ciara murray
public information consultant
training | support | development

Matters that relate to the effective distribution of funds in accordance with the terms of the *Residential Institutions Statutory Fund Act 2012* ["the Act"]

A discussion document for submission to Caranua

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To: Mary Higgins, Chief Executive Officer, Caranua.

From: Ciara Murray, Public Information Consultant.

63 rialto cottages, rialto, dublin 8
| t: 01 454 0169 | m: 086 387 2365 | e: ciara@publicinformation.ie
ciara murray is a registered sole trader. tax registration no: 7362394I

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[Draft October 25th 2013]

1.0 Context

The purpose of this document is to set out an overview of some of the practical considerations involved in distributing funds under the terms of the *Residential Institutions Statutory Fund Act 2012* ["the Act"]. In particular, this document will consider questions in respect of the award criteria and the application process required in order that funds are awarded to the intended beneficiaries – the specified survivors of institutional abuse.

The Board of the Residential Institutions Statutory Fund has delegated executive responsibility for the distributions of funds to Caranau. In accordance with s. 7 of the Act, Caranua, has been delegated to provide the following:

> ***7***.— *(1) The Board, in a manner that promotes the principles of equity, consistency and transparency, shall*
>
> *(a) utilise the resources that are available to it in the investment account to*
>
> *(i) make arrangements with persons, whether or not they are resident in the State, for the provision of approved services to support the needs of former residents,*
>
> *(ii) pay grants to former residents in order that they may avail of approved services,*
>
> *(b) determine under—*
>
> *(i)* section 8 *whether a service is an approved service,*
>
> *(ii)* section 9 *criteria by reference to which the Board shall make a decision on an application to the Board for an arrangement or a grant,*
>
> *and*
>
> *(c) promote understanding, among persons involved in the provision of approved services and publicly available services to former residents, of the effects of abuse on former residents.*

1.1 The potential beneficiaries

To be potentially eligible for assistance from the fund, applicants for must be:

- Former residents of the Residential Institutions [as specified by the Residential Institutions Redress Act], and

- Have received an award from the Residential Institutions Redress Board or a court settlement.

The applicant may be resident elsewhere other than in the State.

Persons who received awards from the Redress Board on behalf of deceased former residents are not eligible for assistance.

Information available to Caranua indicates that the target group comprises potentially 15,000 people in the following locations:

- Most in Ireland (8,500) almost 5,000 UK
- Most older - 84% over 50 of these, 62% over 61
- In Ireland clustered in Dublin (3855), Cork (989), Galway (410), Waterford (369)
- In UK clustered in south east, midlands, north
- Small numbers USA, Canada, Australia, Europe

1.2 The fund

Caranua is a new organisation. At present the organisation has a Board and four staff including the Chief Executive Officer. My understanding is that Caranua may appoint a total of ten staff that will include four caseworkers responsible for assessing applications for assistance under the terms of the fund. The total fund available to Caranua is €110 million. This figure includes any costs associated with the operation of Caranua; staffing, administration and all costs associated with the distribution of the fund.

In view of the fixed amount of money available, it is suggested that one of the first tasks of the organisation will be to provide a breakdown of the costs associated with the administration and running of the organisation, as distinct from the budget available for distribution to the intended beneficiaries. Cost estimates should include projected publicity and information costs. Of particular importance will be the need to quantify, in financial terms, the costs associated with the organisations function under subsection 7 [1] [c] of the Act, which provides:

> *(c) promote understanding, among persons involved in the provision of approved services and publicly available services to former residents, of the effects of abuse on former residents.*

This costing exercise will be critical in order to determine the size of the fund that will actually be available for distribution in the form of grants to the intended beneficiaries. In this exercise a careful balance needs to be struck between the necessity to make services more responsive to survivors needs and the direct benefit of providing financial aid to survivors of institutional abuse. The outcome from any spending must be shown to have a quantifiable benefit to survivors.

Referring to the minutes of the inaugural board meeting, held on the 27th March 2013, the Chairperson referred to the need to:

…have the fund depleted and spent within the term of the Board. For this to succeed an efficient system would need to be in place, a criteria that would support former residents' needs would be created and a common sense approach within the law would prevail throughout the tenure of the Board.

1.3 The work to be completed

Caranua's function presents with characteristics consistent with what might be described as a small social welfare system. Its beneficiaries – survivors of institutional abuse - may be awarded grants to assist with meeting the costs of "approved" services. These are defined in s. 8 of the Act. Referring to the Caranua website, it states:

> *It* [Caranua] *can do this by ensuring that survivors are receiving statutory entitlements, adding to statutory entitlements and providing grants to individual survivors to avail of services. Assistance can be provided in the areas of:*
>
> - *Health, including mental health*
> - *Personal social services*
> - *Education*
> - *Housing*

Under the terms of the Act, the Board have additional authority to recommend to the Minister that an additional "class of service" be included as an approved service for the purpose of attracting assistance under the fund.

Caranua, and the fund it is responsible for distributing, has a fixed lifespan of four years. Within the lifetime of the organisation, Carunua's tasks may be described as including the following:

- To optimise the provision of existing state services
- To identify need not already met by state services and,
- To provide grants to beneficiaries to pay for approved services in circumstances where a need is identified

In executing the above tasks clear systems must be in place at the outset; that is, systems that specify the supports available, and the grant award criteria. In setting out the relevant operational criteria, particular attention will need to be paid to the decision making process and the Appeals Process available to applicants in the event that an application for assistance is rejected in whole or in part.

1.4 The approach

In this document I have attempted a preliminary examination the practical structural components needed to achieve the required tasks. The thoughts and any suggestions are merely a starting point.

In order to properly assess what issues will affect the proper, fair and effective distribution of the funds I have ordered my analysis into the following sections:

- Award Criteria – what are the rules?
- The Application process and the supports required
- Administrative issues

At the time of writing Caranua has already produced a draft document entitled *Caranua Scheme of Assistance for Survivors* [Draft, October 25th 2013]. This document presents an approach, including relevant structural components, and crucially identifies specific socio economic issues relevant to the intended beneficiaries. I have literally incorporated parts of this document where necessary in order to avoid duplication.

2.0 The award criteria – what are the rules?

In summary, Caranua will be responsible for in distributing funds for distinct needs or contingencies. A decision to provide assistance will in part be dictated by the impact of an award on the life of former residents. Described in the act as the:

> *…likely effect of the provision of a service on the –*
>
> *(i) health and general well-being,*
> *(ii) personal and social development*
> *(iii) educational development, or*
> *(iv) living conditions,*
>
> *of a former resident*

I suggest that under the terms of the Act an application for assistance, and a decision to award funds, will differ radically from other schemes or services administered by most state institutions. Caranua will be required to determine awards with reference to individual need, not defined scheme terms. In this regard a contrasting comparison might be made to the Social Welfare System.

In the case of a social welfare scheme, assistance is provided for a defined contingency or class of persons. The decision maker must determine if the facts and/or circumstances of an individual applicant fall within the terms of the scheme as provided for by law. The amount of assistance is fixed. Conversely, in the case of applications for assistance from Caranua there is, as yet, no defined scheme terms or fixed amount of award. s. 9 [3] of the Act does provide the Board with the authority to operate award criteria that apply to "classes" of residents, services, and circumstances. This means that the Board could, if they wished, draft specific scheme terms. However, at this time it has been agree that this is not a desirable approach. Referring to the draft document *Caranua Scheme of Assistance for Survivors* [October 25th 2013] it states:

> *Given the aims of the scheme and what is known about survivors it has been agreed that establishing a scheme of grants for survivors that they can apply for to a central decision making body will not support the achievement of our outcomes or uphold our principles. Elements in addition to a central application process and the payment of grants or contracting of approved services will be:*

In view of the above, the Board are required to develop award criteria with very little in terms of legally prescriptive terms. S. 9 of the Act does provide guidance, stipulating that the criteria for award shall consider, but not be limited to, the following:

- Personal circumstances of the applicant

- Financial circumstances of the applicant

- Assessment of the likely effect on the applicant's: general health and well being, personal and social development, educational development, living conditions.

