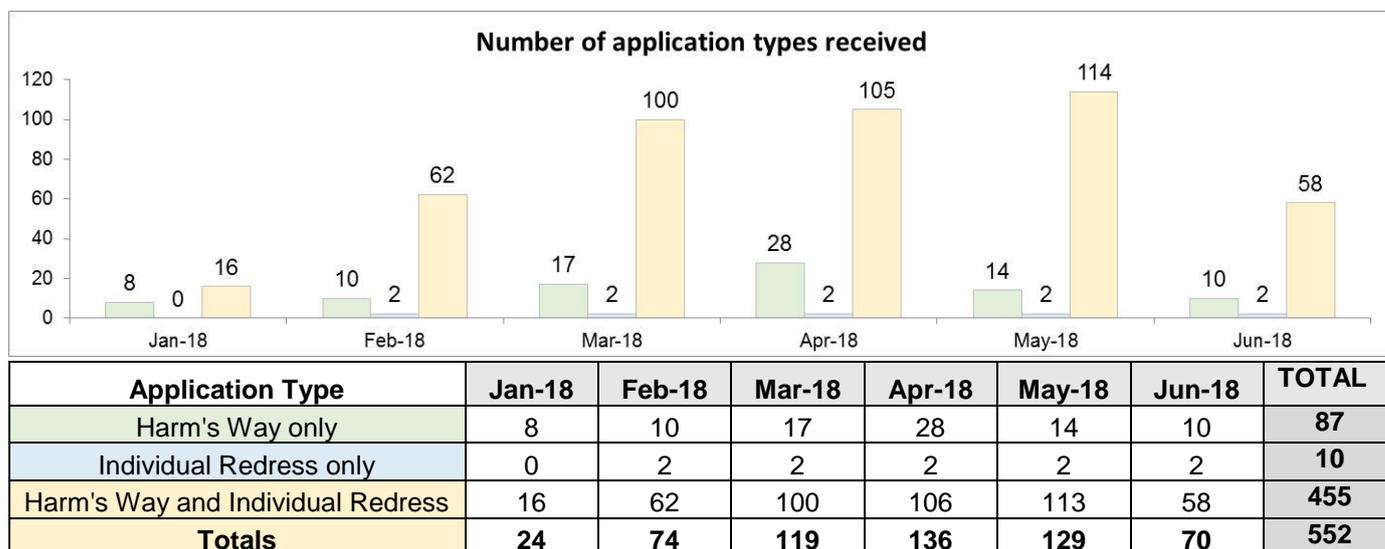
| Applicant location | No. applications | % of applications |
|--------------------------------------|-------------------------|--------------------------|
| Other areas within UK | 249 | 45% |
| London (excluding Lambeth & Croydon) | 125 | 23% |
| Lambeth | 73 | 13% |
| Overseas | 32 | 6% |
| Kent | 30 | 5% |
| Surrey | 24 | 4% |
| Croydon | 19 | 4% |
| Total | 552 | 100% |

| The 32 overseas applications have been received from: | |
|---|-------------|
| USA | Germany |
| Australia | France |
| Canada | New Zealand |
| Spain | Norway |
| Ireland | Thailand |
| Cyprus | |

2.4 The largest number of applications received have mainly been for both Harm's Way and Individual Redress determination with a total of 455 out of the 552 falling into this type (82%).

2.5 A total of 10 applications have been received for Individual Redress Payments alone to June 2018, these are from representatives of former residents now deceased, visitors abused in a children's home, foster care (where an applicant was removed from a children's home into a foster care placement) and also those applicants that have previously received compensation for the same abuse.

2.6 The types of applications received are summarised in the following graph and table:



Application status

2.7 As at the end of Q2 a total of 343 Harm's Way Payments have been paid to applicants out of the 552 applications received. Offers of Harm's Way Payments have been made on a further 79 applications and are awaiting acceptance by applicants. Overall this represents 76% of all applications received where the entitlement to a Harm's Way Payment has been verified and a payment has been made or offered.

2.8 Following completion of the Harm's Way Payment applications then proceed to the consideration of Individual Redress. Currently 60% of applications are at the Individual Redress evaluation stage of the application process. There are a number of applications where offers of redress have been made and which are awaiting the applicant's acceptance before payment can be made to them. Given the nature of these applications it is understandable that some individuals will wish to take time to carefully consider and discuss the council's offer before confirming their acceptance. The Scheme does not impose any particular timescales for the acceptance of an offer and it is felt that it is important to allow individuals sufficient time to adequately process and evaluate offers. In

considering the overall length of time that an application has been within the Scheme it is important to consider these periods where the applicant has taken time to make a decision on whether or not to accept an offer of redress.

