



Committee for Justice

OFFICIAL REPORT (Hansard)

Troubles Permanent Disablement Payment Scheme: Department of Justice; Executive Office; Victims' Payments Board

7 October 2021

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Mr Mervyn Storey (Chairperson)
Ms Sinéad Ennis (Deputy Chairperson)
Mr Doug Beattie
Ms Sinéad Bradley
Ms Jemma Dolan
Mr Robin Newton
Miss Rachel Woods

Witnesses:

Dr David Lennox	Department of Justice
Mr Gareth Johnston	The Executive Office
Mr Paul Bullick	Victims' Payments Board

The Chairperson (Mr Storey): Officials are joining us via StarLeaf. We have Dr David Lennox, deputy director of corporate engagement and communications in the Department of Justice; Paul Bullick, secretary to the Victims' Payments Board, who was with us yesterday; and Gareth Johnston, acting director of strategic policy, equality and good relations in the Executive Office. We welcome them to the meeting.

David, do you want to make a few comments? Members, if there are specific questions, we will go straight to them. For your information, and you will probably be aware of this anyway as I am sure that Paul has given you a read-out of yesterday's meeting, as Chair, I was, to say the least, very convinced that Mr Justice McAlinden, president of the board, is taking a keen interest in the scheme. You may have heard the comments from the representatives of Capita. They are equally aware of the interest that Mr Justice McAlinden is taking in it. That gives us all an assurance that we can make the process focus on the right place as best we can, and that will, hopefully, give us the outcomes that we want for applicants to the scheme. David, do you want to make a few comments?

Dr David Lennox (Department of Justice): Thank you, Chair. I just want to make a few opening remarks, if that is OK. I want to echo the comments that you have just made about Mr Justice McAlinden. He is an incredibly busy man, but he has been absolutely and totally committed to the scheme from the outset. He is very generous with his time, advice and guidance, and he has certainly led from the front. I echo all that you said.

As you noted, Paul is to my right. You met Paul yesterday. He is here representing the Victims' Payments Board as its secretary. He cannot speak on behalf of the board, obviously, but he will say a few words shortly to give an overview of the scheme and the number of applications that we are

receiving. On my left, I have Gareth Johnston from the Executive Office, as you mentioned. Gareth will say a wee bit more about the Executive Office's role. As referred to earlier, it is a tripartite arrangement.

My role in the Department of Justice has been as the project director for putting in place the arrangements to implement the scheme. The project was headed by Deborah Brown, the senior responsible owner. As I said before, the governance arrangements are not straightforward by any stretch, but they are what is presented in the regulations, so we are working with them. We have worked very closely with others, including Mr Justice McAlinden and colleagues in the Executive Office, as we have sought to implement the scheme. I am sure that Mr Justice McAlinden reinforced the point about the independence of the board. While the Department of Justice has responsibility for putting in place the administration arrangements, it has absolutely no responsibility for decision-making by the board.

With regard to what we have achieved, the Department of Justice was formally designated by the Executive Office in August last year to put in place the necessary arrangements. While some work had been started by the Executive Office in anticipation, the work really started in earnest at the point when we established our project. A lot has been achieved in a relatively short time, and that allowed the scheme to open for applications on 31 August, which, I have to say, is a very important day for victims and survivors of the Troubles.

You will be aware of some of the things that have been done. I will very briefly say that, obviously, we had to start from scratch. We established a project team. Since then, we have had to build quite a substantial administration team from scratch, bearing in mind that there are a number of resourcing pressures across the Northern Ireland Civil Service and some challenges. Trying to train some of those staff to get them up to speed in the midst of the pandemic has presented its own challenges, but that has been achieved, and we continue to keep the resourcing of the team under review.

Arrangements were also put in place with a large number of organisations. As Brendan Flynn mentioned, there are relationships not only with the healthcare sector but organisations like the Public Record Office of Northern Ireland, the Police Service and health and social care trusts. There are relationships between them and the board to gather information in order to help the assessment of applications. To date, there are 20 information-sharing agreements (ISAs) with individual organisations. Work was also done on the development of an application form and guidance, as well as the online portal, which is now available to accept applications. We have talked about the contract with Capita, which you have just heard about. That was a substantive piece of work, which the Department was able to expedite. I have to say that we have worked very closely with Capita and have enabled it to receive assessments this week, which is really positive.