- That a service be an approved service and meet the required minimum standards

- Requirements with regard to supporting evidence

In addition s. 9 (4) provides wide discretion in the case of the "relief of hardship" in "exceptional cases".

This framework presents challenges; rules are needed for accountability and inevitably applications will be refused and the applicant will, in accordance with s. 22 of the Act, have a right of appeal. In order to appeal the applicant must know the rules, the reasons for the refusal, and those reasons must be written and not arbitrary. This is the basis for any form of transparent and accountable administration.

However, it also must be stated that rules risk being overly prescriptive, crude in their effect by excluding potentially legitimate claims. Referring again to the Chairperson's comment that there should be "common sense within the law", the administration of the fund will ideally provide decision makers with the gift of positive discretion while at the same time ensuring accountability and consistency in any decision-making.

Carunau will no doubt wish to move quickly to begin the process of distributing the funds. I would however urge caution and careful planning before accepting any applications for assistance. I suggest that the award criteria and the decision-making framework, including the Appeals process, be articulated in specific terms before accepting applications for assistance. A careful planned approach is necessary in view of the fact that Carunua is operating under a statutory framework and any decisions may be tested in an appeals process and ultimately the High Court. It would be remiss at the very least if Caranua did not consider how their decisions might withstand challenge. Being cognisant of such a scenario should help to inform the planning process, avoid unnecessary ambiguity and ensure in the most efficient and fair distribution of the monies.

In considering what an application for assistance might look like I suggest that it could be divided into the following categories of enquiry:

- Does the applicant meet the requirements of being a "former resident" under s. 3 of the Act?

- Has the applicant proven financial need?

- Has the applicant proven that they have a need for a service?

- Has the applicant established that with assistance there will be a likely positive effect on their: general health and well being, personal and social development, educational development and/or living conditions?

- Has the applicant demonstrated that their identified needs cannot be met adequately by existing state services?

- Has the applicant sourced an approved service to meet their need, and costed the provision of that service?

2.1 Financial circumstances of the applicant - 'piggy back' another administration

The award criteria must consider the financial capacity of the applicant to meet their own needs. An applicant will therefore be required to satisfy a test of financial need – a means test.

In setting out the financial qualifying criteria, Caranua must determine:

- What is the measure of financial need for the purpose of awarding full assistance?
- Are there circumstances where a person may qualify for part assistance if their income is above the full assistance qualifying level?

Clearly the most efficient and sensible approach is for Caranua to rely on 'means testing' that has been completed by another administration as evidence of the applicant's financial need. However, in so doing, careful consideration will need to be given to those who may not be accounted for by another state entity.

- In other words, will Caranua insist that a person has already qualified for another payment or service or, will Caranua independently apply a test of financial need?

Regardless of the measure of need, Caranua will need to stipulate, in written form, the rules applicable in determining financial eligibility for assistance.

2.1.1 Means testing - The Department of Social Protection

Clearly the Master with regard to means testing is the Department of Social Protection. I suggest that by definition, a person who qualifies for a means tested social welfare payment must be presumed to have a proven financial need. Similarly, those in receipt of means tested payments from the Department for Work and Pensions in the UK should also be accepted as having a proven financial need.

I also suggest that Caranua disregard any compensation awarded to applicants by the Residential Institutions Redress Board. This approach would be consistent with that of the Department of Social Protection and the Health Service Executive in the case of Medical Cards.

Note of caution:

The Board will need to consider the likely affect of any award on a person's existing entitlement to a social welfare payment and/or the Medical Card. If awards are made directly to the beneficiary this may be assessed as "cash income". As a consequence, the person will lose the value of any grant by a corresponding reduction being made in their social welfare payment and/or, potentially a loss of their Medical Card.

Reference 19, 3rd Schedule of the Social Welfare Consolidation Act 2005 [as amended] provides the Minister for Social Protection with the authority to make regulations disregarding specific sources of income for specified social welfare payments. Article 155 of the Social Welfare [Consolidated Claims, Payment and Control] Regulations 2007 explicitly excludes monies received by way of compensation from the Redress Board.

Caranua will need to ensure that the Minister makes the necessary regulatory amendment in order that grants awarded by Caranua are excluded in the relevant means tests. Caranua will also need to obtain agreement from the Department of Health and the HSE that any grant awarded by Caranua is disregarded in the Medical Card means test.

Those in receipt of Family Income Supplement [FIS]

Family Income Supplement [FIS] is a means tested payment for those who have children and are in work on low pay. Will Caranua include this group as full financially eligible for assistance? If yes, a further amendment will need to be made to S.I. 142 of 2007 in order to exclude payments made by Caranua in the FIS means test.

2.1.2 Health Service Executive - means testing for Medical Cards

Unlike social welfare schemes, the Medical Card is a scheme with little law and great deal of discretion attached to its award. In some instances the terms of the scheme are more 'generous' than the rules pertaining to social welfare assistance. What can be said with some degree of certainty is that most, under the age of 70, who have a medical card present with a financial need.

If an applicant is in receipt of a medical card, Caranua might use this as an effective 'passport' with regard to eligibility for assistance. However, this will not capture all those in need, and will not address those residing in other jurisdictions seeking assistance.

With regard to the current income levels and means test applicable to the award of the medical card I refer you to the most recently published guidelines *Medical Card/G.P. Visit Card National Assessment Guidelines* [April 2013] available at: http://www.hse.ie/eng/services/list/1/schemes/mc/forms/assessmentguidelines.pdf

With regard to the over 70's, eligibility to the Medical Card is means tested but the test is significantly more generous than the ordinary medical card assessment. Please refer to medical card guidelines for the over 70's at: http://www.hse.ie/eng/services/list/1/schemes/mc/forms/over70assessmentguidelines.pdf

In delivering Budget 2014, the Government announced that the relevant income thresholds would be reduced for the over 70's as follows:

- €600/€1,200 per week (single person/couple) to €500/ €900 per week. The GP Visit Card will still be available to people aged over 70 with income up to €700/€1,400 per week. It is planned to have the necessary legislation in place by the end of 2013 or early 2014.

Arguably, even with the above reductions, the medical card financial test for the over 70's is not a true measure of financial need. Caranua need to decide if this group – those over 70 in receipt of the Medical Card – are deemed to be automatically financially eligible for assistance. If yes, this will have the benefit of capturing more potential beneficiaries. However, if Caranua accept this group as universally eligible, it will not be guaranteed that awards will target those in most financial need and this raises questions with regard to equity particularly in view of the fact that the fund is fixed.

Summary
Caranua will need to decide if it accepts all applicants in receipt of the medical card as financially eligible for assistance.

With a limited fund, will Caranua be able justify the provision of assistance to a person over 70 who has a medical card and income of €450 per week while at the same time rejecting an application for assistance from an applicant who has the same income but is aged 68 and not in receipt of the Medical Card?

2.1.3 Circumstances where a person may not be in receipt of means tested payments or a medical card.

Accepting that those on means tested payments and/or aged under 70 in receipt of a Medical Card have a proven financial need is a first step. Caranua must then consider all those who will have comparable financial circumstances but will not be in receipt of a means tested social welfare payment or a medical card.

