

## INFORMATION PAPER ON REPARATIONS FOR THE VICTIMS & SURVIVORS FORUM

### BACKGROUND

The Remediating the Past, Healing for the Future (3 October 2014) and the Dealing with the Past (25 February 2014) conferences have helped to raise the awareness and profile of reparations. In addition, the publication of the Commission's advice to Ministers on Dealing with the Past (27 March 2014) has further raised the need to continue conversations on these important areas in order to explore potential provision for victims and survivors and formulate policy positions.

### WHAT ARE REPARATIONS?

Reparations publicly acknowledge victims' suffering and provide measures to help alleviate and remedy the harm caused. By focusing on victims, reparations are victim-centred by responding to their differing needs from the rest of society. Reparations also aim to publicly recognise and ease victims' suffering, as well as to raise public awareness of the violations of the past to prevent their repetition.

### TYPES OF REPARATIONS

Reparations are not just compensation, but can be a range of measures, such as rehabilitation; memorials; pensions; university scholarships; and apologies, that publicly acknowledge the harm suffered by victims, alleviate continuing suffering, and try to prevent future violence.

International law recognises five main types of reparations:

Area	Explanation
Restitution	Return the individual to the situation before they suffered harm
Compensation	Financial assistance
Rehabilitation	Medical, psychological, and social help
Measures of satisfaction	Addressing public or moral harm through official acknowledgement to awaken awareness, accurate historical record, and memorialisation of those killed
Guarantees of non-repetition	Commitment by the state to prevent future violations

These five types of reparations are intended to be used together as far as possible to effectively remedy the harm victims and survivors have suffered.

## THE INTERNATIONAL CONTEXT

The main international document on reparations is the 2005 UN Basic Principles and Guidelines on the Right to a Remedy and Reparations, which state that the purpose of reparations is to promote justice by redressing the harm caused. The Principles are a soft law document in that they are not binding on states, but provide guidance on best practice in implementing reparations, and have been relied on in a number of international judicial decisions and domestic mechanisms reinforcing their importance.

In post-conflict locations reparations are based on three main goals:

- remedying by repairing harm;
- reconciliation/social solidarity; and
- restoring victims' dignity/acknowledgement.

Reparation programmes have been used in a number of locations to remedy the past:

Location	Support
Chile	Pension; specialised health care; official apology; Human Rights Memorial.
Uruguay	Pension; National Museum.
Kenya	Truth, Justice and Reconciliation Commission; ten year annual pension; medical/psychological vouchers to fund rehabilitation; apologies; micro-financing for business opportunities; skill training; land restitution/resettlement for those displaced.
Peru	Memorials; compensation; education; specialised healthcare; housing.
South Africa	Truth and Reconciliation Commission; \$4,000 compensation to victims; Special Pension Fund for ex-combatants.

The examples above are not an exhaustive record of reparation programmes, but do highlight the range, and commonality, of individual and communal programmes implemented in post-conflict locations.

### APPLICABILITY TO NORTHERN IRELAND

There have been a number of political initiatives, proposals and practical schemes aimed at addressing the needs of victims and survivors in Northern Ireland. The tables below concentrate on what has been implemented/attempted post-1998, issues connected to them, and reparation areas for consideration.

#### What's been done to date?

Reparation area	Scheme/initiative	Comments
<b>Restitution</b>	Belfast/Good Friday Agreement	Recognition of rights citizenship – facilitated by British/Irish constitutional changes.
	Scheme for the Purchase of Evacuated Dwellings.	Assistance for those under threat/intimidated from their properties.
<b>Compensation</b>	Financial Assistance	VSS-administered means-tested payments to victims and survivors.
	Pension for the Severely Injured	The Commission has conducted research and submitted advice on the feasibility of a pension for the severely injured.
	NIO compensation/Criminal Injury Compensation Scheme/Court orders	Calculations arguably did not meet needs and many families received little or no compensation. Awards based on income, not long term need.
<b>Rehabilitation</b>	Funded groups	VSS fund 66 groups to deliver a range of social support and health and wellbeing services.
	Support for the Injured	VSS scheme providing a personal allowance to assist with chronic pain and disability support.
	Education and Training	VSS scheme to contribute to the cost of a course and education materials.
	Respite Breaks	VSS scheme providing short breaks.
	Counseling	Counseling support is available through VSS-funded groups and the statutory sector.

