



**The Commission for  
Victims & Survivors**

**The Commission for Victims and Survivors  
response to the Call for Evidence for the  
Second Personal Independent Payment  
Assessment Process**

**April 2020**

## Background

1. The Commission for Victims and Survivors for Northern Ireland (the Commission) was established in June 2008 under the Victims and Survivors (Northern Ireland) Order 2006, as amended by the Commission for Victims and Survivors Act (2008).
  
2. The Commission is a Non-Departmental Public Body of the Executive Office with the principal aim of promoting awareness of the interests of victims and survivors of the Troubles. It has a number of statutory duties that include:
  - *Promoting an awareness of matters relating to the interests of victims and survivors and of the need to safeguard those interests;*
  - *Keeping under the review the adequacy and effectiveness of law and practice affecting the interests of victims and survivors;*
  - *Keeping under review the adequacy and effectiveness of services provided for the victims and survivors by bodies or persons;*
  - *Advising the Secretary of State, the Executive Committee of the Assembly and any Body or person providing services for victims and survivors;*
  - *Ensuring that the views of victims and survivors are sought concerning the exercise of the Commission's functions; and*
  - *Making arrangements for a forum for consultation and discussion with victims and survivors.*<sup>1</sup>
  
3. In November 2009, the Office of First and deputy First Minister (now the Executive Office) introduced a ten-year strategy for victims and survivors. This Strategy provides a comprehensive approach for taking forward work on a range of issues relating to victims and survivors. The Strategy acknowledges the uniqueness of our circumstances and the need for a victim and survivor-centred approach:
  - *The pain and suffering which has occurred;*
  - *The long-term impact of violence on victims and survivors;*
  - *That victims and survivors are individuals and therefore there is no single approach which will suit everyone; and*
  - *The need for victims and survivors to be invited to play a part in building a more peaceful future, but that as people who have suffered most they should feel safe, should be treated with dignity and should move at their own pace.*<sup>2</sup>

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<sup>1</sup> The functions of the Commission relate to those set out in the Victims and Survivors (Northern Ireland) Order 2006 as amended by the Commission for Victims and Survivors Act (Northern Ireland) 2008.

<sup>2</sup> OFMDFM (2009) *Victims and Survivors Strategy*, Belfast: The Stationery Office, p.2.

4. The Strategy's aim is to put in place arrangements to ensure that the voice of victims and survivors is represented and acted upon at a governmental and policy level and continues to shape the landscape for service delivery. Following advice from the Commission November 2019, the Strategy was extended to ensure the continuation of service delivery and facilitate the development of a new strategy.<sup>3</sup>
5. The Commission welcomes the opportunity to provide a response to the second independent review of how the Personal Independence Payment (PIP) assessment is working in Northern Ireland.

### **Contextual Understanding**

6. The Commission believes that all Government departments need to acknowledge the ongoing impact of the conflict upon society.
7. It is recognised that many years of violence has created a society where much work needs done to deal with the legacy issues. This is no more clearly apparent than in meeting the needs of victims and survivors; those whose lives have been disproportionately affected by conflict-related incidents.
8. The impact of the Troubles on Northern Ireland society cannot be underestimated:
  - 26% of the Northern Ireland population have been affected or a family member continues to be affected by a conflict-related incident<sup>4</sup>;
  - 3,720 conflict-related deaths between 1966 and 2006<sup>5</sup>;
  - 40,000 injured<sup>6</sup>; and
  - 213,000 experiencing mental health problems.<sup>7</sup>

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<sup>3</sup> CVSNI (2019) *Extension to the Strategy for Victims and Survivors (2009-19) and Programme Funding, Policy Advice Paper*, Belfast: CVSNI.

<sup>4</sup> NISRA (2017) *Commission for Victims and Survivors Module of the September 2017 Northern Ireland Omnibus Survey*, Belfast: NISRA.

<sup>5</sup> McKittrick et al (2007) *Lost Lives*, Edinburgh: Mainstreaming Publishing.