Do Caranua accept the test of another state entity, or should Caranua put in place their own test financial need in order to ensure fairness in the distribution of funds.

Questions relating to potential income and household income

- A person may be in receipt of social insurance payment such as Invalidity Pension or the State Pension [Contributory] and have an additional occupational pension - how will their financial circumstances be measured?

- A person might apply for assistance in order to help meet the cost of remaining in their home. The person may present as in receipt of the Contributory State Pension with assets in the form of land. The person is in effect cash poor but asset rich. Do Caranua ignore the potential value of the asset or, do they attribute a notional value and if the latter, how will the value be decided.

- Similarly a person might apply for assistance with the cost of additional counselling services. They may not be in receipt of any social welfare payment or a Medical Card as they are reliant on their spouse who is working. The applicant might claim that her spouse does not give her any money, or her spouse will not provide the necessary information, or that her spouse does not in fact know that she was in a residential institution. Do Caranua assess the household income and if so how? Or, do Caranua reject an application in this case on the grounds that the applicant is not in receipt of the Medical Card or a social assistance payment?

2.1.4 Summary

Without rules to determine how financial need is to be assessed, there will inevitably be arbitrary and irrational decision making that will not withstand scrutiny under an appeals process. With a limited fund, Caranua need to decide if they want to capture as many potentially eligible people as possible or, do they wish limit eligibility thereby ensuring that more money is available to those in the most need.

While it may be argued that the majority of applicants will fall within the scope of existing means tested payments/services, it is the minority that will challenge any decision to reject a claim. That minority must be presented with rational and reasoned grounds for refusal.

The organization will need to articulate the relevant qualifying financial criteria. In the first instance, Caranua may quite reasonably accept that if a person qualifies for a medical card [over 70s] and/or a means tested social welfare payment they have a proven financial need. This is in effect a passport to entitlement, and the applicant may be considered potentially eligible for assistance from Caranua.

A 'passport' system in not enough for the purpose of sense, as Caranua do not want to be in a position where they reject a claim on the following grounds:

You are not in receipt of a Medical Card or a means tested payment.

If such a decision were issued this would be evidence that Caranua did not independently, as required by the Act, consider the person's individual financial circumstances. Rather, the Decision Maker chose to delegate this responsibility to another state entity. This type of Decision Making presents as blatantly unfair as the facts of the person's circumstances would not have been considered.

As stated earlier, rules may be crude and by definition will exclude people from receiving assistance. However, Caranua will have to be prepared to reject claims with a reasoned response and to do this the financial eligibility test must be written. Caranua may decide to adopt the rules of another state entity and in so doing must decide the following:

- What is the most money a person may have in order to potentially receive full assistance?
- Do Caranua consider awarding part assistance where a person has income above the set threshold?
- How do Caranua assess household income?
- How do Caranua assess assets?

Irrespective of the agreed financial 'test' Caranua will need to independently assess financial eligibility in some cases, as it cannot be assumed that an applicant will be able to show a 'passport' to entitlement. To do this Caranua must state the rules.

2.2 Assessment of need for additional services - what must be proven?

The Applicant in each case will present as an individual with individual needs and a distinct set of circumstances. In awarding any grant aid for service provision Caranua must be assured that the individual's needs have been properly assessed, quantified and costed.

There are four distinct service areas where assistance might be provided:

- Health and general well being
- Personal and social development
- Educational development
- Living conditions

In order to determine if it is reasonable to award assistance the application process must include a needs assessment. That assessment will audit existing service provision, identify gaps in service provision and identify a potential service to meet any unmet need. That service must be an "approved" service within the terms of s. 8 of the Act. Approved services fall within four distinct categories: a mental health service, a health and personal service, and educational service, and housing service [excluding rent/mortgage costs]. In addition, s 8(1)(e) of the Act provides the Board with the authority to recommend an "additional class" of service which may be approved by the Minister.

Caranua has commenced describing what an approved service might mean in practice in their document *Caranua Scheme of Assistance for Survivors* [Draft, October 25th 2013]. I have appendixed Section Four of that document for reference [page 40].

In this section I have attempted to summarise some of the practical issues that will be relevant to decisions being made with regard to awarding grants in respect of identified needs. The 'rules' will be difficult to articulate, as decisions will arguably be driven by the circumstances of the individual applicant rather than a specified class of person.

2.2.1 What is an approved service?

Do you make a list of Approved services in order that applicants know what they might able to apply for? Referring to page 16 of *Caranua Scheme of Assistance for Survivors* [Draft, October 25th 2013] it states:

Caranua expects that it will be approving services on an on-going basis and as a result is outlining a range of possible services rather than developing a prescriptive list.

The above is a positive administrative approach as it allows approval of a service to be dictated by the needs and demands of the individual, whereas a prescriptive list might unreasonably exclude a person from receiving a service. However, this approach presents distinct challenges for the applicant and the decision maker. That is, there is a burden on the applicant to effectively argue their case in the first instance, to prove their need and prove the likely benefit of the service.

In facing this burden how will the applicant know if the service they need falls within the scope of the award criteria? There will for example be many instances where the service needed by the applicant may not be regulated [a neighbour assisting with odd jobs, a family member providing care]. Will Caranua reject applications for assistance in these cases on the grounds that the service is unregulated and therefore cannot be approved or, will Caranua accept alternative verification other than industry standards?

2.2.2 What are the limits of the scheme?

The legislation does not explicitly define the limits of assistance other than requiring that a service be an approved service, and that the provision of a service have a "likely" positive affect on the recipient. This makes it difficult for Caranua to devise rules that allow for a reasoned rejection of an application.

Some needs may be self-evident and therefore more easily quantified – for example, additional supports to remain at home, while others will need to be discovered and named through consultation and interview.

As with the question of financial need, Caranua must consider what services or circumstances will be excluded from assistance on the grounds that the stated need does not fall within the terms of the scheme criteria.

With regard to health, the legislation is reasonably prescriptive. However, there is one category that could be open to wide interpretation. Specifically s.8 [1][b][vii], which provides:

A service of an ancillary nature such as chiropody, chiropody, chiropractic, occupational therapy, physiotherapy, podiatry or speech therapy

There are many services that could be described as being of an "ancillary" nature that may have a direct benefit on a person's life. How will these services be described, what

might not be considered? For example, a person may suffer from acute pain due to arthritis. Access to a sauna might help to relieve that pain and improve the person's quality of life. Such a person might be seeking assistance in order to pay for gym membership. Could this fall to be included as an approved service?

In the area of housing the legislation is vague in the extreme other than to exclude financial aid for rent or mortgage costs.

Managing expectations in this type of legal framework is challenging, as Caranua cannot easily prescribe the boundaries of the scheme. In this scenario potential applicants may choose to believe that they have a 'right' to assistance in the absence of information to the contrary. Equally, others may choose not to apply for assistance believing that the service they need may not be considered under the award qualifying criteria. These are very human responses and could potentially expose Caranua to negative criticism when applications are rejected, or in circumstances where people exclude themselves from the application process on the basis that the information describing the rules was unclear.

An example might best illustrate the points raised.

Example

A person may wish to go to college. They may be on a social welfare payment that allows them to avail of the Back to Education Allowance [keep their social welfare payment]. The applicant has to consider the practical reality of the cost of attending college, including the costs relevant to their personal circumstances. In this case the barriers to attending college may be the indirect costs associated with participating in education.

