

CABINET MEMBER DELEGATED DECISION

Report title: Lambeth Children's Homes Redress Scheme Update

Wards: All

Portfolio: Councillor Jack Hopkins – Leader of the Council

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Report summary

This report provides an update on the performance of the Lambeth Children's Homes Redress Scheme (the Scheme) as at the end of the first two years of operation (2 January 2018 to 1 January 2020). At a formal Cabinet meeting on 18 September 2019 Lambeth Council's Cabinet extended the Redress Scheme for a further two-year period with a revised closing date for new applications to be received of 1 January 2022.

Since the Scheme opened a total of 1,479 applications have been made. More than 50% of the applications received have been processed through to conclusion with a total of £30.7 million having been paid in redress compensation directly to applicants as at 1 January 2020. This is comprised of £11.2 million paid in Harm's Way payments, £15.9 million paid in further Individual Redress payments and £3.6 million on applications over the Scheme limit of £125,000.

Finance summary

As at the end of the first two years of operation the total Scheme expenditure to date is c£42.5 million. This comprises of £30.7 million paid in redress compensation directly to applicants, £4.3 million in respect of applicants legal costs, £2.1 million for the council's own legal costs in processing applications and £5.4 million on other costs including rehabilitation, therapy and counselling for applicants, cost of instructing medical experts and social records chronology and also on administrative & staffing costs.

The outstanding costs as at January 2020 (i.e. those redress payments, legal and associated disbursement costs that have not yet been paid in respect of applications received as at this date) is c£29.5 million plus a further estimated £3 million for Scheme administration and staffing. This means that the total estimated incurred cost of the Scheme as at January 2020 is c£75 million (£42.5 million paid + £29.5 million outstanding + £3 million estimated administration).

The total estimated cost of the Scheme including further applications still to be received over the next two years is forecast between £100-125 million (including those applications exceeding the Scheme limit). The council has already secured a capitalisation direction from the Government to borrow up to £100 million needed to fund the Scheme.

Recommendations

1. This report is for information only.

1. CONTEXT

- 1.1 This report provides an update on the operation and performance of the Scheme as at January 2020. Previous reports on Scheme performance have been reported to Cabinet on 17 September 2018, 1 April 2019 and 16 September 2019 (links to these reports are available in the background information section on the last page of this report).
- 1.2 The Scheme opened to applications on 2 January 2018 with new applications able to be made through to 1 January 2022. The Scheme provides survivors of physical and/or sexual and/or psychological abuse (whilst resident in a Lambeth Children's Home) with an alternative dispute mechanism for obtaining compensation without having to go through the Courts. The Scheme covers all Children's Homes which were run by Lambeth Council and applies to all residents dating back to the 1930s until the Homes were closed in the 1980 and 90s.
- 1.3 In addition to financial compensation, eligible applicants to the Scheme are also entitled to receive a formal letter of apology from the council, a meeting with a senior officer, access to advisory services and the provision of personalised counselling support. In addition to counselling support available under the Scheme, the council has a free specialist and dedicated independent counselling support service for all survivors available through Oxleas NHS Trust.
- 1.4 Applicants to the Scheme are not required to obtain a copy of their social care records before making a redress application. However, all applicants are reminded that they are entitled to apply for a copy of their records at any time if they have not already done so. This can be done by completing the relevant form which can be found by visiting the Lambeth Council website www.lambeth.gov.uk and searching for 'Subject Access Request'.
- 1.5 A summary of the redress available under the Scheme and a list of those children's homes that were run by Lambeth or its predecessor authority is attached at Appendix A.

2. PROPOSAL AND REASONS

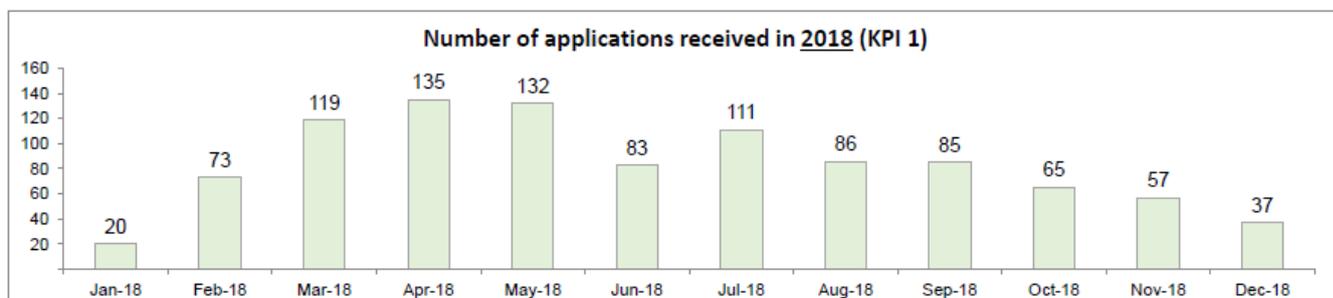
Applications received

- 2.1 A total of 1,479 applications have been received since the Scheme opened on 2 January 2018. A breakdown of the application types is shown in the following table:

