

GUIDANCE NOTE (GN 04/21): DEFINING A TROUBLES RELATED INCIDENT¹

AUGUST 2021

Background

1. Section 10(11) of the Northern Ireland (Executive Formation etc) Act 2019 (hereinafter referred to as “the Act”) defines a Troubles-related incident as “... *an incident involving an act of violence or force carried out in Ireland, the United Kingdom or anywhere in Europe for a reason related to the constitutional status of Northern Ireland or to political or sectarian hostility between people there.*”
2. The Victims’ Payments Regulations 2020 (hereinafter referred to as “the Regulations”) set out the eligibility requirements for a payment from the Troubles Permanent Disablement Payment Scheme. The Regulations define a “relevant incident” as “a Troubles-related incident determined by a panel under regulation 12(3)(b) and 12(3)(c) to be an incident in relation to which the applicant is entitled to victims’ payments”.
3. Regulation 12(3)(c) provides for applications relating to more than one Troubles-related incident and a requirement for the Victims’ Payments Board to determine to which of the incidents the applicant might be entitled to a payment.
4. In determining an application where there is a query as to whether or not an incident is a Troubles-related incident, the Panel should consider at all times the overarching purposes of the Scheme as outlined in regulation 5(6) of the Regulations: “... *to acknowledge the harm suffered by those injured in the Troubles and promote reconciliation between people in connection with Northern Ireland’s troubled past.*”
5. This guidance note sets out how the Victims’ Payments Board will consider what constitutes a Troubles-related incident.

¹ Under section 11 of the Interpretation Act 1978, terms used in subordinate legislation (i.e. the Victims’ Payments Regulations) will have the meaning they bear in the Act which confers the power to make them (i.e. the 2019 Act). This means that, as a Troubles-related incident is defined by the 2019 Act, it doesn't need to be defined separately in these Regulations as the Regulations automatically attract the definition from the 2019 Act.

Detail

6. A determination in every case before the Panel will be made as to whether an incident constitutes a Troubles-related incident as defined in section 10(11) of the Act and regulation 2(1) of Regulations.
7. The burden of proof of proving whether or not an incident is Troubles-related rests with the applicant; or appellant in any subsequent appeal against a decision of the Panel. The standard of proof is that of the balance of probabilities.
8. Each application will be considered on its individual merits and on a case-by-case basis.
9. A wide range of incidents took place during the period of the Troubles. The date parameters set by the Regulations provide for incidents on or after 1st January 1966 but before 12th April 2010.
10. In line with the definition provided in section 10(11) of the Act, a Troubles-related incident must firstly involve an act of violence or force.
11. Some Troubles-related incidents were direct acts of violence or force against the state or its apparatus. Some Troubles-related incidents were acts of violence or force carried out by or on behalf of the state. Some incidents occurred as a result of tensions between or within communities in Northern Ireland. Some injuries resulted from the commission of serious criminal or scheduled offences. Some injuries resulted not as a direct result of a criminal act, but in an incident linked to circumstances involving violence or force; clearly and directly as a result of the Troubles. It shall be for the Victims' Payments Board to decide if a particular incident involved an act of violence or force.
12. Once it has been established by an applicant to the scheme that the relevant incident did indeed involve an act of violence or force, it must then be shown that the reason for that act or violence or force was related to one of three things:
 - a) the constitutional status of Northern Ireland,
 - b) political hostility between people in Northern Ireland, or
 - c) sectarian hostility between people in Northern Ireland.

ANNEX A

Indicative list of incidents which could be considered as involving an act of violence or force for the purpose of a Troubles-related incident.

Common assault

Murder

Manslaughter

Riot

Affray

Kidnapping

False imprisonment

Assault occasioning actual bodily harm

Malicious Damage (inc interference with railway)

Wounding (with intent to cause grievous bodily harm)

Grievous bodily harm

Explosion, injured by explosive substance or corrosive liquid (with intent to cause grievous bodily harm)

Breaking prison by force or violence

Rescuing or assisting or permitting to escape from lawful custody persons other than persons under sentence of death or life imprisonment

Robbery

Aggravated burglary

Intimidation

Petrol bomb injury

Hijacking

Other act of terrorism

Criminal Damage

Arson

Destroying or damaging property with intent to endanger life

Threats to destroy or damage property

Aiding and abetting or accessory to a criminal act

Torture (physical and psychological)

Conspiracy to murder

Soliciting murder

Assisting an offender

Incitement to commit an offence or offences

Criminal coercion / racketeering

Serious sexual offences:

- Rape
- Attempted rape
- Gross indecency
- Indecent assault
- Indecent assault of/conduct towards a child

Blackmail

Threats to Kill

Poisoning