<sup>6</sup> Smyth et al (1999) *The Cost of the Troubles Study – Final Report*: p.37.

<sup>7</sup> CVSNI (2005) *Towards a Better Future: The Trans-generational Impact of the Trouble on Mental Health*, Belfast: CVSNI.

9. Behind each statistic are individuals; many continuing to be impacted through bereavement, physical and/or psychological injury or by providing care for a loved one.
10. It is well documented that the conflict has had a harmful impact on the social and economic health of our society. Victims and survivors are doubly affected as ordinary citizens living in a society that has been socially and economically damaged by conflict and as individuals who have been directly impacted by violence.
11. It is recognised that compensation payments made during the conflict did not meet the needs of many victims and survivors.<sup>8</sup> In addition, there are a number of financial needs which are a direct consequence of individuals becoming victims and survivors. These include loss of income, loss of pension provision, the extra cost of disability and dependency and the cost of building and maintaining social support and resilience as a consequence of injury or bereavement.<sup>9</sup>
12. The Commission has been a long-standing advocate for the provision of a payment scheme for individuals severely injured as a consequence of their experience of the conflict. The Commissioner has provided two pieces of advice to Government, in June 2014 and May 2019, on the provision of a pension or payment arrangement to individuals who have sustained severe physical and psychological injuries linked to the Troubles.<sup>10</sup> The Commissioner's advice paper submitted to the Secretary of State for Northern Ireland in 2019 contained a series of recommendations on various elements of the operation of a pension arrangement for victims and survivors. These included research-informed proposals in the areas of qualifying criteria related to psychological injury, assessment, delivery mechanisms as well as other considerations including backdating and date parameters for the scheme.

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<sup>8</sup> CVSNI (2011) *Analytical Review of Compensation*, Belfast: CVSNI.

<sup>9</sup> CVSNI (2012) *Comprehensive Needs Assessment*, Belfast: CVSNI, p.60.

<sup>10</sup> The advice issued to the Secretary of State for Northern Ireland: CVSNI (2019) *Victims and Survivors Pension Arrangement (VASPA) Advice Paper May 2019*, Belfast: CVSNI. Previous advice issued to the First and deputy First Ministers: CVSNI (2014) *A Pension for people severely injured in the Troubles, Commission Advice Paper*, 11 June 2014, Belfast: CVSNI.

Regulations for the Victims Payment Scheme were introduced in Parliament in January 2020, and there has been ongoing efforts of the Northern Ireland Civil Service to implement the scheme by the end of May 2020. The Commission would ask this review to take note of these developments and highlight the necessity to be aware of the scheme and its operation (once confirmed and implemented).<sup>11</sup>

13. The Commission recognises the important role that welfare support provides to victims and survivors. This is all the more important considering a significant number of victims and survivors are part of an ageing population who have suffered psychological and physical health conditions that explain their dependence on welfare support.

14. The Commission is acutely aware that many victims and survivors are currently living in fear and anxiety in relation to ongoing and impending assessment processes and the outcomes of those processes. This is a view that has been highlighted by the Victims and Survivors Forum and communicated frequently by individuals engaging with the Commission and organisations funded to deliver welfare support.

### **Assessment Process**

15. The Commission maintains its previous position in relation to those who have suffered serious injury as a result of a conflict-related incident: those who have already provided adequate and appropriate evidence of their conditions, should not be subjected to a further full re-examination.

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<sup>11</sup> The Commission would highlight the considerable time and effort has been invested by many stakeholders in recent years to impress upon government the importance and necessity of acknowledging and supporting individuals severely injured by their experience of the Troubles. The Commission would also highlight the tireless campaigning of the Injured Group at WAVE who have been instrumental in bringing the case for a pension/payment arrangement to our local politicians and at Westminster. There are many proposals contained in the Government's approach that if implemented, will support the effective operation of a long awaited payment scheme for the severely injured. There are other proposals that clearly require reconsideration and clarification to avoid causing unnecessary anxiety, disappointment and a sense of injustice among individuals who have lived with severe and permanent physical and psychological injuries who would currently not be eligible to apply for the scheme. Further detail on the Commission's position can be obtained in our consultation response to the Northern Ireland Office: CVSNI (2019) *Commission for Victims and Survivors response to the Northern Ireland Office Consultation on the Victims Payment Scheme November 2019*, Belfast: CVSNI.