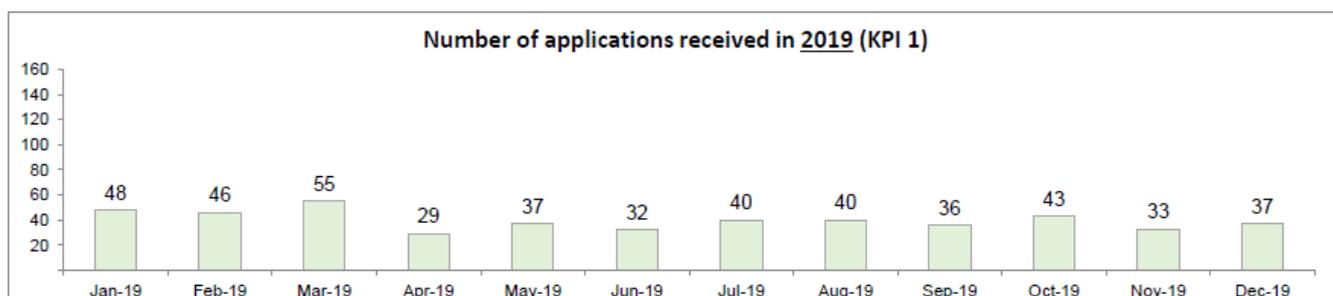
Application type	No. of applications		
	2018	2019	Total
Both Harm's Way and Individual Redress	822	356	1,178
Harm's Way Only	158	95	253
Individual Redress Only*	23	25	48
Total	1,003	476	1,479

*Individual Redress only applications relate to applicants who are either deceased or were a visitor to a Lambeth Children's Home.

- 2.2 The number of new applications received in 2019 was 476 which is a decrease from the total of 1,003 received in the first year of the scheme, however the number of applications received each month has remained much more stable than in the previous year. Details of the applications received each month are shown in the following tables:



Applications received (KPI 1)	Jan-18	Feb-18	Mar-18	Apr-18	May-18	Jun-18	Jul-18	Aug-18	Sep-18	Oct-18	Nov-18	Dec-18	Year to Date
Applications received	20	73	119	135	132	83	111	86	85	65	57	37	1003
Total applications received	20	93	212	347	479	562	673	759	844	909	966	1003	1003



Applications received (KPI 1)	Jan-19	Feb-19	Mar-19	Apr-19	May-19	Jun-19	Jul-19	Aug-19	Sep-19	Oct-19	Nov-19	Dec-19	Year to Date
Applications received	48	46	55	29	37	32	40	40	36	43	33	37	476
Total applications received	48	94	149	178	215	247	287	327	363	406	439	476	476

- 2.3 Most applications, over 94%, have been received from applicants residing in the United Kingdom with over 55% of those residing in the greater London area. There have been a total of 287 applications (19% of the total) from applicants residing within the borough of Lambeth. The remaining applications have been received from various other countries.
- 2.4 The majority of applicants (85.5%) have appointed a legal representative to deal with their application through the Scheme on their behalf whilst around one in seven applicants (14.5%) have elected to handle their own applications. The number of applicants handling their own applications has increased since the last report (as at June 2019 the figure was 12%).

Application processing

- 2.5 Applications are processed in two stages, the first is the determination of eligibility under the Scheme which is known as verification and the calculation and payment of the Harm's Way payment to eligible applicants. The second stage is determining the value of any Individual Redress payment that is due to an applicant to reflect the abuse and psychological injury suffered whilst as a child in a Lambeth Children's home.
- 2.6 Stage 1 – Verification of application and Harm's Way Payment

The verification and Harm's Way process includes:

- Receiving & setting up new applications
- Verification & confirmation of an applicant's placement in a Lambeth Children's home
- Determination of eligibility for a Harm's Way Payment
- Making the Harm's Way Payment to eligible applicants
- Payment of fixed legal costs to an applicant's legal representative

The current average processing time from the receipt of an application through to the point that the Harm’s Way Payment is paid to the applicant is two months (44 working days).