In this example, the applicant has to consider the following:

1. They will have transport, book costs etc
2. The individual in this instance is the de facto guardian of her grandchild as the child's mother is in active drug addiction. Consequently, the applicant cannot attend college unless they have financial assistance to help pay for the cost of childcare.

Will Caranua consider paying for the indirect costs associated with going to college in this case?

The Decision Maker could decide the following.

> *We are pleased to inform you that your application for assistance from Caranua has been in part successful. We accept that you have demonstrated the positive affect of availing of the education opportunity named and are prepared to assist with the cost of books.*
>
> *In order to avail of this grant aid you must provide to us confirmation of your registration and attendance at college at the commencement of the academic year. On receipt of confirmation from the College we will issue a cheque for the amount of…..towards that cost of …..[a stamped addressed envelope is enclosed for this purpose].*
>
> *We regard to your request for assistance with the cost of childcare, regrettably your application has been unsuccessful. The reason your application was unsuccessful is because childcare provision is not considered an approved service within the meaning of the ……*
>
> *If you are dissatisfied with the above decision you have a right to appeal to…….*

The above decision represents the type of letter that drives a member of the public into a state of fury and cynicism. The validity of the decision is not the issue; it is the perceived irrational nature of its content that is the difficulty. That is, in the case example the applicant has proven that she cannot attend college without childcare assistance. It follows that a decision to award a grant for books may well be pointless from the applicant's perspective. If the applicant sought to challenge the decision they will reasonably ask– What is an approved service? Why are my needs not considered eligible as I cannot attend college without additional financial assistance, I have proven this? What are the rules and where are they written?

Alternatively, the Decision maker may decide to award a grant on the grounds that the applicant in the example given should be considered for assistance as the circumstances are such that without assistance this individual will be unable to realistically further their education. A decision to award in this case would have a demonstrable positive affect on the applicant's educational development.

Another obvious example of indirect costs is the cost of transport in view of the fact that the Mobility Allowance Scheme for people with disabilities is closed to new applicants with effect from 26th February 2013. A person may wish to avail of counselling services, but cannot attend because of their disability unless they have assistance with transport costs.

Summary
There will no doubt be many instances where the proven need refers not just to the direct cost of the service, but also the indirect costs which if not met will prevent the applicant from availing of the "approved" service.

I suggest that Caranua imagine specific instances where a claim might be rejected, set out the reasons for the rejection, and then test those reasons against the Act. In doing this, the organization may then, in more precise terms, articulate the circumstances under which a person may be considered eligible for assistance. This clarity will prevent a worst-case scenario of false hope in the form of unsuitable applications.

2.2.3 Relevant professionals to provide needs assessment - a condition of award

What can be set out in the criteria for award is a requirement that an applicant has a proven need, and have named and costed the relevant service to meet that need. Practically a considerable level of consultation and assistance will be required across a

range of professional disciplines in order to properly articulate the applicant's need for a service.

As part of the award criteria Caranua will need relevant professionals to do the following:

- Assess the applicants needs
- Identify and specify gaps in existing service provision to meet those needs
- Describe the likely benefits to the applicant of receiving an additional "approved" service
- Name and cost the provision of the "approved" service.

The above tasks once carried out will present as a report that may be submitted as evidence of need together with a proposal as to how that need might be met.

Health. Referring to the area of health and personal services, applicants will need the assistance of relevant health/social professionals. This will include, but not be limited to, General Practitioners, Dentists, Public Health Nurses and Social Workers.

I suggest that as part of the criteria for award, Caranua accept a report from the health professional of the applicant's choosing providing they are suitably accredited. I am including social workers in this category, as on a practical level they should have contacts and knowledge of the relevant disciplines and service areas.

Living conditions. Applicants for assistance may be in owner occupied housing, private rented, social housing or in fact be homeless. In each case some form of assessment will be needed to articulate what additional services would be beneficial to the applicant.

I suggest that in the first instance the assistance of relevant local authority officials will be required for the purpose of assessing housing needs and potential improvements in living arrangements. Where relevant, staff within homeless services should also be able to provide an assessment of need.

Education. I suggest that the applicants themselves may provide a needs assessment in this case. The information to be supplied would include details of existing education level and a description of how a particular course might benefit their educational development.

2.2.4 Audit and exhaust services from state providers, a condition of award?

In accordance with s. 7 [3] of the Act, the Board in performing its functions, is required to:

> *……..have regard to the existence of publicly available services and the need to secure the most beneficial, effective and efficient use of the resources available in the investment account.*

"publicly available service" is defined in the Act as follows:

> *…means any service or facility of any kind provided by a public authority that is available to or accessible by the public generally or a section of the public, whether or not the service or facility is subject to a charge*;

The above provision directs the Board to "have regard" to existing services. In practice this logically means avoiding duplication of effort. However, quantifying an absence of duplication is not necessarily straightforward as there will be instances where services exist in theory but not necessarily in practice. Furthermore, a service may only meet a need in part. This is particularly the case in the current economic climate where frontline services are suffering acute resource deprivation.

In considering the requirement under s. 7 [3] of the Act the draft document *Caranua Scheme of Assistance for Survivors* [October 25th 2013] refers:

> *Caranua will not duplicate or replace any public services to which survivors are eligible for or entitled to. However, we may "top up" such services where it would make a positive improvement to the quality of life or living conditions of a survivor or improve his or her access to services.* [Page.13]
>
> Page 21 refers
> *Where an applicant receives assistance to make an application from us or one of our appointed delivery partners the process will be as follows:*
>
> - *Discussion on the person's current situation*
> - *Assessment of health needs as appropriate*
> - *Assessment of their entitlement to statutory entitlements*
> - *Advice to survivor about what their entitlements are*
> - *Advocacy on behalf of survivor with their consent to advocate with the relevant statutory body to secure any unclaimed entitlements*
> - *Development of proposal for application, including top ups*

The process as described above, if literally converted into award criteria, stipulates that a person must have completed a process of needs assessment and a service/benefit audit before presenting an application for assistance to Caranua. If it is agree that this is the process, then this must be stated as a condition; for example:

> *Before considering your application for assistance we require that you make an appointment with…..to ensure that you are in receipt of ……*
>
> *In addition, in any of the sections of service need which you have completed please make sure that it is stated what services are currently provided by the state. [e.g. HSE, DSP….Local Authority….]*

It is reasonable, if not essential, that Caranua do not fund a service that should be provided by an existing state service provider. It is also important that state service providers do not perceive Caranua as an alternative resource in order to avoid their responsibilities. The challenge in developing the award criteria and application process will be to balance the need for control while at the same time ensuring that any 'audit' of services does not serve to frustrate and unreasonably delay the application process.

For example – living conditions

A person in a local authority property wants financial assistance in order to carry out some remedial works on their home. The guttering needs replacing, the property would benefit from new windows for insulation purposes and a shower unit needs to be installed. It is likely that these works will need to be approved by the Local Authority [LA] first. Will Caranua consider the provision of grant aid in these circumstances? If yes, as part of the application process might Caranua need:

1. A report for a third party to confirm that these works will have a beneficial impact on the person's living conditions and quality of life.

2. Confirmation from the local authority that
   - [a] The LA is not responsible for the cost of a shower unit or windows
   - [b] The works as proposed are approved

3. Confirmation from the LA that the guttering is in need of repair and it is their responsibility.

4. Quotations from approved builders [3] with respect to the cost of the works

Referring to the guttering – it is unlikely that the LA will be able to commit to a time to carry out the work in view of resource restrictions and the fact that it is not an emergency. Will Caranua step in and provide assistance in this case and should the applicant get a quote from the builder to include the cost of replacing the guttering?