16. The Commission will continue to advocate for the application of an exemption policy to these victims and survivors to reduce levels of stress and anxiety. However, the Commission understands that there will be occasions when contact is required. We maintain that it is essential that those conducting assessments have an understanding of the unique nature of conflict-related incidents.
17. The Commission therefore welcomed the development of the agreed process for information sharing, with consent from the individual concerned, between DfC and the Victims and Survivors Service. This process has been in operation since January 2017 and the Commission has been advised that communication between the Victims and Survivors Service and DfC has been effective in resolving queries and supporting victims and survivors through the assessment journey, mandatory reconsiderations and appeals processes. Indeed, this working relationship between the Victims and Survivors Service and DfC staff was noted in the first independent review as strong and positive. Whilst this engagement has proved valuable, for individuals and those advocating on their behalf, the Commission is mindful that not all victims and survivors are accessing individual support or engaged with funded support services.
18. In the previous review, the Commission notes that Recommendation 11 was not accepted:
- *The Department and Capita should develop enhanced training for assessors specific to certain groups of conditions, which could be informed by the prevalence of those conditions as recorded in the Departmental statistical analysis. If a claimant indicates, and can prove, they are affected by one of these conditions they should have the opportunity to see an assessor with enhanced training to their condition, or to a paper review.*
19. As previously highlighted, research indicates that there are 40,000 injured and 213,000 experiencing a range of mental health problems as a result of conflict-related incidents.

A number of organisations supporting victims and survivors have advised the Commission that there appears to be a lack of understanding during the assessment process when it comes to complex conditions, especially in relation to conflict-related psychological injury.

20. The Commission welcomes that the Department accepted Recommendation:

- *The Department should review written material, particularly*
  - *The initial letter to claimants*
  - *The subsequent decision letters to claimants, ensuring clarity of message and the avoidance of jargon*
- *The Department should develop simple straightforward material describing the PIP assessment process.*

21. The Commission recommended in the previous review that it was necessary to improve communication and to improve on the understanding of the process.

22. The Commission would like to take this opportunity to highlight that any assessment process needs to be victim-centred, victim-led and holistic. As highlighted in our last submission, the Victims and Survivors Forum identified five principals that should be taken into consideration when delivering effective services (co-design and collaboration; victim centred; independent and impartial; inclusivity; and fit for purpose.)<sup>12</sup> The Commission believes that these principles still apply to the PIP assessment process too and would enable an empathy and understanding of the impact of Troubles on victims and survivors.

### **Supporting information**

23. In the previous review, the Commission highlighted the concerns of service deliverers regarding what supporting information can be taken into consideration during the decision making process. The Commission believes that this is still relevant in relation to psychological injury and how it may impact on their day-to-day functionality. Further, many victims and survivors suffer from multiple injuries. It is therefore essential that further information

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<sup>12</sup> CVSNI (2017), *Key Guiding Principles for Existing and Proposed Organisations and Processes Dealing with Past*, Belfast: CVSNI.

such as care plans, prescription lists and reports from health professionals other than GPs can be essential elements of supporting information.

24. CVSNI welcomes that Recommendation 7 was partially accepted:

- *So that relevant up-to-date medical information is available early in the process, the Department should reach agreement with the relevant professional bodies as to how they may best obtain a GP Short Summary Report to support the PIP2 submission. This should be requested for every claim.*

27. Many claimants that have long-term conditions may require no on-going involvement with their health care professional and therefore they may have limited access to relevant evidence to support their claim. Further, claimants may face waiting lists of many months for a diagnosis and therefore may struggle to provide the information deemed necessary to support their PIP claim.

28. It is therefore important that there is clarity on what is considered as appropriate evidence from other sources and a recognition that many individuals may face challenges in accessing evidence.