Nearly 84% of stage 1 applications are processed in three months or less. Where information is missing from an application or further information is required to enable verification the processing time can take longer. In some cases, particularly for placements pre 1965 it is necessary for records to be obtained from archives held elsewhere to enable verification.

Processing times for stage 1 applications are shown in the table below:

Stage 1 Verification and Harm’s Way Payment processing							
Processing time	<1 month	1-2 months	2-3 months	3-4 months	4-5 months	5-6 months	>6 months
% of applications	31.1%	33.4%	19.4%	6.4%	4.1%	1.3%	4.3%
No. of applications	395	425	247	81	52	17	55

2.7 Stage 2 – Individual Redress Payment

The processing of Individual Redress Payments includes:

- Review of relevant documentation, evidence, medical records & care records
- Sourcing of care records & preparation of social care records chronology
- Assessment of injury & appropriate compensation to be paid to reflect the severity of abuse and/or injury
- Assessment of any consequential hurt, fear and humiliation and eligible applicant has experienced and the lifetime consequences the abuse has caused
- Liaison with applicant or their legal representatives
- Arrangement of medical assessment & consideration of expert medical report
- Making interim redress payments to eligible applicants
- Making final redress payment and finalising applicant legal costs
- Offer of non-financial redress

The current average processing time from the end of stage 1 to the Individual Redress payment being made to an applicant is 10.5 months (234 working days).

Over 57% of stage 2 applications have been processed in 12 months or less. The processing of Individual Redress applications is more complex than for Harm’s Way and is dependent upon the input from other parties such as medical experts.

Whilst applicants are not expected to prove their case in the same way that would be required in a civil case, it is important that details of the nature of the abuse and the effect that it has had on the applicant is carefully assessed to ensure that the correct level of compensation is payable to each individual. In this respect no two applications will be identical and will take different timescales to conclude.

Processing times for stage 2 applications are shown in the table below:

Stage 2 Individual Redress processing							
Processing time	1-2 months	2-4 months	4-6 months	6-8 months	8-10 months	10-12 months	>12 months
% of applications	3.9%	5.6%	9%	12.3%	10.2%	16.9%	42.1%
No. of applications	17	24	39	53	44	73	182

- 2.8 The overall average processing time for applications from receipt of an application through to final payment of the Individual Redress payment is 12.5 months (2 months for HWP and 10.5 months for IRP). In comparison the equivalent time taken to reach a settlement in a civil claim is significantly longer and can take several years to conclude particularly where litigation is involved.

Impact of the current Coronavirus (Covid-19) situation on application processing

- 2.9 As at March 2020 all redress applications are continuing to be processed as normal with little impact on the processing times for both Harm's Way and Individual Redress applications. Several measures have been implemented to protect applicants, ensure continuity of service and minimise any impact on processing. These include:

- Arranging for medical experts to offer applicants medical appointments via video link rather than in person. For those applicants that require a medical assessment this option will be offered at the time. Applicants that do not wish to have their appointment via video link will have the option to defer their appointment until such time as it is able to be re-arranged.
- Applicants that require access to funds before their Individual Redress application has been fully concluded can request an interim payment to be considered against any Individual Redress entitlement. Requests for interim payments will be considered on a case by case basis and applicants should contact either their legal representative or the redress team (if not legally represented) to request consideration of an interim payment.
- The Independent appeal panel will be utilising video conferencing capabilities in order to ensure that panel members continue to determine all appeal cases during this period.
- At this time all requests for meetings with someone senior from the council have been suspended in order to protect applicants from the risk of Covid-19. Applicants that would like a meeting are still able to request this and meetings will resume when it is considered appropriate and safe to do so. All other advisory services are still currently available to applicants.
- Our Subject Access Team are continuing to process applications from people who wish to access their care records, however, there may be some delay in processing these or new requests. Anyone affected will be updated directly or via their appointed representative.
- All external partners involved with various aspects of the Scheme operation have confirmed that they have up to date business continuity arrangements and contingencies in place.