I have examined various tenant handbooks from different local authorities and, other than structural work, it is not necessarily always clear when the local authorities responsibility ends and the tenant's begins. Anecdotally, one Citizens Information Service CIC has reported to me that with some frequency clients present to their service having contacted the local authority with regard to essential repairs only to be advised [allegedly] that - "we have run out of money"

In a situation such as that described there is a risk that the applicant could be caught in a jurisdictional battle between Caranua and the Local Authority. If Caranua insist that LA fulfil their obligations with regard to the guttering, will this delay the other work?

Private rented accommodation

Should Caranua have a policy that they provide no assistance towards works in the case of private rented accommodation as landlords may seek to exploit the fund in order to maintain their properties? Is this a fair and reasonable exclusion?

Summary

Caranua need to balance a '0 replication criteria' with the need for expediency and the presenting bone fide needs of the applicant. If there are unreasonable delays or exclusions in the application process this may be perceived as serving the interests of an administration rather than the intended beneficiaries. This issue is in part addressed in Section 3.

The most straightforward approach is for Caranua to stipulate that any grants awarded must not duplicate the function of a state service provider or the terms of an existing private contract. For the purpose of improving living conditions no grant will be awarded in the case of works that are the responsibility of the local authority or the landlord in the case of private rented accommodation. This would be a clear rule but it may be blunt in its practical effect.

In this area Caranua need to articulate, in precise terms, the steps that are required in order that an applicant establish that they have exhausted state or other service provision. Caranua also need to consider if they will apply an exception to the general rule and if so, in what circumstances.

2.2.5 Exceptional need

s. 9 [4] of the Act provides:

> *Criteria determined under this section may include criteria, consistent with this Act, for the purpose of the relief of hardship where it is shown to the satisfaction of the Board on an application under section 20 that exceptional circumstances exist, such that criteria (other than criteria determined under this subsection) determined under this section may be disregarded by the Board in making its decision on the application.*

The above provision is a powerful legal mechanism that provides a decision maker with the authority to use positive discretion in exceptional circumstances. A comparison might be made to
s. 201 of the Social Welfare Consolidation Act 2005 which provides, in a single paragraph, a "designated officer" of the Department of Social Protection with the authority to a award a once off payment in case of exceptional need where the circumstances so warrant.

In the draft document *Caranua Scheme of Assistance for Survivors* [October 25th 2013] an initial description of what s. 9[4] might means in practice has been articulated as:

> *Circumstances where this might apply will be where there is a catastrophic event such as an accident, flooding or other emergency, where an event is life threatening or where a service cannot be accessed in a timely way and this will cause or where an event is life threatening or*
>
> [Page 23]

I suggest that the above may be unnecessary and also incorrect in its instruction. An 'exception' clause is by definition an exception to the general rule. Therefore, in order to articulate an exception you must first state the rule. The type of circumstance as described above refer to circumstances of absolute need, rather than Caranua's requirement to consider the provision of assistance in cases that fall outside the scope of the ordinary award criteria. In other words, an application may present where a person's needs are clear but the service they require falls outside the ordinary scope of an "approved service". In these circumstances a decision maker would need to consider if intervention in the form of grant aid would provide a measurable relief of hardship. Can such an award be justified as a proportionate and reasoned response to the set of circumstances before them? If yes, a decision could be made to award assistance in accordance with s. 9 [4] of the Act.

I suggest that Caranua must first articulate the main award criteria. From this position decision makers can then consider what cases might merit consideration under s. 9[4] and how might a decision be made that demonstrates a fair and reasoned response.

2.3 Summary

Caranua need to develop award criteria that stipulate in clear terms what must be proven by the applicant. These criteria will need to include:

Financial circumstances – what measure will be used to determine financial eligibility? While it may be argued that the majority of applicants will fall within the scope of existing means tested payments/services, it is the minority that will challenge any decision to reject a claim. That minority must be presented with rational and reasoned grounds for refusal.

Caranua will need to articulate the relevant qualifying financial criteria. Caranua may quite reasonably accept that if a person qualifies for a medical card [over 70s?] and/or a means tested social welfare payment they have a proven financial need, a 'passport of entitlement'. However, not all valid applications will fall in this category. A financial eligibility test must be written. Caranua may decide to adopt the rules of another state entity and in so doing must decide the following:

- What is the most money a person may have in order to potentially receive full assistance?
- Do Caranua consider awarding part assistance where a person has income above the set threshold?
- How do Caranua assess household income?
- How do Caranua assess assets?

Caranua must also consider how the awarding of grants might affect a person's existing entitlement to state benefits/services. I suggest that amendments in legislation are required in this context.

Application criteria – Caranua must stipulate what steps will need to be taken by the applicant in order to be considered for a grant? That is, will a person have to prove that they have exhausted state service provision and how will these proofs be provided?

What is required in order to establish that an applicant's need is consistent with terms of the act – that is, the "likely" benefit of an award? What third party evidence is needed?

Approved services - Consistent with work already developed, Caranua should describe types of services that will potentially attract assistance. In addition, Caranua will need to define the category of services that would not normally be eligible for consideration. In this context Caranua should consider that needs might refer to secondary costs which if not met will render assistance towards the principal service redundant. In addition the service identified may be unregulated, will assistance be considered.

3.0 The application process and resource implications

The draft document *Caranua Scheme of Assistance for Survivor*s [October 25th 2013] provides a framework for the eligibility criteria and the application process [Appendix 2, page 45]. Page 22 refers:

> *Caranua is working with a range of organisations to ensure that survivors are supported to assess their needs and to complete the application process. We would encourage applicants to consider using this support before making their applications.*

Logically the manner of application will be dictated by the agreed award criteria/qualifying conditions. Referring to the Act, information supplied by Caranua and my own thoughts at this time, it is clear that any decision to award assistance will require quite a sophisticated and time-consuming application process. In these circumstances it does not seem feasible that an applicant could make an application directly to Caranua without first making contact with a frontline service provider. This is the case simply because of what must be proven; that is, the applicant will be required to prove need, prove exhaustion of existing services, identify additional services, establish the benefit of those services and cost them.

In view of the information required in order to determine eligibility, potential beneficiaries will of necessity require assistance in completing the application process. I suggest that this process requires two types of intervention:

- Relevant professionals to verify need and quantify the benefits of additional services

- A person to coordinate the capturing of the necessary information

It follows that Caranua need to put in place an application infrastructure and corresponding instructions to potential applicants. Without this, potential applicants will simply bypass any "supports" and submit applications directly to Caranua believing that this process might be faster.

With potential scheme criteria as described thus far, I suggest that of necessity applicants must begin the application process with a frontline contact person who will coordinate and source the information required. This has resource implications, as any frontline assistance must be named and quantifiable. That is, Caranua must be able to guarantee that there will be a person on the ground that has the responsibility to provide the necessary assistance**.** Anything less than this runs the risk of being aspirational and of little practical benefit.

3.1 The intended beneficiaries

Information presented to the Board of Caranua refers to the findings of the Commission to Inquire into Child Abuse [CICA] and other sources of data as useful to provide insight into the capacity and needs of survivors. This is well summarized on pages 3-6 of the draft document *Caranua Scheme of Assistance for Survivor*s [October 25th 2013]. Issues such as a high percentage presenting with mental health problems [74%], substance abuse [38%] and high unemployment levels are all highlighted.