I also want to say before I turn to Paul that, in my view, it has taken a collegiate approach across a number of different bodies to get to where we are, not least of which has been our engagement with victims' groups. I have valued that personally. That engagement has been regular, and I very much value their feedback. One of the key principles of the scheme is making sure that it is victim-centric. Certainly, that has driven everything that we have sought to do collectively to put the scheme in place. I will turn now to Paul, who will say a few words about the number of applications, to give you a sense of how it has picked up since 31 August.

Mr Paul Bullick (Victims' Payments Board): Thanks, David. Good afternoon, Chair. It is good to see you again. We met yesterday, when you may have received some of this information, but I got an update at close of play last night.

When the scheme opened on 31 August, applications were submitted within an hour. I think that some were submitted online through the portal within 15 minutes of the scheme opening. As of close of play yesterday, 670 applications had been submitted to the scheme, of which 433 were through the online portal and 237 were on hard copy paper forms. The administration team has been dealing with a large number of enquiries, primarily from individuals seeking a paper copy of the application form. There have also been a few general enquiries, which we have been able to help people with. The team has also been busy with starting to process the applications, but you will understand that it is a new team and a new scheme. The team is getting to grips with the processes and procedures as it goes along. Every day highlights something new for the team, but it is a good learning experience, and we are getting through the applications as quickly as we can.

I am pleased to report that, following initial eligibility checks, as David said, the first three applications were forwarded to Capita this week for it to begin the assessment of disablement. That is a positive

move, but it is also important to note that the ability of the board to forward applications to Capita depends very much on the number of checks that have to be carried out to verify applications. There are sometimes gaps in applications, and we have to chase up matters on behalf of the applicant or the victim who is making the application. Another important point to note, and I think Capita colleagues highlighted this, is that approximately 10% of applications that have been received to date are from outside Northern Ireland.

One of the areas of interest to the Victims' Payments Board is ensuring that there is good awareness of the scheme and that anyone who might be eligible to make an application is aware of it. Prior to the scheme opening, some 800 individuals and organisations expressed an interest. All those people were advised about the formal opening of the scheme, and several communications issued to a number of representative organisations and, of course, the organisations that represent victims and survivors. We continue to engage with them on a regular basis. We are very much keeping the awareness of the scheme at a high level in our priorities. I work closely with Mr Justice McAlinden, as president of the board, to see how we can keep that awareness and maybe extend it to make sure that anybody who might be eligible is aware of the scheme and the process for making an application.

Dr Lennox: Thanks, Paul. Maybe Gareth will say a few words about the role of the Executive Office.

Mr Gareth Johnston (The Executive Office): Thanks, David. As David said, I am acting deputy secretary and director of strategic policy, equality and good relations in TEO. In that role, I am the senior responsible owner for the scheme. David mentioned that, in August 2020, we designated the Department of Justice to take forward the administrative arrangements for the scheme on behalf of the Victims' Payments Board. TEO retains the overall sponsorship and financial responsibility for the scheme. In that regard, I will talk briefly about three aspects: engagement with the victims and survivors sector; support for those who bring forward applications; and finance.

In order to assist with the establishment of the scheme, we put in place a sectoral working group with representatives of the Commission for Victims and Survivors, the Victims and Survivors Service (VSS) and four of the victim support groups, which were chosen on the basis that they were bodies that were already delivering welfare advice and support to victims and survivors. That group, which has been part of the formal programme structure for the implementation of the scheme, met on a fortnightly basis in the lead-up to the scheme opening, and it continues to meet. That is very important as a forum for the groups to feed back any issues on the implementation of the scheme to TEO, the Department of Justice and the board.

Alongside the establishment of that working group, we provided additional financial support to the Victims and Survivors Service. We did that in the last financial year and in the current one, and that will continue going forward. That support is to allow the victim support groups to recruit additional welfare officers in order to assist and advise applicants to the scheme. It is important that I acknowledge that that level of resource will be kept under review in the context of the demand for support through the groups.