- 2.9 Following initial assessment a total of 13 applications have not been accepted into the Scheme as they have not met the Scheme criteria. This is where the applicant was not a resident or visitor in a Lambeth children’s home (i.e. they were resident in a home under the control of another organisation) and/or where an applicant has not lived in a harsh environment (i.e. they have a positive recollection of their time in care). Applicants not accepted into the Scheme are reminded of their right to appeal this decision.
- 2.10 In the vast majority of cases the council has been able to verify an individual applicant’s dates of placement within a children’s home from the records that are held. This is mainly due to the extensive research that the council has previously undertaken to locate such records from the archives. There are however a few applications where no records for a particular applicant are held and in these cases it has been necessary to assist applicants by providing advice on how to establish whether the London Metropolitan Archives (LMA) may hold any relevant records. To ensure compliance with data protection regulations applicants are required to confirm their identity with the LMA and also to review any records held with the LMA’s social worker before they are released. The council is liaising with the LMA to ascertain whether any further support and assistance can be provided to assist them in dealing with these referrals.

Periods of residency

- 2.11 More than half of the applications received to date (54.2%) relate to periods of residency in a children’s home pre 1965 (these are homes for which Lambeth assumed responsibility in 1965 from London County Council). Out of the remaining applications 40% are in respect of children who were in children’s homes from 1965 through to 1979, just under 5% in the 1980’s with less than 0.5% of applications relating to the 1990’s. The table below details the number of applications received relating to years of residency:

| Year of residency in Lambeth Children's Home | Total number of applications | Total percentage of applications |
|---|-------------------------------------|---|
| Pre 1965 (Pre 01/04/1965) | 299 | 54.2% |
| 1960s (01/04/1965 - 31/12/1969) | 84 | 15.2% |
| 1970s (01/01/1970 - 31/12/1979) | 141 | 25.5% |
| 1980s (01/01/1980 - 31/12/1989) | 26 | 4.7% |
| 1990s (01/01/1990 - 31/12/1999) | 2 | 0.4% |
| Totals | 552 | 100.00% |

- 2.12 We have been able to verify a high number of applications relating to periods of residency pre 1965 (as at Q2 c70% of applications have been verified from the existing records held by the council). This is due to the extensive work that the council has previously undertaken to locate records from the archives and to update the register of looked after children. In addition approximately a further 5% of applications have been verified from records that applicants have obtained from the LMA. This means that c75% of all applications received for the pre 1965 period have been verified to date (this percentage is likely to rise further as a number of applications are still being reviewed at the time of writing this report).

2.13 The numbers of applications received relating to residency in children’s homes in the 1980’s and 1990’s is low in comparison to earlier years. This is because Shirley Oaks closed in 1983 and after the mid 1980’s the number of children that were placed in those Lambeth Children’s homes that were still operational had reduced significantly. Over 40% of children’s homes had closed by the end of 1989 and only 6% of homes were still in operation after 1995.

Types of abuse

2.14 In completing an application for redress individuals have outlined their personal experiences as a former resident in a Lambeth children’s home and the type/s of abuse that they suffered. The types of abuse reported by applicants have been categorised as sexual, physical and psychological with some reporting one or more categories of abuse. Where an applicant did not suffer actual abuse but was living in and subjected to a “harsh environment” this has been recorded under ‘put in Harm’s Way’.

2.15 In addition to the categories identified above, any other form of discrimination that applicants experienced such as racial, religious or due to their sexual orientation, is also taken into consideration and factored into offers of redress made within the Scheme tariff. Offers of redress awards will clearly set out any amount that has been attributed to these types of discrimination experienced (at the time of writing these applications are still under consideration).

Locations

2.16 The majority of applications received to date (72%) relate to abuse that occurred within Shirley Oaks Children’s Home followed by South Vale Assessment Centre/Children’s Home accounting for 15% of applications. Details of the homes to which redress applications relate are shown in the table below:

| Lambeth Children's Home | Total number of applications | Total percentage of applications |
|-------------------------|------------------------------|----------------------------------|
| Shirley Oaks | 400 | 72% |
| South Vale | 82 | 15% |
| Other Lambeth Homes* | 35 | 6% |
| Chevington House | 10 | 2% |
| Woodvale | 10 | 2% |
| No residence identified | 9 | 2% |
| Non-Lambeth | 6 | 1% |
| Totals | 552 | 100% |

*numbers for each individual home are too low to list individually

2.17 Some applicants were resident in more than one children’s home over a period of time, the table above details those homes that have been listed as the main and/or longest period of residence of applicants.

2.18 A list of those children’s homes that were run by Lambeth or its predecessor authority is attached at Appendix A.

2.19 We have identified four “specialist” units for children with disabilities where those children that were resident in any of these units are eligible for a £10,000 Harm’s Way Payment, those units are listed below:

- Ivy House / Warham Road
- Monkton Street
- Leigham Court Road
- Chestnut Road

2.20 As at Q2 no applications have been received from any applicants that were resident in any of the above units. The council has addressed this through using a multi-channel approach to advertise the scheme both locally and nationally and by working with local partners and advice agencies to promote the Scheme to families and carers of those former residents with physical and/or learning disabilities.