Any further updates affecting the Scheme operation will be posted on the Redress Scheme website at: <https://www.lambeth.gov.uk/redress>

Application status

2.10 As at the end of the first two years (January 2020) the processing status of all applications received is shown in the table below:

Application Status	Total No. of applications	Applications as a %
Stage 1 Verification & Harm's Way Payment (applications still being determined)	50	3.4%
Stage 2 Individual Redress payment (HWP paid where applicable IRP still being determined)	511	34.5%
Stage 3 All HWP and IRP paid to applicants (Finalising legal costs & costs appeals where applicable)	96	6.5%
Closed applications Finalised and closed (All redress and legal costs paid)	782	52.9%
Over Scheme limit applications Open applications – still being processed	25	1.7%
Closed applications – all redress & costs paid (Applications that have exceeded £125,000)	15	1.0%
Totals	1,479	100.0%

2.11 Almost 53% of all applications received since the Scheme opened have now been processed through to conclusion.

2.12 There has been a total of 63 applications that have not been accepted into the Scheme due to not meeting the relevant Scheme criteria. The reason for applications not being accepted is shown in the table below:

Reason redress application not accepted into Scheme	Total number of applications
Unable to verify applicant	31
Not placed in a Lambeth children's home	26
Threshold not met for Harm's Way	5
Abuse occurred whilst in foster care*	1
Total	63

*In circumstances which do not fall to be considered under the Scheme

2.13 In all cases where applicants have been notified that their application has not met the relevant criteria the applicant is reminded of their right to appeal the council's decision. Applicants are also reminded of their right to seek legal advice (if not already represented) and are assisted with signposting to other organisations that may be able to assist them in locating records.

Periods of residency

2.14 As at January 2020 the largest proportion of applications to the Scheme (41.3%) relate to applicants where they first entered (were resident for the first time) a Lambeth children's home prior to 1965 (these are homes for which Lambeth assumed responsibility in 1965 from London County Council).

2.15 It is noted that in the newer applications received to the Scheme that these relate to later periods of residency during the eighties and nineties. This is a change from the earlier applications that were received as these primarily related to earlier periods of residency. The following table details the years that applicants were first placed at a Lambeth children's home and any change from the previous data reported:

Year of residency in a Lambeth Children's Home						
Period	Pre 1965	1960's*	1970's	1980's	1990's	Total
Number of applications	612	228	451	134	54	1,479
Year of residency as a %	41.3%	15.4%	30.5%	9.1%	3.7%	100%
Change since last report	3.8% ↓	0.2% ↓	↔	1.8% ↑	2.2% ↑	

*From 01/04/1965

2.16 In line with the increase in newer applications across later years there has also been a corresponding decrease in applications where Shirley Oaks has been named as the primary Children's home (Shirley Oaks closed in 1983). As at January 2020 52.5% of applications relate to incidents that occurred within Shirley Oaks (down from 60% as at the last report), with South Vale Assessment Centre/Children's home accounting for 17.4% (increased from 15%) followed by Woodvale at 3% (no change).

Specialist units

2.17 There were four former children's homes for children with disabilities that were managed by the council. These homes were open for varying lengths of time between 1976 and 2000 and were often referred to by different names. The four homes for children with disabilities are:

- Ivy House / Warham Road / Rose House ('Ivy House')
- Monkton Street Children's Home ('Monkton Street')
- Leigham Court Road Children's Home ('Leigham Court Road')
- Chestnut Road / Robson Road Children's Home ('Chestnut Road')

2.18 Eligible applicants confirmed as being resident as a child at one of the above homes for children with disabilities is not required to provide written evidence in support of their application for a Harm's Way Payment but are still required to complete an application form. Upon verification of their placement these applicants receive a £10,000 HWP regardless of the length of time they were resident in the home.

2.19 As at the date of this report we have received a total of 35 applications from applicants that were resident in one of the above specialist units. A total of 30 applicants have each received the £10,000 payment. The other applicants are currently being processed with some having been made an offer and some finalising legal arrangements.

Harm's Way Payments

2.20 As at January 2020 a total of 1,272 Harm's Way payments have been made to applicants totalling £11.2 million. The breakdown of these payments is shown in the table below:

Harm's Way payments	No. of verified payments	Total amount paid (£)
£1,000 - less than 1 week	5	5,000
£2,500 - more than 1 week up to 3 months	126	315,000
£5,000 - between 3 and 6 months	94	470,000
£10,000 - more than 6 months	1,047	10,470,000
Total Harm's Way payments	1,272	11,260,000

2.21 Almost 93% of applicants making a Harm's Way application have received the maximum payment of £10,000 as they were resident in a Lambeth Children's home for more than six months.