On the overall funding of the scheme, members will be aware that the First Minister and the deputy First Minister provided an undertaking to the court in April this year that payments will be made to those applicants deemed eligible for an award through the scheme. Anyone who makes a successful application to the scheme does not need to worry where the money is coming from; the undertaking is that those payments will be made and will be made promptly when they fall due.

There is, of course, still the very important wider question for those of us in TEO of where the Executive obtain the funding for what is, potentially, a very expensive scheme, a scheme that was developed in Westminster and a scheme that, as well as making payments to people here, will make payments to a substantial number of people outside this jurisdiction. The Finance Minister has initiated the dispute resolution process, as outlined in the statement of funding policy, and he will continue to make representations to Treasury on behalf of the Executive on the funding of the scheme.

Overall, as David said, a huge volume of work has been undertaken in a short space of time in order to allow the scheme to open for applications on 31 August just past, and I pay tribute to all those in the sector and to colleagues in the Department of Justice who have worked so hard to get those arrangements in place. I also acknowledge the very positive working relationships that there have been between all the key stakeholders, including the Departments, the sectoral groups, Capita and others. It has been very good to see all that develop, and it is very good to be part of that close working throughout the implementation period.

I am conscious, Chair, that that is just a very brief summary of some key points. I am very happy to provide further detail if members have questions.

The Chairperson (Mr Storey): I have one question. If members have questions, please indicate. If not, we will move on.

My question follows on from the comments made, and maybe Paul, as he was present yesterday, will give us some clarity on or some sort of read-out of the concerns that Mr Justice McAlinden raised about the Secretary of State. I did not pursue that any further at that stage; I thought we would maybe revisit it. Paul, will you clarify what those concerns are and how they will be addressed in a way that is not in any way detrimental to the scheme?

Mr Bullick: Yes, Chair. The concern of Mr Justice McAlinden, as president of the board, is that the board will act in an independent judicial capacity in administering the scheme and making determinations on applications. He is very strongly of the view, as is the board, that that independence cannot have any political interference. I know that correspondence has been issued to the Secretary of State to try to clarify this matter where the Secretary of State has stated that he can intervene on decisions made by the board, but Mr Justice McAlinden is working on the basis that, if the Secretary of State wants to intervene in or challenge a decision that is made by the board or made by him as president, that will be taken through the courts by way of judicial review.

Ms S Bradley: I appreciate you raising that point about the Secretary of State. I have three quick points. I do not like to presume anything, and I have not read this anywhere. I was delighted to see the scheme open for applications on 31 August. Is there a closing date? If not, is it expected that the scheme will peter out naturally after all the applicants have learned of it? Secondly, is there, for want of a better expression, a marking system for the quality of the applications coming forward so that we can assess the added value of the organisations that are supporting applicants? Those two would need to run in tandem with additional support in-year for organisations, given the likelihood of applications being made for some time. In that instance, has the Executive Office committed to financing those organisations in the longer term?

Mr Bullick: I will take the first couple of questions. On the opening and closing date, the scheme will be open for five years. For somebody to qualify for a back payment under the regulations, the application has to be made within three years of the scheme opening.

On your second question about the scoring of applications, as I said in my opening remarks, the team has had to deal with gaps in evidence, but there is already a marked improvement in the applications that have come through the victim sectoral support groups. That is evident even at this early stage, with only 670 applications through the door. We have a checklist and a number of things that we need to have completed. As Mr Justice McAlinden said yesterday, if an application comes through door that is incomplete or has gaps, it is not just disregarded; the board and the administrative team that supports the board will take every step to try to chase the evidence by making contact with the applicant themselves, their representatives or the victims organisation that supported them. We have a number of ISAs in place whereby we chase evidence before we pass it to the likes of the legal adviser and on to the board. That ensures that applications are as complete and as comprehensive as possible before being sent on.