Applicant types

2.21 Individuals can make an application to the Scheme in person where they have chosen not to instruct a legal representative or anyone else to represent them. These types of applicants are referred to as 'Applicants in Person'. Applicants are reminded of their right to legal representation and advised that their reasonable costs of this are covered under the Scheme. Applicants are also signposted to where they can obtain further information in relation to legal representation. For applicants that don't wish to be legally represented a protocol is in place to minimise any potential distress, simplify and explain the process.

2.22 Applicants are also entitled to be represented by a solicitor for which the Scheme allows the payment of fixed legal costs in respect of a Harm's Way Payment and reasonable legal costs on an Individual Redress Payment. The majority of applicants (85%) have chosen to be legally represented when submitting an application through the redress Scheme.

Harm's Way Payments

2.23 All former residents of a Lambeth Children's Home who were living in and subjected to a harsh environment are eligible to receive a Harm's Way Payment of up to £10,000. Payments are stepped based on time spent in a children's home as follows:

- More than 6 months – Harm's Way Payment of £10,000
- Between 3 and 6 months – Harm's Way Payment of £5,000
- More than 1 week and up to 3 months – Harm's Way Payment of £2,500
- Less than 1 week – Harm's Way Payment of £1,000

A harsh environment is one which caused former residents to fear or apprehend that they would be subject to immediate physical abuse, and mistreatment or sexual abuse and/or neglect and/or cruelty. Where a Harm's Way Payment is paid and the person also applies for an Individual Redress Payment the Harm's Way Payment will be treated as an interim payment for redress.

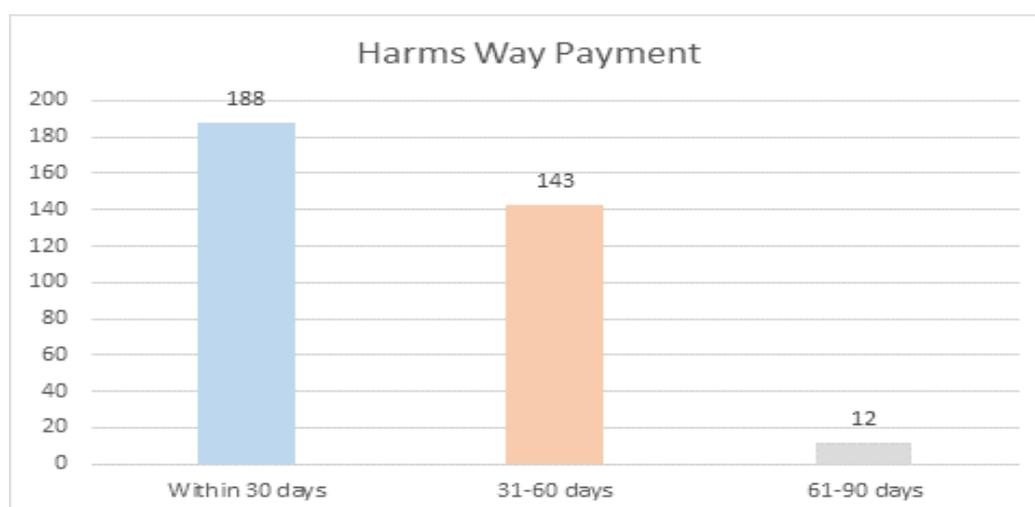
2.24 Any child who was resident in one of the Council's specialist residential children's units (listed in paragraph 2.19) is entitled to a Harm's Way Payment of £10,000.

2.25 The table below provides details of the numbers and value of Harm's Way payments that have been made as at the end of Q2:

| Harm's Way payments | No. of verified payments | Total amount paid (£) | Percentage breakdown of Harm's Way payments (based on amount paid) |
|--|--------------------------|-----------------------|--|
| £1,000 - less than 1 week | 1 | 1,000 | 0.03% |
| £2,500 - more than 1 week up to 3 months | 17 | 42,500 | 1.32% |
| £5,000 - between 3 and 6 months | 14 | 70,000 | 2.17% |
| £10,000 - more than 6 months | 311 | 3,110,000 | 96.48% |
| Total Harm's Way payments | 343 | 3,223,500 | 100% |

2.26 The average time for assessing and making Harm's Way Payments has been 31 working days from the receipt of the completed application form until the payment has been processed (payments will take a few more days to reach the applicant's bank account). Where payments have been requested to be paid directly to an applicant's legal representative the applicant will not receive payment until their own legal representative has processed this.

2.27 55% of all Harm's Way payments were paid in under 30 working days, 42% in under 60 working days, and only 3% of these payments have taken over 61 working days to process as shown in the following table and graph:



Individual Redress Payments

2.28 The Scheme provides for an Individual Redress Payment up to a maximum sum of £125,000 for every child who has been physically, sexually or psychologically abused by staff, house parent, social uncle or aunt, or any other third party for whom the Council has vicarious liability in relation to a Lambeth Children's Home and including Shirley Oaks Primary School.

2.29 More complex cases where compensation for loss of earnings could result in a higher award of compensation will be dealt with outside of the Scheme as these cases involve a more detailed forensic analysis of expert evidence to assess and ensure the appropriate level of compensation is made to applicants. However, these cases will be handled in the spirit of the Scheme to provide a swift and compassionate resolution to each case.