Individual Redress Payment

2.22 As at January 2020 a total of 639 Individual Redress Payments have been made totalling £15.9 million (this figure includes several interim payments where the final redress payment has not yet been concluded and rehabilitation and therapy awards that have been paid to applicants in addition to redress). These payments are in addition to the total Harm's Way Payments. A breakdown of the Individual Redress Payments made is shown in the table below:

Individual Redress payments	No. of verified payments	Total amount paid (£)
Applicant Rehabilitation / Therapy	123	583,718
Interim Individual Redress Payment	84	877,300
Band 1	109	940,550
Band 2	115	2,355,783
Band 3	49	2,366,060
Band 1 (Plus Band 4)	13	221,200
Band 2 (Plus Band 4)	54	1,889,500
Band 3 (Plus Band 4)	92	6,665,000
Total Individual Redress payments	639	15,899,110

2.23 In addition to the above a further £3.6 million has been paid for both final and interim payments in respect of 40 applications that have exceeded the Scheme limit (over £125,000). This figure will increase as more applications are concluded, in addition it is likely that further applications will exceed the Scheme limit as further information and receipt of medical reports is obtained. More detailed breakdown of these payments will be included in future reports.

2.24 Of the total paid in redress compensation and associated legal costs to date over 77% has gone directly to the applicants as shown in the table below:

Payment type	Amount Paid (£)	Percentage %
Paid to applicants		
Harm's Way Payments	11,260,000	28.4%
Individual Redress payments	15,899,110	40.0%
Payments over £125k	3,638,340	9.2%
Total Paid to applicants (A)	30,797,450	77.6%
Applicant's Legal costs (paid to solicitors)	4,352,756	11.0%
Council's Legal costs (for processing of IRP)	2,130,174	5.4%
Disbursements for medical experts/reports, Social care records chronology	2,429,024	6.0%
Total Legal & Disbursement costs (B)	8,911,954	22.4%
Grand Total (A+B)	39,709,404	100.0%

Legal costs

2.25 Legal costs in respect of both applicant's and the council are incurred in the processing of applications. Costs are expected to be reasonable and proportionate in respect of dealing with an application under the Scheme. Attempts are made to agree costs and where this has not been possible some have proceeded to appeal for determination.

2.26 The following table highlights the total and average legal costs paid in respect of Individual Redress settlements only, on closed applications where all legal costs have been concluded:

Applicant's Legal Representative	No. of IRP settlements	IRP Settlement Paid (£)	IRP Legal Cost Paid (£)	Costs as a % of IRP settlement	Average IRP Paid (£)	Average Legal Costs (£)
Imran Khan & Partners	5	807,450	248,652	31%	161,490	49,730
BL Claims Solicitors	3	252,500	59,000	23%	84,167	19,667
Bolt Burdon Kemp Solicitors	10	622,900	182,630	29%	62,290	18,263
Robson Shaw Solicitors	3	283,199	39,500	14%	94,400	13,167
Irwin Mitchell Solicitors	9	555,475	111,421	20%	61,719	12,380
AO Advocates	7	265,150	64,060	24%	37,879	9,151
Switalskis Solicitors	132	6,621,587	1,197,824	18%	50,164	9,074
Hudgell Solicitors	11	453,000	97,440	22%	41,182	8,858
Leigh Day & Co	6	226,000	44,375	20%	37,667	7,396
Birnberg Peirce Limited	72	2,883,100	506,413	18%	40,043	7,034
Others*	8	415,150	55,475	13%	51,894	6,934
Verisona Law	70	2,501,965	483,946	19%	35,742	6,914
Slater & Gordon Lawyers	22	1,190,160	125,192	11%	54,098	5,691
Total Applicant Solicitors	358	17,077,636	3,215,928	19%	47,703	8,983
Total Council's Solicitors (Kennedys)	358	17,077,636	1,074,692	6%	47,703	3,002

*Some solicitors firms have been grouped together as 'others' as numbers are too low to list separately

2.27 The data in the above table represents only those Individual Redress applications that have been finalised and where all legal costs have been paid and excludes any fixed costs payable for the processing of Harm's Way applications. The data also includes all applications where the level of redress has exceeded £125,000. It does not include any redress payments made to applicants that did not have any legal representation.

2.28 The following table details the position with regards to Individual Redress applications across the different solicitors representing applicants (excludes individual solicitor firms with few applications):