For the purpose of Caranua's function, I suggest that it is not only the known disadvantages of the particular group that should inform any thinking, but more particularly the fact that the intended beneficiaries have already been through the Redress process. This means that they are system veterans with all the associated weariness that comes from having already 'made their case'. Caranua, having consulted with some survivors groups referred to the following responses in the draft document *Caranua Scheme of Assistance for Survivor*s [October 25th 2013]:

> *There were strong feelings about previous experience negative experience with the Redress and Education Finance Boards which they hoped would be avoided in this scheme. In particular:*
>
> - *Some felt re traumatised by the Redress process and as if they were disbelieved*
> - *Many feel that they have been made to beg for their applications to be processed by the Education Finance Board*
> - *A number felt that the application process for the EFB was too complicated and that they just could not face going through it and that it took far too long from application to payment*
> - *A number expressed concern that cheques for courses were paid by the EFB to the education and other providers. This they felt had the effect of identifying them as a survivor.*

No scheme can guarantee ease through simplicity and efficiency if there are qualifying criteria beyond those that are universal such as the Free Travel Scheme for those aged 66 and over. In the context of the operation of Caranua the desire to be 'user friendly' is made particularly difficult because the legal framework does not provide for simplicity, as it is not prescriptive in its wording or intent. If we accept that the award criteria will of necessity require a considered application process we then need to consider the values and principles that Caranua propose to adhere to and design an application process consistent with that framework.

Page 9 of the draft document *Caranua Scheme of Assistance for Survivor*s [October 25th 2013] refers:

These principles will underpin the operation of the scheme and inform our practice in implementing it:

- *Survivors are entitled to the highest quality services*
- *Survivors are entitled to respect and dignity*
- *The needs of survivors will be at the heart of the service*
- *Survivors will be offered choice in how they engage with us*
- *The expressed needs of survivors will drive responses to them*
- *We will add to and not duplicate existing services*

In order to deliver a service that is consistent with the above principles Caranua will need clearly defined qualifying criteria and tangible application supports in place.

3.2 A single point of contact - the potential role of Citizens Information Services [CISs]

The application process will require several categories of information, the completion of a needs assessment and a state service audit. For example, an applicant may be seeking assistance with a medical matter but may also require help in the home. This process may require information from several sources in order to assess need and provide an account of existing service provision.

I suggest that the most efficient means of completing this process will be to put in place named Single Points of Contact. Their responsibility will be to do the following:

- Interview the applicant to establish their circumstances generally, and assess areas where their quality of life might be improved – the applicants needs
- Audit their service/benefit entitlements
- Source additional service/benefit entitlements not already claimed
- Establish if any of the areas of remaining unmet need fall within the scope of Caranua Scheme criteria
- Identify the type of information required to verify need, and the persons required to supply that information [E.g. Doctor, public health nurse, local authority etc.]
- Liaise with officials/professionals to source the relevant information [e.g. Refer for appointment, applicant to attend with relevant form]
- Cost any relevant services according to the criteria specified by Caranua
- Collate all relevant information for submission to Caranua.

In the current climate it is reasonable to assert that no frontline service, state or NGO, has any residual resource capacity. It follows that if Caranua want to ensure that

beneficiaries have access to supports when making applications it will be necessary to provide resources to fund the work. The work to be completed is not easy to quantify. There may be little demand initially; or the nature of the applications may not require significant 'man hours'. Regardless, applicants need certainty with regard to the application process. Anything less than this will inevitably lead to a purely aspirational level of support that in real terms will translate into cynicism and complaint.

The challenge therefore is to resource the frontline while at the same time ensuring that Caranua's overheads remain lean in order that the greatest amount of the fund remain available for distribution to the intended beneficiaries.

There are many services that could potentially be utilized but I suggest that the logical choice would be the Citizens Information Service [CIS]. CISs provide frontline information on all areas of state services/benefits; they are nationally based and are well established. There is also oversight by the Citizens Information Board [CIB]. In view of their existing role it is likely that they will be in a position to effectively 'audit' an applicant's existing entitlement to state services/benefit in order to identify gaps in service provision.

However, as with any organization, it is important to consider if existing capacity and the service delivery model are fully compatible with the requirements of Caranua. What are the service limitations and how might they be addressed?

3.2.1 Current service model of CISs

CISs are generalists, not specialists. The service is demand led and does not in the main operate on an appointment basis. This is principally because historically the service has operated on a 'once seen done' principle which means that the member of the public presenting with an issue is not usually an on-going client. In recent years there have been developments towards the provision of more comprehensive advice and advocacy services with a corresponding reliance on more paid staff rather than the historic model which relied principally on volunteers. In practical terms a CIS could be presented with a ten-minute query on the property tax that could be followed by a social welfare case requiring a full advocacy service. The ability of CISs to respond effectively to current demand varies depending on resources, expertise and competence within each local organisation.

The main record keeping system used by CISs,'Oyster,' collects data principally on the numbers of clients seen, and the categories of enquiry, rather than the substance of the problem presented and the actions taken. The CISs also have a parallel recording system for casework – that is, for queries that present as requiring on-going advice and advocacy support.

One of the strengths of the CISs from Caranua's perspective is their familiarity with state services in general and the fact that they are known to the public. This could be utilized to good effect for Caranua's purposes.

3.2.2 Resources

The draft document *Caranua Scheme of Assistance for Survivors* [October 25th 2013, page. 9] describes the approach to delivery as follows:

- *Working with and through "delivery partners" to provide opportunities for assessments and applications to be made as close to where survivors live as possible. Delivery partners potentially include GPs, PHN, CIS, SVP, local authorities. The rationale for this approach is that it will:*
  - *make help with applications accessible to survivors*
  - *provide verification of identity and address*
  - *where health professionals involved, provide a clinical assessment of needs for interventions being applied for …*

- *Offering a referral and advocacy service through our delivery partners and our office for survivors to secure their entitlements as citizens*

I can with certainty state that CISs do not have any residual resource capacity to provide the necessary client led supports that Caranua require as described above. At most, they could, as with any other area of enquiry, provide general information on the scheme, once that information is made available by Caranua. However, the award criteria to be applied by Caranua will require a service that has the capacity to manage a caseload, the degree of support being dictated by the presenting needs of the individual applicant. In this context, CISs present as a potential starting point. With additional resources invested in CISs Caranau might be able to guarantee that prospective applicants have the supports they need to effectively make an application for assistance.

If additional financial supports are not made available, Caranua will inevitably be seeking to increase the workload of CISs and others on the basis of good will and voluntarism. In this scenario Caranua's "delivery partners" would exist in name only with the result that the burden of navigating the application process will fall back to the intended beneficiaries.

3.2.3 Employment of staff – CISs as host organisations

If Caranua decide to utilize CISs, or any organization on the frontline, the approach might be to secure agreement for the organization to act as a 'host' on behalf of Caranua. A number of case officers could be employed directly by the host

organization, or alternatively they could be employed by Caranua and located in the host organization. In order to prevent any real or perceived conflict of interest it would no doubt be preferable if a person were employed by the host organization, not Caranua. Having said that it is not impossible to overcome any potential conflict if the contractual terms of employment are clear – that is, the Case Officer acts solely in the interests of the applicant, not Caranua. There would also need to be work done to ensure that there was a clear 'separation of powers'/function between the Case Officers and the Decision Makers within Caranua.

Practicalities such as physical access to office space would need to be considered as well as the physical location of prospective applicants.

I suggest that the most useful way to deal with this is to make Case Officers mobile, working on an appointment led system in different locations. Office space might be sourced from any state service provider for this purpose. For example, a CIS might have office space one afternoon per week; the Department of Social Protection may be able to offer space on another afternoon. If Caranua decide to appoint Case Officers, one of their first tasks would be to secure these practical arrangements.