Mr Johnston: On the support for applicants, the funding that the Executive Office has provided to date has given an additional resource of 14 full-time equivalent (FTE) welfare staff in VSS-funded organisations, as well as funding for additional administrative staff. That totalled £131,000 in the last financial year. This year, the projection is that almost £1 million will be invested in that. There is provision, too, for additional support services that are wider than just those for people's applications. We recognise that, when people come forward to make an application, it can be, as Committee members acknowledged, a very difficult process that risks traumatisation. It is, therefore, important that people have holistic support, be it counselling, psychological therapies, other therapies or emotional support that they might need, so we have put additional funding against that.

We are working on the basis that support will be available right through the lifetime of the scheme. Obviously, we will need to adjust that up and down according to demand. By the time we get to the fifth year, it might be that we need a smaller number of posts. It is important that that support be available throughout the lifetime of the scheme, and we will certainly keep it under review.

Ms S Bradley: I appreciate the clarity. Thank you.

Miss Woods: Thank you very much for attending. Apologies for not being able to make the meeting yesterday. I feel as though a lot of these things have probably been covered. I apologise if there is any overlap. I appreciate that, when we are speaking about Capita, it is wrong to compare the personal independence payment (PIP) process and the matter that we are dealing with now. A number of issues with wording and language came through in the PIP assessors' reports. We saw that in the Rader and Cavanagh reports, and in our own experience. For example, "You have stated that you can do this. I have decided that you can or cannot." Is that kind of language going to be used in the assessors' reports? Is the report made available to the applicant, or will it be produced in a more sensitive or different way?

Dr Lennox: Thank you for your question. Time will tell with the language of the reports, but I want to make a couple of points. In our engagement, as part of the contract development, at every stage of the process, there has been a strong emphasis in making sure that this is victim-centric and does not re-traumatise victims. In my view, language is a very important part of that.

When the application is returned to the board, to enable them to make an assessment as to entitlement, bear in mind that the board is made up of medical, lay and legal members. So there are medically trained people who will be able to bring their medical viewpoint to how the reports are drafted and prepared. That is a potential feedback loop. Capita has been keen, in engaging with the sector groups and the board, to have that feedback so that there is a learning process. Capita wishes to deal with that matter relatively early on.

Paul do you want to say something about the process issue of sharing the reports?

Mr Bullick: One of the principles behind the board is transparency. Earlier, we mentioned the appeal process. The president of the board is keen that whatever is shared with the board can also be shared with the applicant. If we are issuing a determination, whether it is to allow an application and make a payment or that an application does not meet the eligibility criteria and therefore there is no entitlement to payment, the applicant must be provided with all the relevant information that was before the board to enable it to make its decision. That will enable the applicant to make an appeal and set out clear grounds for it.

Miss Woods: OK, thank you. That is much better: having the information there and it is given to everybody, so that everybody is on the same page. That is better than having to run around asking what has been shown to whom, and who has had access to what, should it ever have to happen.

Again, I am not trying to make comparisons, but are there any processes or procedures built in or incorporated to take account of extenuating circumstances or urgency in some cases, for example, where there is a terminal diagnosis? Has anything been considered or implemented that will allow certain cases to be expedited?

Dr Lennox: The board is required, in the regulations, to prioritise cases where a terminal illness has been identified and highlighted by the applicant. It may also prioritise cases based on age. So there are a lot of options open to it. The age criterion is slightly different, but, in the case of terminal illness, it will depend on what information is offered by the applicant in the application form. However, the applicants have scope to do that.

Mr Bullick: In addition, all applications will go through a legal adviser who works as part of the administration team to support the board. If the legal adviser sees any exceptional circumstances that might warrant that the application should be prioritised, it can be put before the board for consideration at that stage. If need be, that can be prioritised on the basis of whatever the exceptional circumstances might be.

Miss Woods: Thank you. That brings me on nicely to my last question, which is about the legal advisers. I have seen on the website an advertisement for "legal membership". Is that the same as the legal adviser?

Mr Bullick: No, it is not. We are advertising on the website for the permanent legal members of the board. We have interim members of the board at the moment, who have been appointed for 18 months, with the possibility of an extension. We are now moving to appoint permanent members for the board.