Applicant solicitor	Total number of IRP applications	Number of Open applications	Number of Settled applications	Average time taken to settle (months)	Percentage of settled IRP applications
BL Claims Solicitors	3	0	3	18+	100%
Birnberg Peirce Limited	107	35	72	12-15	67%
Switalskis Solicitors	279	147	132	15-18	47%
Slater & Gordon Lawyers	52	30	22	12-15	42%
Verisona Law	177	107	70	12-15	40%
Leigh Day & Co	20	14	6	15-18	30%
Irwin Mitchell	39	30	9	15-18	23%
Hudgell Solicitors	64	53	11	12-15	17%
Ao Advocates	45	38	7	12-15	16%
Robsonshaw Solicitors	20	17	3	9-12	15%
Bolt Burdon Kemp Solicitors	69	59	10	9-12	14%
Imran Khan & Partners	56	51	5	9-12	9%
Mw Solicitors	15	14	1	15-18	7%
Simpson Millar LLP	3	3	0	n/a	0%
Crosby & Woods Solicitors	4	4	0	n/a	0%
Total	953	602	351	12-15	-
Applicants in Person	72	49	23	9-12	32%

2.29 A listing of all anonymised individual redress settlements along with associated legal costs for each is attached at Appendix B.

Scheme appeals

2.30 As at January 2020 a total of 31 appeals have been received. The table below details the numbers of appeals that have been received in each category and the status of these:

Appeal category	Number of Appeals	Percentage of Appeals	Appeals allowed (successful)	Appeals dismissed (unsuccessful)	Appeals withdrawn	Appeals pending
Eligibility	12	39%	1	7	3	1
Level of Harm's Way Payment	1	3%	0	0	1	0
Level of Redress Payment	9	29%	2	2	0	5
Level of applicant Legal Costs	9	29%	1	5	0	3
Total number of appeals	31	100%	5	13	4	9

2.31 The largest category of appeals received (39%) have been in relation to eligibility matters such as applications relating to individuals placed in a children's home that was not operated by the

council. Since the previous report there has been an increase in appeals received where agreement has not been reached in relation to the level of Individual Redress and/or applicants' legal costs.

Non-financial redress

2.32 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 issues including housing, welfare, benefits, further education and employment.

2.33 As at January 2020 a total of 260 letters of apology have been requested, prepared and sent to applicants. A total of 27 applicants have requested and had a meeting with a senior representative of the council. The table below details the numbers of referrals that have been made in respect of the specialist advisory services:

Specialist advisory service area	Number of applicant referrals
Housing	41
Further Education	11
Employment	9
Welfare & Benefits	7
Total referrals	68

Counselling service

2.34 The council has had a free specialist and dedicated independent counselling support service for all survivors since 2015. The council is continuing to fund this counselling service for the duration of the Scheme.

2.35 In addition to the above offer and to ensure that applicants have more flexible access to services the council will also fund private counselling from a professionally qualified and registered counsellor or therapist providing this has been recommended by an applicants GP or other appropriately qualified clinician and is required due to an individual's abusive experiences in a Lambeth Children's Home.

Access to records

2.36 The council continues to run a large specialist team of 50 staff responding to requests from former children in the care of Lambeth for their council care files. So far over 1,350 requests for historical care records have been received since January 2017 which is an unprecedented number and equates to over 3,000 volumes of files.

2.37 The council has invested more than £3million in providing this service. Applicants to the Lambeth Children's Homes Redress Scheme are not required to make a Subject Access Request (SAR). But feedback from survivors who have received their records from the council indicate that for some having their care file can help them understand issues they experienced in their childhood.

2.38 The council continues to provide updates to the Information Commissioner's Office on progress with the SAR project.

Independent Inquiry into Child Sexual Abuse

- 2.39 The national Independent Inquiry into Child Sexual Abuse (IICSA) has 14 different strands for investigation, including Children in the care of Lambeth Council. Lambeth council is a core participant in this investigation and continues with its preparations.
- 2.40 In March 2018 IICSA set out 20 core issues it proposes examining in relation to Lambeth. On 12 November 2018 IICSA determined the institutions which would be the focus of case studies at the public hearings, namely:
- Shirley Oaks Children’s Home
 - Angell Road Children’s Home
 - South Vale Assessment Centre
 - Ivy House Children’s Home
 - Monkton Street Children’s Home
- 2.41 In November 2019 IICSA finally announced that public hearings in the Lambeth investigation would take place over four weeks from 29 June to 10 July and 20 July to 31 July 2020.
- 2.42 In December 2019 the council submitted a detailed corporate witness statement on specific historical issues requested by IICSA. The Council is currently preparing further individual witness statements in respect of each of the five case study homes.
- 2.43 Notably IICSA have granted core participant status to nearly 50 complainant/survivors and the Inquiry remains open to receiving further applications from survivors or victims.