The benefit of a CIS acting as a host organisation would be their ability to support the Case Officer in matters relating to state services, and also they will have the benefit of local knowledge that could be usefully employed when trying to complete a needs assessment.

3.2.4 Recruitment

I suggest that case officers be employed for a maximum of 2 years. Case Officers could be employed on 6 or 12-month renewable contracts. The number employed at any given time should reflect demand, that is, increased or decreased as the case may be.

The staff required will need to have frontline experience and knowledge of state services. Sourcing the right people within recruitment restrictions is problematic. It may be the case that some CISs have suitable existing staff working on a part time basis who might be in a positions increase their hours. It may also be worth considering the secondment former Community Welfare Officers [now Designated Officers within the Department of Social Protection] on a short-term basis. Former Community Welfare Officers have the benefit of extensive frontline experience. It is worth noting that the Money Advice and Budgeting Service [MABS] in the early stage of its establishment successfully employed Community Welfare Officers as Money Advisors.

3.2.5 Negotiating support

I suggest that what Caranua need as minimum frontline support can only be completely articulated when the award criteria are finalized. It is only in these circumstances that Caranau can, with any certainty know the supports that will be needed.

If Caranua decide to work with CISs, I suggest that localised services are handpicked and that Caranua consult and negotiate with the CISs directly the practical arrangements that would need to be put in place. In selecting CISs I recommend that Caranua consult with the relevant Advocacy Support Worker [ASWs] employed by the CIS networks.[1] Currently there are 5 ASWs employed and these individuals should have insight into the capacity of particular CISs in their region. Political goodwill is required and CISs will need to be free to articulate any obstacles/barriers to effective service provision. Before consulting with CISs directly it would be necessary to Caranua to liaise with the Citizens Information Board [CIB] in order that any action be approved as being consistent with the objectives and operation of the wider CIS network.

3.3 Cooperation and assistance from relevant professionals

Consultation and reports will be required from various professionals [Medical, State etc.] for the purpose of completing relevant needs assessments and to identify additional services. I suggest that Caranua formally consult with relevant professionals with regard to their cooperation in this regard. It would also be a function of relevant contact person, 'case officer', on the frontline to negotiate the assistance of these professionals.

Again, this raises issues with regard to resources. Will General Practitioners and others be in a position to complete a needs assessment within their current workload?

Any additional work could be alleviated to some degree by a well-designed application form and application process. If the appointed frontline contact person/case officer had properly investigated the applicant's circumstances they will be in a position to direct a relevant 'expert' to confirm and/or quantify particular information – in effect, provide instructions as to what is needed. For example an applicant may present with a health need. A medical professional may certify the existence of a condition, its treatment and likely affects but it is the full investigative work of an advocate/case officer the will reveal the totality of the affects and the associated needs. It must also be stated that many people are deferential to the medical profession, or any figure of authority, and will therefore censor what they might reveal.

[1] The ASW Programme is managed by five lead CISs in Dublin, Clondalkin CIS, Longford CIS, Offaly CIS,

In summary, assessment of need is investigative in nature and this requires skill on the part of the interviewer in order to establish trust. Once trust is established a proper line of enquiry may be pursued to identify and quantify the persons true needs. Ideally this responsibility should fall to be carried out by a case officer. It is in this informed context that an opinion/report would be sourced from the relevant third party such as a Doctor of State Official where relevant.

If this approach is taken, there should in theory not be significant resource requirements as the case officer will be doing the 'heavy lifting' and directing the relevant professional with regard to what is required in terms of detail and information to verify need.

Regardless, relevant professionals, who will be certifying need, should be consulted in order to ensure - (i) that they are informed with regard to what will present to them and (ii) that they have the opportunity to raise any concerns with regard to obstacles and/or resource issues.

In addition, as part of the application process Caranua will need to access data from state service providers. Caranua will need to ensure that the relevant administrations are properly briefed and ready to cooperate in this process.

3.4 Summary

Caranua need to identify and provide the relevant frontline supports necessary to ensure that the intended beneficiaries are effectively supported through the application process. I have suggested that selected Citizens Information Services [CIS] be considered as a first point of contact for potential applicants.

Fully developed qualifying criteria should properly inform the planning and implementation of the necessary frontline supports. The conditions of award will in effect reveal what is needed to complete the application process.

Caranua need to consider providing the necessary funds in order that Contact Persons/Case Officers are employed to provide the supports that applicants may need. I suggest that without additional human resources, Caranua cannot reasonably expect that there will be sufficient capacity and cooperation within relevant frontline organisations ["delivery partners"] to guarantee support to prospective applicants.

Caranua need to negotiate cooperation from relevant service providers. All parties to any new scheme need to know its purpose and requirements. Contact with relevant entities will serve the dual purpose of providing information as well as the opportunity to negotiate the mechanisms/supports necessary to avoid obstacles to the application process.

4.0 Governance and administration

In this section I have briefly considered a few of the practical administrative issues that should be examined in addition to the task of actually processing applications and making decisions. In particular, Caranua need to determine how monies are paid and what control mechanisms need to be put in place when making those payments.

4.1 Control provisions

As with any administration, particularly one that governed by a legal framework, there need to be control provisions in order to properly account for decision making and the spending of any monies.

Referring to the Board itself, there is an obligation to deliver Annual Reports to the Houses of the Oireachtas and its activities are subject to the Freedom of Information Acts, scrutiny by the Office of the Ombudsman and ultimately the High Court.

In view of this legal framework the organization needs to proceed with absolute transparency, and staff need to be aware that every record made will be potentially discoverable by an individual in the course of an appeals process and/or by a body should they make a request. This framework serves to enforce the need for clarity at the commencement of the organisation's activities in order to avoid any accusation that the administration is arbitrary, irrational or unfair in its decision making. One error could acquire significance beyond any legitimate scope if the organisation appears less than fit for purpose.

4.2 Paying grants

With regard to the intended beneficiaries, the Act is clear in its requirement that beneficiaries spend any monies received "solely" on the service for which it was intended [s. 20 [6]]. In paying out grants Caranua can choose to pay the money directly to the beneficiary or to the service provider.

One of the issues highlighted by Caranua following consultations with survivors groups was that of privacy, the desire not to be identified as a survivor [page 6, *Caranua Scheme of Assistance for Survivors* [Draft, October 25th 2013]]. This issue is reasonable and in the main I suggest that it is preferable that money be distributed directly to the beneficiary. Payment directly to the beneficiary may also have the added benefit of preventing services from potentially exploiting the fund. In other words, beneficiaries can negotiate costs with service providers in the same way as any other buyer without the risk that a service might inflate the price knowing that there is grant aid available.

If monies are paid directly to the beneficiary, Caranua need to consider what control mechanisms will need to be put in place to ensure that the monies are spent solely on the service for which the money was granted. Will Caranua require that recipients submit receipts? Will Caranua impose sanctions in the case monies not spent for the purpose they were intended?

These issues are not easily decided but they must be named and administrative rules articulated and communicated to the intended beneficiaries.

Practically, it may be that beneficiaries should be provided with a choice wherever possible.

Caranua need to also make practical arrangements for periodic payments. That is, the manner of payment will need to reflect how the person avails of the service. If a beneficiary is paid by way of a lump sum it will be difficult to budget and account for this money on an on-going basis.

4.3 Unregulated services

In practice many of the supports required by beneficiaries will be unregulated. A few have already been highlighted by Caranua following consultation with survivors groups - "Low level help around the house such as cleaning rubbish from the garden*".* [Page 6*. Caranua Scheme of Assistance for Survivors*. Draft 25th October 2013]. It is also the case that in more regulated areas of support, such as home help and nursing supports, people may wish to use an unregulated service as being more suitable to their needs, for example a neighbour or family member. How people manage, and choose to manage, is governed not only by money, but also by the very practical limitation of existing service provision in both the public and private sector.

