

POLICY NOTE

THE NATIONAL ASSISTANCE (ASSESSMENT OF RESOURCES) AMENDMENT (SCOTLAND) (NO. 2) REGULATIONS 2020

SSI 2020/55

The above instrument was made in exercise of the powers conferred by section 22(5) of the National Assistance Act 1948. The instrument is subject to negative procedure and will come into force on 6 April 2020.

Purpose of the instrument.

To disregard grants paid to individuals living in residential care from Future Pathways Discretionary Fund; payments from the forthcoming legislative scheme to provide redress for survivors of historical child abuse in care (“The Statutory Redress Scheme”) and capital payments paid to Thalidomiders by the Thalidomide Trust, within the National Assistance (Assessment of Resources) Regulations 1992. This will ensure these payments are not taken into consideration by local authorities when carrying out financial assessment for social charges for those living in residential care.

Policy Objectives

Future Pathways Discretionary Fund

The 1992 Regulations set out a number of different types of income that are to be disregarded when a local authority assesses a resident’s income for the purpose of charging. Payments made by the Future Pathways Discretionary Fund are specifically to offer help and support to people who were under the care or responsibility of a body society or organisations in Scotland who experienced abuse or neglect. It works to help survivors of historical abuse or neglect to access person-centered support that will help them to lead full, healthy and independent lives.

The partners administering the Future Pathways Discretionary Fund and services to survivors are contracted to deliver the fund via grant arrangements. These grants are made under the powers of the Social Work Scotland Act 1968.

Statutory Redress Scheme

The forthcoming Statutory Redress Scheme is specifically for people who were under the care or responsibility of a body society or organisations in Scotland who experienced abuse or neglect will provide financial redress to survivors, and their next of kin where appropriate.

Thalidomide Trust

Payments and capital accrued by payments made by the Thalidomide Trust are specifically to offer help and support to Thalidomiders, people whose mothers were prescribed Thalidomide

(distributed in the UK by Distillers) during the first three months of their pregnancy. It works to help and support people with this disability.

The Scottish Government wishes to amend these regulations to ensure equal treatment between Thalidomiders living in residential care in Scotland obtain the same benefits as those living in residential care in England and Wales.

Consultation

For the Future Pathways Discretionary Fund and the Thalidomide Trust, we have consulted with members of the Charging for Residential Accommodation Guidance (“CRAG”) working group, whose membership consists of local authorities, COSLA officials and other stakeholders.

For the Statutory Redress Scheme, the Redress Bill team have gone out to consultation on the scheme, which opened 2 September 2019 and closed 25 November 2019. They received 291 responses. Over 200 of these responses were from survivors and 51 were from organisations. Independent analysis is currently being carried out and a report will be published in March.

Impact Assessments

For the Future Pathways Discretionary Fund and the Thalidomide Trust there have been no impact issues. A BRIA and EQIA have both been completed. The BRIA has been approved by the Cabinet Secretary for Health and Sport and the Deputy Director of the Social Care Support Division has approved the EQIA.

Financial Effects

The amendment to the National Assistance (Assessment of Resources) Regulations 1992 is consequential to the introduction of Future Pathways Discretionary Fund and the forthcoming Statutory Redress Scheme and capital payments from the Thalidomide Trust.

Scottish Government’s initial understanding is that given this context, additional costs imposed on local authorities by disregarding these payments from social care means tests are expected to be minimal, if any.

In relation to the Thalidomide Trust capital payments, prior to this coming into effect in England 2018, the UK Government concluded that no additional costs to local authorities in England were expected to be incurred by moves to disregard capital payments from the Trust from social care means test. Scottish Government’s understanding is that the position is likely to be similar.

The Cabinet Secretary for Health and Sport has considered and approved a BRIA stating this amendment to the National Assistance (Assessment of Resources) Regulations 1992.