3. FINANCE

- 3.1 The total cost incurred in operating the Scheme (including those compensations over the Scheme limit) as at 1 January 2020 is £42.5 million. These costs are cumulative running from the start of the Scheme on 2 January 2018 through to the end of the first two years of operation. A breakdown of the expenditure is shown in the following table:

Expenditure type	Expenditure amount (£)
Redress applications within the Scheme	
Paid to applicants - Harm’s Way Payments	11,260,000
Paid to applicants - Individual Redress Payments	15,899,110
Paid to Applicant Solicitors – Applicant legal costs	3,832,718
Paid to Council’s Solicitors– Council’s legal costs	1,959,468
Application Disbursements (medicals, records chronology etc)	2,225,896
Sub Total Redress applications (A)	35,177,192
Redress applications over Scheme limit (£125,000)	
Paid to applicants – Individual Redress over Scheme limit	3,638,340
Paid to Applicant Solicitors - Applicant legal costs over Scheme limit	520,038
Paid to Council’s Solicitors – Council’s legal costs over Scheme limit	170,706
Application Disbursements (medicals, records chronology etc)	173,707
Sub Total Redress over Scheme limit (B)	4,502,791

Redress applications total (A+B)	39,679,983
Scheme administrative expenditure	
Independent Appeal Panel costs	63,358
Scheme administration advice & support (Legal, audit & advice)	104,388
Staffing costs – Redress team	1,830,902
Operational costs (advertising, post, ICT, training, actuarial)	209,998
Counselling services	190,690
Pre-Scheme legal advice & support	267,373
Pre-Scheme Survivors association legal costs	243,000
Sub Total Scheme administrative expenditure (C)	2,909,709
Total cost of Redress Scheme (A+B+C)	42,589,692

- 3.2 Prior to the launch of the Scheme the council received independent actuarial advice in assessing the cost and value for money of operating a Redress Scheme compared to the conventional approach to handling such claims through a civil litigation route. Further actuarial reviews have been undertaken periodically with a further review of the available data completed as at this reporting period.
- 3.3 An original estimate suggested that the possible number of applications to the Scheme could be 3,000, at an estimated cost to the Scheme of up to £100 million plus a further £40 million to deal with the more complex claims over the Scheme limit. The council secured a capitalisation directive from the Government to borrow the up to £100 million needed to fund the Scheme. This was based on assumptions as the only basis upon which to determine the actual number of applications that would be made.
- 3.4 The estimated number of applications was revised to 2,100 following review as at the end of the first year of the Scheme. Although the numbers of applications received have fallen from the peak in the first year, they have remained more stable throughout the second year. The most recent data suggests that the overall numbers are likely to be less than even the revised forecast, however given the upcoming IICSA hearings into Lambeth Council it is possible that numbers of applications could slightly increase again following any renewed media coverage. The estimate of 2,100 therefore remains a reasonable assumption as at January 2020.
- 3.5 Although the numbers of applications are lower than originally forecast the number of applications where redress is assessed at the higher end of the tariff and those exceeding the Scheme limit are increasing. It is estimated that the overall total cost of the Scheme is likely to be in a range of between c£100-£125 million with a best estimate of c£110 million (c£100m for Scheme applications and c£10m for those exceeding the Scheme limit). As noted in previous reports these figures are subject to many uncertainties although forecasting is monitored on a regular basis.
- 3.6 As at January 2020 the total projected cost of known applications received as at this date is c£75 million (actual payments and costs already paid plus estimated payments, costs and administrative costs in respect of those applications received at this date).

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 applications 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. It is considered reasonable in all the circumstances to extend the Scheme for a further two years given the likelihood of further claims coming forward during this period which will need to be responded to appropriately.
- 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.

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.
- 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.
- 5.5 The council has recently also commissioned a further piece of work from an independent consultant to obtain feedback from those who have been through the Scheme to enable them to provide any insight into their experience of the Scheme and to assess ways in which the Scheme can be made more accessible.

6. RISK MANAGEMENT

- 6.1 There are no direct risk implications arising from this operational performance report. A risk register is maintained and regularly reviewed. As outlined earlier in this report arrangements have been made to ensure the continuity of service provided to applicants during the current Covid-19 situation. This is being regularly reviewed and arrangements updated as necessary.

7. EQUALITIES IMPACT ASSESSMENT

- 7.1 The council has undertaken a brief update of the Equalities Impact Assessment (EIA) of the Redress Scheme completed in March 2019. The objective of the EIA was to:
 - i) Contribute to the ongoing operational review of the Redress Scheme including implementation of recommendations arising from the previous EIAs.
 - ii) Provide some equalities analysis of applications and payments under the Redress Scheme up until the end of June 2019. A further analysis is currently being undertaken and will be updated in the next report.
- 7.2 Maximising uptake of the Redress Scheme by on behalf of individuals who may be eligible remains a key priority for the Scheme. To this end the council has maintained a regular programme general and targeted communications to key groups including people from Black and Minority Ethnic (BME) communities; people with physical or mental health conditions; and people who may be now living abroad. In addition the Redress Scheme is working with colleagues in Adult Social Care to identify

and facilitate claims from people who may have resided in one of Lambeth's specialist units for children with physical and/or learning disabilities or other specific needs.