<b>Measures of satisfaction</b>	2014 Dealing with the Past advice	Addressing reparations, the paper recommended a comprehensive process for the bereaved, injured, financial assistance and a pension for the severely injured.
	2013 Haass-O'Sullivan	Reparation proposals included a Historical Investigations Unit; Independent Commission for Information Retrieval; continued provision through the VSS; a Mental Trauma Service (rehabilitation); public statements of acknowledgement; collection of narratives.
	2009 Consultative Group on the Past	The Group recommended the establishment of a Legacy Commission; a process of information recovery; a one-off recognition payment of £12,000 be paid to the relatives of those killed.
	1999 Independent Commission for the Location of Victims Remains	British and Irish government coordination to facilitate the location of the remains of the 'Disappeared'.
<b>Guarantees of non-repetition</b>	Belfast/Good Friday Agreement	The accord acknowledged the principle of consent; paved the way for reform of institutions (policing; judiciary; oversight bodies); power sharing institutions; civic interaction. Human rights compliance built into new institutions, including the PPS and PSNI.
	Civilian oversight of PSNI	Reforms to policing and the establishment of the Policing Board ensures a civilian role.
	Police Ombudsman	Independent mechanism for investigation of police complaints.
	Criminal justice reform	Judicial and prosecutorial independence from the Executive.
	Human Rights Commission	To promote and ensure human rights compliance. Prevent human rights violations/discrimination arising as a source of future victimisation.
	Decommissioning	Process of decommissioning from 1997 with the International Commission on Decommissioning.

## Areas to explore

Reparation area	Issue	Comments
<b>Restitution</b>	Land ownership	Issue in intimidation/eviction/selling properties in urban and rural areas.
<b>Compensation</b>	Pension for the Severely Injured	The Commission's advice has been submitted to OFMDFM. DUP currently consulting on their Private Members Bill.
<b>Rehabilitation</b>	Mental Trauma Service	The need for specialist intervention included in Commission's advice on Dealing with the Past and highlighted in the Haas-O'Sullivan paper. Remedy for those suffering from PTSD, associated depression, and transgenerational mental issues.
<b>Measures of satisfaction</b>	Haass-O'Sullivan	Reparation areas (Historical Investigations Unit; Independent Commission for Information Retrieval; public statements of acknowledgement; collection of narratives) also part of CVS's advice.
	Memorials	Private/group memorials exist throughout the region. Possibility for a shared/collective memorial? University scholarships named after victims?
	Day of reflection	HTR coordinate a 'Day of Reflection' on 26 June each year. Could this be formalised? Public holiday?
	Arts, theatre, dialogue	Is there a role for the arts sector? Tied to memorialisation?
	Education	Is the current Education and Training scheme sufficient? What else could be explored?
	Apology/recognition of responsibility	By paramilitary groups and governments? Acknowledge suffering of victims and wrongfulness of their harm.
<b>Guarantees of non-repetition</b>	Statement	A statement to comply with human rights law and the political process?

## **CONCLUSIONS**

This paper is intended as an information paper on the area of reparations.

Reparations have different meanings to different people. This area of dealing with the past encompasses much more than finances. It includes moral reparation, restitution, compensation, rehabilitation, apologies, memorials and guarantees of non-repetition.

Engagement with the sector, academic research and policy advice indicates that conversations regarding reparations need to move away from a piecemeal approach; require a strategic approach; should be looked at beyond Northern Ireland and all stakeholders need to engage in the debate.

## **NEXT STEPS**

At the December 2014 meeting of the Forum the content of the information paper was discussed.

It was acknowledged that various schemes, initiatives and proposals have been delivered. Equally, there are still areas to be addressed and explored further. For example, the shape of services delivered to victims and survivors, responsibilities and role of paramilitary organisations, the political context and wider civic engagement.

Members of the Forum expressed an interest in exploring reparations further.

The following next steps were agreed:

- Reparations to be discussed further;
- An informed discussion to be facilitated with leading academics.

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