- 2.30 The determination of Individual Redress applications takes longer as it involves obtaining and reviewing relevant medical and care records and in many instances requires the instruction of a medical expert to undertake an assessment of injuries to ensure that an appropriate award of redress is calculated. In civil claims the overall process can often take years to conclude, however, the Redress Scheme aims to offer a more streamlined and quicker route to obtaining compensation. It is however important to note that there are a number of points within this process where there is a reliance upon other parties to provide information or records such as obtaining medical records from an applicant's GP. This can sometimes result in a delay to the progression of the application.
- 2.31 Where an assessment of Individual Redress has been completed an offer will be provided to the applicant for them to consider. It is worth noting that whilst very few Individual Redress Payments have been made as at the end of Q2 there have been 46 offers made at a total of £458,000 which are currently awaiting consideration by applicants. The council recognises that many applicants will wish to take the time to carefully consider and consult on the offer that has been made and for some this may be a difficult decision for them to make.
- 2.32 Where payment offers have been made, applicants will not be placed under any undue pressure to accept these within a specific timeframe. Applicants will, however, be reminded periodically that their response is required before their payment can be processed. For this reason some applications may remain outstanding for a longer period than usual.
- 2.33 As at the end of this reporting period there have only been 4 Individual Redress Payments made one of which was an interim payment that was requested by the applicant. The total value of Individual Redress Payments made is £45,000.
- 2.34 Although there have been relatively few Individual Redress Payments completed as at Q2, this is to be expected this early into the Scheme as a large number of these applications will require a review of social care records, obtaining and reviewing medical records and further expert medical reports to be obtained. A total of 46 offers of Individual Redress totalling £458,000 have been made as at Q2.
- 2.35 The total value of both Harm's Way, Individual Redress and associated legal costs that have been paid as at the end of Q2 are shown in the table below:

| Redress payment type | Total amount paid (£) | Percentage breakdown of all redress payment types (based on amount paid) |
|-----------------------------------|------------------------------|---|
| Harm's Way payments | 3,223,500 | 94.59% |
| Individual Redress Payments | 45,000 | 1.32% |
| Redress fixed legal costs | 94,050 | 2.76% |
| Redress Council's solicitor costs | 45,232 | 1.33% |
| Total Redress payments | 3,407,782 | 100% |

- 2.36 As at the end of Q2 more than 96% of the total redress payments have been those made to applicants in the form of compensation with only 4% of the total cost having been paid to solicitors for legal costs. This is in keeping with the council's wish to ensure that the majority of the expenditure on redress goes directly to applicants.

Independent Appeal Panel

- 2.37 Following the previous report to cabinet in December 2017 a systematic selection process has been undertaken to identify suitable individuals to form the Independent Appeal Panel. In order for the panel to operate as flexibly as possible over the duration of the Scheme a single retired judge was appointed as panel Chair, supported by a pool of 7 barristers and 5 other experts. Details of the Independent Appeal Panel members that have been appointed are attached at Appendix B.
- 2.38 A full panel of three members will be formed to adjudicate on matters when disputes arise under the Scheme in respect of the level of Harm's Way and Individual Redress payments or the level of legal costs. The Chair will be a permanent member on each panel and will be supported by two other panel members one drawn from the pool of barristers and one from the pool of panel experts. For appeals relating to eligibility matters only the panel Chair will adjudicate for reasons of proportionality.
- 2.39 Appeals from applicants will be submitted directly to the appeal panel where they will be coordinated by a 'point of contact' (a pupil barrister) under the direction of the Chair. The point of contact will undertake responsibility for arranging the appeal panels including the allocation of panel members on a rota system, and for communicating details of appeals between all parties. This approach ensures that the Appeal Panel operates independently of the council.
- 2.40 The Panel Chair has worked with the other panel members to develop a procedural framework for the determination of appeals that are submitted to the Independent Appeal Panel. This has included having to establish separate policies and procedures to ensure that the panel meets data protection obligations when considering appeals from applicants.

General Data Protection Regulations (GDPR)

- 2.41 Following the introduction of GDPR in May 2018 it was necessary to review how these regulations applied to the Independent Appeal Panel to ensure that all of the panel members were clear of their responsibilities whilst undertaking Redress Scheme appeals. This was particularly crucial given the appeal panel is acting independently from the Council which is different from a typical contractual arrangement.
- 2.42 It was established that individual members of the Appeal Panel are data controllers of the personal data which is supplied to them in the course of and during their determination of any appeal which is raised within the terms of the Scheme. As such this required the Panel Chair to develop a set of documents to clarify individual panel member's responsibilities under GDPR and also developing their own privacy policy. A copy of the privacy policy will be placed on the Council's redress website.
- 2.43 The time taken to finalise these arrangements has delayed the Appeal Panel being in a position to receive and determine the first few appeals. It is expected that the first appeals will be determined by the Appeal Panel in early September. As at Q2 there were a total of 3 appeals that had been received. Outcomes from appeals will be reported in future Scheme updates.