Dr Lennox: Our legal advisers at the moment are members of staff who support the administration team.

Mr Newton: I thank David, Gareth and Paul for being with us today. I now have a fair degree of clarity. My question was about the application process and the quality of the initial applications. You indicated that some of the initial applications needed to provide greater clarity. In that regard, have there been individuals who have made an application without being supported by a welfare officer or a solicitor or however it is determined? If you find that the quality of the application is not of a standard, what is the process for getting in touch with the applicant?

Mr Bullick: There has been a mix of applications received from individuals who are now going through the process solo, as well as those who are doing so through organisations that are funded to support applicants. There are other applications where we are not sure whether they are being supported or not; it is not always clear. However, as I said, the ones that have had support through the organisations are of a marked improvement in quality.

It might not always be the case that we need to go back to an individual. We can, perhaps, progress that with the organisations that can provide information and with which we have agreements in place. If we need to go back to an individual to advise of any gaps that they can address in the application, we can take the opportunity at that stage to signpost them towards the free services that are available. We cannot mandate that they take that up but we will certainly give them a leaflet that provides information on all those available services in order to help them through the process if they want to take that up.

Mr Newton: Thank you; that adds a lot of clarity to it. If you were a victim, you would be daft not to take up a free service when it is being offered to you by professionals. Thank you for that.

The Chairperson (Mr Storey): Jemma, do you have a question?

Ms Dolan: Yes, thank you. Most of this has been covered, but I just wanted to ask about engagement with victims' groups. How has that engagement been so far and what are their views on the application and assessment processes? Are there any early indications from those groups of any problems or difficulties?

Mr Johnston: Do you want to say anything about the specifics?

Dr Lennox: On the specifics, I have to say that engagement has been really positive. As Gareth said, we engage regularly with representatives of the Victims and Survivors Service, the Commission for Victims and Survivors and the four main groups that provide support. That was helpful as part of the development process, where we were able to share application forms with them in draft. They provided important feedback on language and the guidance.

Even since the scheme opened, a couple of things have been really helpful. For example, Capita organised some virtual drop-in sessions, where welfare advisers were able to come along and ask questions. As Brendan Flynn said in the earlier session, it is more about advice on how they articulate the evidence. Particularly on the psychological side, that is a wee bit more challenging. We have also been meeting them regularly for general feedback on the process. That is where the main interest is now. Capita has committed to meet the groups regularly, and certainly for a number of months. That has been welcomed by the welfare advisers.

I want to add to a comment that was made earlier about the welfare advisers. It is important to bear in mind that they are on a learning curve just as the administration team is. This scheme is new to them. Some were involved early on as the scheme was being developed, but some have become involved much more recently. They are learning, and as they take more applicants through the process, they will develop their skills as well.

Mr Johnston: It is important that we do not lose that and that we keep the feedback loop going, particularly in the early days of the scheme, but also in the longer term. We are continuing those meetings, but we are also talking to the sector about how we can best do that.

Ms Dolan: That is good, thank you. I have one more question about that. Is it anticipated that those groups will need extra resources to help applicants further into the scheme?

Mr Johnston: We are certainly responsive to that. In fact, we are talking to those groups about that at the moment, through the Victims and Survivors Service, to make sure that there is adequate resource in light of the number of applications that are coming forward. All along, I have said to the sectoral groups that, while we have to be conscious of public money and all of that, this is a vital service, and we will aim to be responsive to whatever needs emerge.

Ms Dolan: Thank you. I am happy to hear that.

The Chairperson (Mr Storey): Thank you. I think that that concludes our questions. I thank David, Paul and Gareth for their attendance. We would value their continued engagement with the Committee.

As I said to the representatives from Capita, we gave a commitment to the organisations that we met previously that we will do everything in our power to scrutinise and ask questions. It has been a positive process to date, given the responses of all involved. We very much welcome the openness shown to date throughout this process since the Committee has been engaged in it. That is a word of appreciation to both Departments and to Paul who is representing the Victims' Payments Board. Thank you for your attendance. We look forward to continuing to work with you.