### **Mitigation Measures**

29. The welfare-related commitments made in *New Decade, New Approach* can be considered as recognition of the unique circumstances pertaining to Northern Ireland.<sup>13</sup> The Commission welcomes the extension of mitigation measures beyond March 2020.

30. Following a survey by DfC, it was found that 78% of respondents were not aware of the Welfare Supplementary Payments Scheme; and 69% of Social Sector Size Criteria mitigation recipients were not aware that the payments were due to end.<sup>14</sup> The Commission therefore welcomes that Recommendation 1 was accepted:

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<sup>13</sup> The Northern Ireland Office (2020) *New Decade, New Approach*, Belfast: NIO. p.9

<sup>14</sup> Department for Communities (2019) *Welfare Reform (NI) Claimant Baseline Surveys* (accessed 25.04.2020): <https://www.communities-ni.gov.uk/system/files/publications/communities/wr-claimant-baseline-surveys-jan19.pdf>

- *That the Department, in conjunction with advice and thematic support organisations, coordinates a series of information and outreach events, across Northern Ireland. The aim of such events would be to assist and support claimants, their family members and support workers to have a clear understanding of the PIP assessment process and purpose. Such events should aim to clarify the type of relevant information which is required in support of a claim and when it should be committed.*

31. The Commission believes that along with these events there needs to be clarity on the mitigation measures that have been put in place to assist claimants.

### **Clarification on Assessments**

32. The Commission welcomes that Recommendation 12 was partially accepted:

- *The Department should introduce audio-visual recording of assessments in both home and assessment centre locations.*

33. The Commission believes that there needs to be further clarity on what claimants can do to ensure that their assessments are being recorded through audio-visual recording if they wish and what process is entailed to facilitate this as well as ensuring they are fully aware that they can opt-out if they are not comfortable with the assessment being recorded.

### **Ongoing Engagement**

34. The Commission recognises that this call for evidence will be one of several methods used to gather information during the review

35. Since November 2012, the Commission has engaged with officials to ensure that the impact of welfare changes is minimised where possible on the victims and survivors community. In addition, DfC have made efforts to engage with the Victims and Survivors Forum in order to highlight the lived experiences of those physically and psychologically injured engaging with welfare support. This engagement has been complemented by VSS-coordinated engagement between DfC, Capita Health and Wellbeing and organisations funded to deliver welfare support.

36. Recent Commission advice highlighted the annual increase in demand for accessing support from VSS-funded organisations, which was attributed to individuals going through the PIP assessment process and rollout of Universal Credit. The advice paper also highlighted the concerns of organisations delivering support and emphasised the need for need for continued engagement.<sup>15</sup>

## **Conclusions**

37. The Commission welcomes DfC's commitment to keeping this issue under review. By initiating independent statutory reviews into the PIP assessment process, DfC have provided a valuable process for obtaining insights into the experience of the PIP assessment process for new applications, award reviews and people reporting changes.

38. In considering our response, the Commission would highlight the following areas:

- That training for Disability Assessors is enhanced to reflect the complexity of conflict-related trauma. The Commission would be happy to assist with any development of training;
- That continued efforts are made to highlight the importance of providing supporting evidence and information from other sources that provide an insight into the claimant's difficulties and issues they may face on a daily basis;
- The input of companions is necessary for the assessment process, to allow further insight into the claimant's daily issues that they may not be able to convey themselves;
- Greater transparency in relation to audio-visual recording of assessments and how claimants can facilitate these or opt-out if they are not comfortable;

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<sup>15</sup> CVSNI (2019) *Extension to the Strategy for Victims and Survivors (2009-19) and Programme Funding Policy Advice Paper*, Belfast: CVSNI, p.36.

- The continuation of engagement with the Commission, the Victims and Survivors Forum, Victims and Survivors Service and organisations delivering welfare support to victims and survivors.

39. The Commission would emphasise the important role that welfare support provides to many victims and survivors and remains willing to assist the Department in the future.