Non-financial redress

- 2.44 The Scheme offers applicants the opportunity to access a number of non-financial redress benefits such as a letter of apology, a meeting with a senior representative of the council, access to a counselling service and access to specialist advice and help with things like housing, welfare, benefits, further education and employment.

2.45 As at Q2 the following non-financial redress services have been requested by and provided to applicants:

| Non-financial redress service | Number of applicants |
|--------------------------------------|-----------------------------|
| Letter of apology | 15 |
| Meeting with senior representative | 2 |
| Advice & help - Housing | 6 |
| Advice & help – Welfare benefits | 3 |
| Advice & help – Further education | 2 |
| Advice & help - Employment | 2 |

2.46 The take up of non-financial redress services has been low during the first six months of the Scheme's operation. It may be the case that some applicants will prefer to access some of these services towards the end of the application process rather than at the front end particularly the letters and meetings. The Redress Team are reminding applicants at various stages of the application process of the services available and will also send a final reminder at the end of the process.

2.47 Requests for advice on housing related matters have been the most utilised advisory service. One applicant was at imminent risk of homelessness and a request to make an interim redress payment was positively considered as a way of assisting. Advice on the impact of benefit entitlements when redress compensation is made has also been requested by some applicants and we have updated our questions and answers to respond to this particular question.

2.48 The Council has had had a free specialist and dedicated independent counselling support service for all survivors since 2015. The Council will fund the Counselling Service for the duration of the Scheme. If, at this stage, there continues to be a need for ongoing support for some individuals the Council will support them to access services that provide ongoing support.

Stakeholder engagement

2.49 The Council is keen to have further engagement with stakeholders to support the annual review of the scheme and is using a multi-channel approach involving a number of activities including:

- Ensuring organisations that represent or work with survivors have up to date information about the Scheme
- Advertising with a range of national and local voluntary sector, advocacy and advice agencies including those that work with a range of potentially vulnerable groups including: older people; people with physical and/or learning disabilities; carers organisations; and welfare and legal advice agencies
- Engaging with the Learning Disability Assembly to better promote the scheme to those with learning disabilities
- Providing information in easy read and audio file format for individuals who may need support with literacy or have a visual impairment

- Distributing information to local partners and providers who deliver care on behalf of the Council in case they may identify individuals who may be entitled to claim but due to incapacity or ill health are unable to do so without assistance
- Identifying whether there are any vulnerable individuals including those who lack capacity currently in receipt of social care or other support from the Council, who may come under the auspices of the Scheme
- The Council is engaging an external facilitator to identify the most effective means of engaging with stakeholders to improve access to the Scheme and to provide assurance that the Council is doing all that it can reasonably do to promote the Scheme for those who are hard to reach

Applicant solicitors

- 2.50 Once the Scheme was operational and applications were being received from applicant solicitors, invitations were extended to the various solicitors to meet with the Council and the Scheme solicitors (Kennedys LLP) to discuss the operation of the Scheme, receive feedback and consider whether there were any operational and procedural changes that needed to be made to improve the process.
- 2.51 Take-up of these meetings was encouraging and the Council has met with nine applicant solicitor firms which has proved to be a very useful mechanism to discuss and clarify Scheme operational matters. Following these meetings, a questions and answer style document was produced and shared with all of the claimant solicitor firms. The offer of further meetings continues to be made to both existing and new firms representing applicants.
- 2.52 Following these meetings, a number of changes and modifications have been made to operational process as a result of feedback received. Some of the key clarifications and changes are summarised below:
- Clarification on the level of detail required to validate Harm's Way applications
 - Additional medical experts have been proposed by applicant solicitors and added including suitable expert for those with learning difficulties
 - Revised the process for the redaction of social services records to comply with new GDPR requirements
 - Making of pre-medical offers
 - Revised appeals procedure to include an independent administrator for receipt of appeals
 - Clarification of the interplay between Harm's Way Payment and an Individual Redress Payment
 - Clarifying offers of compensation that relate specifically to aggravating features
 - Improving exchange of evidence and negotiations prior to the appeals process
 - Clarifying the process for considering applications from deceased applicants
 - Approving some costs flexibility in borderline cases which might benefit from an appeal review
 - Publishing and revising the protocol for unrepresented applicants
 - Clarifying the pre Scheme work flows to improve flexibility and ensure as many scenarios as possible remain within the parameters of the Scheme
 - Minor amendments to the Redress Application Form
 - Clarifying the operation of the compensation tariff bands.

Scheme advertising & promotion

2.53 To coincide with the Scheme launch a dedicated webpage was created to provide a wide range of information about the Scheme. An application guide, application form and copy of the Scheme are all available for downloading from the website. The website has been updated with information around the most common queries raised and further updates are planned as necessary. Details of the website can be found here:

<https://www.lambeth.gov.uk/redress>

2.54 In addition to the information that is available on the website the Council also distributed application guides and application forms for displaying in core council buildings, housing offices and libraries.