7.3 The key finding from the EIA is that whilst on a monthly basis applications to the scheme remains steady, the council recognises the need to:

- Continue efforts to ensure potentially eligible applicants are aware of the scheme including dissemination of information to partners and stakeholders;
- Seek regular feedback as to the process to make it as straightforward as possible given the multiple reasons that may deter individuals from making an application;
- Monitoring progress of the scheme and impact in relation to the council's duties under equalities legislation on a regular basis throughout the duration of the scheme.

7.4 It is known that there were a disproportionate number of Black children in care in the 1970's and 1980's and we believe that there are a number of barriers currently preventing BAME survivors from applying. The Council has now commissioned Health Watch Lambeth on behalf of Black Thrive/Voices 4 Change, to facilitate specific channels for communication and engagement with BAME communities in relation to the Lambeth Redress Scheme.

7.5 The purpose of this agreement with Black Thrive and Voice 4 Change is to test methods for increasing applications to the Scheme from BME communities. Each organisation brings strengths and insights regarding the target communities that are beneficial for this project: Black Thrive is a partnership that is already established in Lambeth and is undertaking engagement work with relevant communities. The partnership brings together individuals, local communities, statutory agencies, voluntary organisations and the private sector to address structural barriers that prevent Black people from thriving. A central aim of the partnership is to ensure that BAME communities' voices are heard especially in relation to feedback regarding use of services. Voice 4 Change is a national member-led charity organisation that advocates for the Black and Minority Ethnic voluntary and community sector.

7.6 Following evaluation this will inform any future longer-term engagement and commissioning strategy for this piece of work.

8. COMMUNITY SAFETY

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

9. ORGANISATIONAL IMPLICATIONS

Environmental

9.1 None.

Health

9.2 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.

Corporate Parenting

9.3 None.

Staffing and accommodation

9.4 The Scheme is administered by the Redress Team in conjunction with the council's external solicitors – Kennedys LLP. All existing members of the team have received training from the National Association for People Abused in Childhood (NAPAC) with any new team members being trained as soon as is reasonably practical. 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.

Responsible Procurement

9.5 The council has commissioned Oxleas Mental Health NHS Trust to provide independent counselling to survivors for the duration of the Scheme. 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. The Scheme solicitors were commissioned following a previous contract variation waiver to the existing insurance legal services framework. The independent appeal panel members were commissioned at the time the Scheme was launched although they operate completely independently of the council when determining appeals submitted under the remit of the Scheme.

10. TIMETABLE FOR IMPLEMENTATION

10.1 Not applicable.

Audit Trail

Audit Trail				
Consultation				
Name/Position	Lambeth directorate / department or partner	Date Sent	Date Received	Comments in paragraph:
Andrew Travers – Chief Executive	Chief Executive	07/04/20		
Christina Thompson, Director Finance & Property	Finance & Investment	23/03/20	23/03/20	3.1 – 3.6
Fiona Connolly, Interim Strategic Director, Adults and Health	Adults and Health	23/03/20	23/03/20	
Annie Hudson, Strategic Director, Children’s Services	Children’s Services	07/04/20		
Alison McKane, Director of Legal & Governance	Legal & Governance	23/03/20	23/03/20	throughout
Paul Bates, Director of Strategy & Communications	Strategy & Communications	07/04/20		
Andrew Pavlou, Principal Lawyer Governance, Legal Services	Legal & Governance	20/04/20	21/04/20	4.1 – 4.8
Nisar Visram, Assistant Director, Corporate Finance	Finance & Investment	20/04/20	21/04/20	3.1 – 3.6
David Orekoya, Lead Commissioner Health Improvement	Adults and Health	08/04/20	08/04/20	
Report History				
Original discussion with Cabinet Member	Ongoing			
Report deadline				
Date final report sent				
Part II Exempt from Disclosure/confidential accompanying report?	No			
Key decision report	No			
Date first appeared on forward plan	n/a			
Key decision reasons	n/a			
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	A – Summary of Redress available B – Redress June performance dashboard C - List of Lambeth Children’s Homes D – Audit of applications E - Equality Impact Assessment			