2.55 Advertisements were placed in a number of publications based on reach and location of people that had already been in correspondence with the Council about the Scheme i.e. those that had pre-registered an interest in receiving details when the Scheme launched. Those individuals who had provided their contact details were also sent an application pack once the Scheme launched. The initial advertising of the Scheme was undertaken over an eight-week period with adverts appearing in the following publications:

- Evening Standard – print and online
- Metro – print and online
- South London Press – print and online
- Croydon Advertiser – print and online
- Brighton/Sussex Argus (print and online)
- Kent Messenger Group (10 print titles and online)

2.56 Further advertising of the Scheme has been undertaken and is ongoing over the summer/autumn and includes advertising aimed at potential applicants serving custodial sentences, key press for reaching Black Asian and Minority Ethnic (BAME) communities and older people as well as further national advertising. The need to advertise internationally is also being assessed and we are placing advertisements in the Caribbean and Ireland. Advertising of the Scheme will continue to be undertaken periodically and modelled having regard to the equalities analysis of current applications to determine any anomalies.

2.57 In addition to the above the Council is taking steps to better promote the Scheme to those former looked after children that were resident in one of the specialist residential children's units including those with learning disabilities. As part of this process the Council has created a separate guide to promote the Scheme for these applicants. The guide and an application pack is aimed at guardians and carers and is being distributed to key community organisations and via those people working in the provision of local services. In addition to the distribution of this guide the Council is also looking at opportunities to raise awareness through face to face discussions with these organisations.

2.58 Further advertising of the Scheme is currently taking place over the autumn in the following publications:

- The Inside Time (National newspaper distributed within UK prisons)
- The Big Issue
- The Voice
- The Sun

- The Times
- UK Gleaner
- Irish Independent
- Jamaica Gleaner

Subject Access Request update

- 2.59 Between January 2017 and the end of June 2018 the Council has received 895 SARs requests relating to historical care files. The council has processed 783 SARS of which 419 related to Lambeth looked after children and 364 related to requests by those who were in Lambeth home but not Lambeth looked after children. This involved responding to requests involving some 2,227 volumes of files or over 800,000 pages. There is a small backlog of SARs requests remaining which we expect to complete before the end of September 2018. The sheer volume of the requests and the historical nature of the materials has inevitably resulted in delays in requests being processed and the Council currently has 21 staff engaged in responding to the historical SARs requests. The Council is in correspondence with the ICO regarding the steps it has taken to meet statutory timescales for responding. [By way of comparison it should be noted that the Council has received approximately [390] SARs requests over the same period across the whole service for non-historical care matters.]
- 2.60 We have endeavoured to complete all new requests received since 1 April 2018 within the new statutory timescales.

Update on Independent Inquiry into Child Sexual Abuse

Preparations for the Independent Inquiry into Child Sexual Abuse (IICSA) continue. The Inquiry continues to hold public hearings and has released reports in relation to Cambridge House, Knowl View and Rochdale investigation strand, Child Migration Programmes Report and the Ampleforth and Downside (Catholic Church) case study. An interim report was released in April 2018 which set out recommendations in relation to Child Migration Programmes, the Criminal Justice System, the Civil Justice System, the Health Sector and professional, political, structural and financial change. The current hearing schedule has been listed until March 2019. IICSA have now announced that it expects to have concluded all public hearings in 2020 and the dates for the Lambeth public hearings are to be announced shortly.

- 2.61 The Council is currently preparing an initial corporate statement on specific issues to be provided by the Council's Strategic Director of Children's Services. We expect further requests for statements covering case studies which are to be determined following a further Preliminary hearing scheduled to take place on 31 October 2018. We are continuing to make disclosure of documentation relevant to the Inquiry in accordance with an agreed timetable in addition to the 114,000 pages of material already disclosed.

3. Finance

- 3.1 The total cost incurred in operating the Scheme (including compensation payments) as at the end of Q2 is £3,772,874. The expenditure is shown in the following table:

| Expenditure type | Expenditure amount (£) |
|------------------|------------------------|
|------------------|------------------------|

| | |
|---|------------------|
| Payments made to Applicants (Harm's Way & Individual Redress) | 3,268,500 |
| Legal costs of Applicants | 94,050 |
| Council's legal costs - dealing with applications | 45,232 |
| Council's legal costs – advising on Scheme | 97,393 |
| Redress Scheme staffing | 258,374 |
| Redress Scheme operational costs (post, advertising, actuarial etc) | 9,325 |
| Total | 3,772,874 |

- 3.2 The council has received independent actuarial advice in assessing the cost and value for money of offering a redress Scheme compared to following a conventional approach to handling claims for historical abuse. It is estimated that the possible number of claims processed through the Scheme could be 3,000 at a possible cost to the Scheme of £100m. In addition there are anticipated to be a further 5 – 10% of more complex claims which will be dealt with outside the Scheme. It is estimated that this could result in a potential additional £40m of cost.
- 3.3 It is not possible to accurately predict the number of claims that the council is likely to receive however the number of applications that have been received as at Q2 are running at 90% of the expected forecast and the incurred Scheme costs are c100% of forecast.
- 3.4 The council has secured a capitalisation direction from the Government to borrow the £100million needed to fund the scheme.
- 3.5 In addition to the operational expenditure detailed above the Council spent £1.07m in setting up the Scheme including the Council's external legal, counsels' and actuarial advice and infrastructure costs for the period December 2016 to end of December 2017 of £397,877, grant payments of £423,060 that have been made to SOSA (via Urban Concepts Communications Ltd), and £243,000 paid to SOSA's solicitors in respect of their legal costs.

4. Legal and Democracy

- 4.1 The Council has a legal power to establish a redress Scheme under s. 1 Localism Act 2011 which introduced a "general power of competence" (GPOC) which gives the local authority "the power to do anything that individuals generally may do" and which expressly includes the power to do something for the benefit of the authority, its area or persons resident or present in its area.
- 4.2 The GPOC in common with any other source of power must be exercised reasonably and properly. The Council must be mindful of its fiduciary duty to council tax payers and, therefore, needs to balance the needs of survivors against its public duty to ensure that claims are appropriately validated and that payments are reasonable and lawful.
- 4.3 The Council's auditors have a statutory duty under the Local Audit and Accountability Act 2014 to be satisfied that "the authority has made proper arrangements for securing economy, efficiency and effectiveness in its use of resources".
- 4.4 The Scheme provides for the award of a Harm's Way Payment of up to £10,000 where there is evidence that residents were subjected to a harsh environment as defined under the Scheme. It would not be lawful for the Council to introduce a Scheme which simply allowed for payment of a

Harm's Way Payment without provision of a threshold based on some form of evidence in order to validate payment.

- 4.5 As a public body the Council has a duty to exercise its powers properly and reasonably. In this context "properly" includes that legally irrelevant considerations are left out of account and all legally relevant considerations are taken into account. Importantly, where expenditure is involved, "reasonably" includes compliance with the fiduciary duty to council tax payers owed by a local authority and reaffirmed by the Court of Appeal in *Charles Terence Estates Ltd v Cornwall County Council* [2013] 1 WLR 466, at paragraphs 11 – 17. The fiduciary duty is a duty not to incur expenditure "thriftlessly" and to act "in a fairly business-like manner" with "due regard" for the interests of council tax payers and holding a balance between those who contribute funds and those who receive payment.
- 4.6 It has been suggested that the Council could make blanket Harm's Way Payments based on residence alone. This would amount to an unlawful fetter of its discretion and would not be considered fair as between former residents in differing circumstances.
- 4.7 The Council has taken advice from leading counsel in the development of the Scheme. The advice from counsel is that the Scheme delivers appropriate recompense for those who were subjected to abuse and that the Tariffs to be applied in assessing the level of award payable under the Scheme reflect the awards that the civil courts would make. There will be some complex cases which would not be suitable to deal with through the Scheme, however, as they require a much more detailed analysis of the loss of educational or employment opportunities these cases are better dealt with through the civil process.
- 4.8 All public authorities are required, in carrying out their functions, to have due regard to the need to achieve the objectives set out under s149 of the Equality Act 2010 to:
- a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 4.9 The Council's Constitution requires that this report be published on the website for five clear days before the decision is approved by Cabinet. Any representations received during this period must be considered by Cabinet before the decision is taken.

5. Consultation and co-production

- 5.1 In developing the Scheme the Council had many meetings with the Shirley Oaks Survivors Association and their legal advisors to try to reach agreement on the provisions to be included in the Scheme.
- 5.2 The Council also consulted with other key stakeholders in relation to the development of the Scheme including the Council's external auditors, insurers and independent experts.

- 5.3 Since the launch of the Scheme the Council has met with a number of applicant solicitor firms to discuss and clarify operational aspects of the Scheme as outlined earlier in this report.
- 5.4 The Council is continuing to consult with a wide range of local voluntary sector, advocacy and advice agencies as well as national organisations in relation to promoting access to the scheme.

6. Risk management

- 6.1 There are no direct risk implications arising from this report. An operational project risk register is maintained.

7. Equalities impact assessment

- 7.1 As part of the overall review of the implementation of the scheme the Council has conducted an Equality Impact Assessment to ensure that the Council is in compliance with its statutory and policy obligations under the Equality Act 2010, in relation to the operational delivery of the scheme. . A copy of the Equalities Impact Assessment is at Appendix C.
- 7.2 During the first 6 months of operation one of the key priorities has been to assure that the Council makes every effort to maximise uptake of the Redress Scheme by or on behalf of individuals who may be eligible. This has involved developing a comprehensive multi-channel communications and advertising campaign to ensure that information about the scheme is distributed widely, including efforts targeted at key equalities groups including ethnic minorities and people who may have resided in one of Lambeth's specialist units for children with physical and/or learning disabilities or other specific needs. This has provided the context and framework for the EIA.
- 7.3 The EIA was considered by the corporate EIA panel on 3rd September 2018 and the panel recognised active efforts to promote equalities have been integral to the current communications and advertising plan. This has encompassed a number of key strands including:
- Advertising the scheme in the national press in recognition that many affected individuals live outside London in other parts of the UK
 - Targeting advertising at media more likely to be used by particular communities, some of whom may have returned to their home countries such as individuals of African Caribbean and Irish ethnicity.
 - Ensuring organisations that represent victims and survivors have information about the scheme
 - Advertising with a range of national and local voluntary sector, advocacy and advice agencies including those that represent and/or work with a range of potentially vulnerable groups including: older people; people with physical and/or learning disabilities; carers organisation; and welfare and legal advice agencies (including in the legal press)
 - Providing information in easy read and audio file format for individuals who may support with literacy or have a visual impairment.
 - Distributing information to local partners and providers who deliver care on behalf of the Council in case they may identify individuals who may be entitled to claim but due to incapacity or ill health are unable to do so without assistance

- Searching the Council's social care database to check whether there are any vulnerable individuals –including those who lack capacity- currently in receipt of social care or other support from the Council, who may come under the auspices of the scheme.
- 7.4 The Council will continue to monitor the overall impact on of the Scheme on those of different protected characteristics at regular intervals throughout the lifetime of the Scheme.

8. Community safety

- 8.2 There are not considered to be any implications under s. 17 the Crime and Disorder Act 1998

9. Organisational implications

9.1 Environmental

None

9.2 Staffing and accommodation

The Scheme is administered by the Redress Team in conjunction with the Council's external solicitors – Kennedys LLP. All members of the team have received training from the National Association of People Abused as Children (NAPAC). In addition staff have undergone conflict checks to ensure they have not had previous dealings with any Council matters relevant to the applications. Resourcing requirements are regularly monitored and additional staffing has been put in place in order to ensure that redress applications are effectively processed.

9.3 Procurement

The Council has commissioned Oxleas Mental Health NHS Trust to provide independent counselling to survivors until March 2019. Under the Scheme applicants will be able to access the specialist and dedicated confidential counselling support service. This service will be funded by the Council for the duration of the Scheme. Oxleas will advise if some individuals will require ongoing support and how this support could best be provided.

9.4 Health

The long-term mental and physical health effects of childhood abuse are well documented, and we know from the stories that people have told us that their experiences have remained with them their entire lives. Nothing can fully compensate people for those experiences but it is important for survivors that the abuse that happened to them is recognised and acknowledged, and that they receive an apology. Survivors of abuse also wish to know that children today will be better protected. It is also the case that because of the adversarial nature of the court process survivors of abuse can be re-victimised by having to recount their experiences. The aim of the Redress Scheme is to prevent re-victimisation whilst providing a range of reparations that hopefully will enable people to move on with their lives.

10. Timetable for implementation

Not applicable

| Audit Trail | | | | |
|---|--|------------------|----------------------|-------------------------------|
| Consultation | | | | |
| Name/Position | Lambeth directorate / department or partner | Date Sent | Date Received | Comments in paragraph: |
| Councillor Lib Peck | Leader of the Council | 29.08.18 | 30.08.18 | throughout |
| Andrew Travers | Chief Executive | | | |
| Jackie Belton, Strategic Director | Corporate Resources | 16.08.18 | 05.09.18 | throughout |
| Fiona Connolly, Interim Strategic Director, Adults and Health | Adults and Health | 16.08.18 | 22.08.18 | 7.1 – 7.4 |
| Christina Thompson, Director of finance and Property | Corporate Resources, Finance and Property | 16.08.18 | 29.08.18 | 3.1 – 3.4 |
| Annie Hudson, Strategic Director, Children's Services | Children's Services | 16.08.18 | 16.08.18 | |
| Alison McKane Director of Legal Services and HR | Corporate Resources, Legal Services | 16.08.18 | 23.08.18 | throughout |
| Andrew Pavlou, Principal Lawyer Governance, Legal Services | Corporate Resources, Legal Services | 05.09.18 | 06.09.18 | 4.1 – 4.8 |
| Nisar Visram, Assistant Director, Corporate Finance | Corporate Resources, Finance and Property | 05.09.18 | 06.09.18 | 3.1 – 3.4 |
| Henry Langford Democratic Services | Corporate Resources, Democratic Services | 05.09.18 | 07.09.18 | 4.9 |
| Report History | | | | |
| Original discussion with Cabinet Member | Ongoing | | | |
| Part II Exempt from Disclosure/confidential accompanying report? | No | | | |
| Key decision report | No | | | |
| Key decision reasons | Expenditure, income or savings in excess of £500,000 | | | |
| Background information | Council Report July 2015 Cabinet report June 2016 Financial Planning and Medium Term Strategy Report 2017/18 to 2019/20 – Cabinet July 2017 Council report July 2017 Cabinet Report December 2017 Appeal Panel ODDR | | | |
| Appendices | App A - List of Children's Homes App B - Appeal Panel Members App C - Equality Impact Assessment | | | |