In view of the above, Caranua need to consider if they will facilitate unregulated service provision and if so how might this be achieved in a manner to as to ensure an adequate level of accountability. This might be done by way of an effective 'statutory declaration' being submitted by the service provider in conjunction with a report by a 'case officer' to verify the bone fides of the service provider.

4.4 Sustainability

Unless a need is of a fixed duration the benefits of any grant aid will be time limited. Sustained support cannot be guaranteed, as by definition an application for assistance is a statement reflecting the absence of a sustainable support. In this context, any decision to award assistance should be mindful of the risk of harm when financial aid is

no longer available. It will be necessary to ensure that there is review and monitoring of the effect of the grant provision and planning for the date when payment will stop. Most importantly there must be clear communication with beneficiaries with regard to the terms of the award.

4.5 The Appeals Process

In accordance with s. 21 of the Act, the Board are required by law to put in place an Appeals Process. Decisions by an Appeals Officer/s must be made in accordance with fair procedures with proper regard to the law and any relevant administrative rules pertaining to the decision. An Appeals Officer must make any decisions independently.

The requirement for an appeals process is mandatory. For an appeals process to have any standing the rules applicable to any decisions must be stated. In this I have come full circle in my thinking. Caranua must internally articulate the award criteria and test those criteria in a fictional appeals setting. I suggest that any information that is disseminated to the public must include information relating to the right of appeal. This will need to be communicated as soon as the organisation is in a position to invite applications for assistance.

I suggest that Caranua do not accept applications without first publishing the rules and the process of appeal. If Caranua accept applications too early, and publish information after the fact, they risk exposing themselves to an accusation of prejudice when examining the earlier or later application – that is, 'moving the goalposts'.

4.6 The potential contents of an application form

The following is an outline of how an application form might be structured based on what I have written in this document.

Section 1 Personal Information

Name, date of birth, address, PPS no, telephone contact, email contact, appointed third party advocate/case officer where relevant.

Section 2 Financial information

Questions relating to current medical card entitlement and or social welfare entitlement Other sources of income, assets, income of spouse etc.

Cross reference Caranua rules on income

Perhaps include a section on current debt liabilities and questions relating to MABS referral.

Section 3 Living arrangements

Numbers living in house
Rented, Local Authority or private
Cost of accommodation

Section 4 Needs assessment [To be completed by caseworker in consultation with applicant]

Introductory paragraph to explain that an application may be made for a single category of need or multiple categories.

This assessment would be competed by the applicant and case officer. This would then be followed up with a request for a report from Doctor or other health professional to verify and elaborate where necessary.

The caseworker to set out a full summary of the applicants presenting needs and provide an account of likely benefit of increased service provision. The case worker will need to source and refer to any relevant third party evidence and confirm that he/she has conducted a full audit of existing services and can confirm that that applicant has claimed all state services/benefits to which he/she may be entitled to.

Part 1 Health and general well being

- Section inviting applicant to describe their current health; physical and mental
- Section providing opportunity to set out areas where more services would be of benefit and why
- Section setting out current state service provision being availed of and where needs are currently not being meet

Part 2. Education

- Information relating to applicants level of education and a section inviting the applicant to set out any areas of further education which might be of benefit to them.

Part 3 Living arrangements

- Practical issues relating to current living arrangements
- Areas of improvement/need
- Either the caseworker or relevant official would need to visit the applicant's home to verify applicant's statement [witness].
- Cost of additional service end evidence.

Section 5 To be completed by relevant professional [detachable from the main form and in sections relevant to need area - living, medical etc.]
[e.g. GP, housing officer, social worker etc.]

A letter should be submitted by the Case Officer to the relevant professional outlining what needs have been identified, and a request for a report to verify, clarify and supply specific information relevant to that need. You are seeking the 'opinion' of the professional.

This section the form would need to be structured in order that the relevant professional knows what is required.

The relevant professional would be required to sign and date the relevant section.
For example: a letter might be written to a Doctor as follows:

> *Ms. …is a client of our service and has sought our assistance with regard to seeking grant aid from Caranua, the state agency responsible for the distribution of funds to survivors of institutional abuse. Grant aid may be provided in order to help meet the cost of services that are not currently provided by the state or where state services are not considered adequate to meet the person's needs. Services may include….*
>
> *In Ms…..case she has advised that she suffers from……and that you are her treating physician. Ms….has advised in the course of consultation that ……would improve her ability to cope with this condition and improve her quality of life.*
>
> - *In writing this letter we are seeking the following:*
> - *A brief outline of Ms….presenting health issues, treatment and prognosis*
> - *Your opinion with regard to the likely benefit to our client if she avails of….and any information regarding alternative services if relevant.*
> - *Confirmation that availing of x service would not be contrary to any medical advice with regard to our client's on going treatment*
> - Any other information you consider relevant to our client's application for assistance to avail of additional services

We have enclosed a form for this purpose and an authorisation from our client.

Feel free to contact me directly with regard to the matters outlined.

Section 6 Service provider

Who what and how much – quote supplied by service provider

Section 7 Any other matters that may be relevant to the application

Section 7 Evidence/Supporting documentation checklist

Section 8 Statutory declaration to be signed and dated by applicant and case-officer.

Appendix 1

Extract from *Caranua Scheme of Assistance for Survivors.* [Draft October 25th 2013]

Section four: Approved services

4.1 Introduction

This section outlines the range of services that survivors will be able to apply for. The range of services – health, education and housing - has been defined in the legislation and this was the starting point for agreeing "approved" services. In addition the views of survivors and such evidence as was available on what works in improving quality of life and wellbeing has been taken into account.

4.2 Quality of life and wellbeing

There is a large body of work on wellbeing and quality of life which emphasises the influence of psychological wellbeing on general health and wellbeing. Good mental health is related to being active, being socially connected and making a contribution. The current government health strategy -*Healthy Ireland – A framework for improved health and wellbeing 2013-2025* – provides a definition of health and wellbeing:

'Health means everyone achieving his or her potential to enjoy complete physical, mental and social well-being. Healthy people contribute to the health and quality of the society which they live, work and play. Health is much more than an absence of disease or disability, and individual health and that of the country, affects the quality of everyone's lived experience. Health is an essential resource for everyday day life, a public good and an asset for health and human development.

Well-being is an integral part of this definition of health. It reflects the quality of life and the various factors which can influence it over the course of a person's life. Well-being also reflects the concept of positive mental health, in which a person can realise his or her own abilities, cope with the normal stresses of life, work productively and fruitfully, and be able to make a contribution to his or her community. Consideration of health and well-being requires a shift in focus from what can go wrong in people's lives, to focusing on what makes their lives go well.' (2013:9)

4.3 Staying at home

The aim of interventions in this range of services is to ensure that survivors are *safe, warm and secure at home.* Eligible services will include those that help people to stay in their own homes and to be safe, warm and secure in them. Broadly these will include personal support services, home improvements and minor repairs. Specifically these include home help, tenancy support, befriending, assistive technology, house alarms, personal alarms, locks, ramps, grab rails, stair lifts, accessible bathrooms, insulation, draught proofing and heating systems; house painting, garden clearing and minor repairs.

Interventions that will not be eligible will be income related or ongoing expenditure such as rent, mortgage, rates or arrears; redecoration, extensions, new furniture or carpets and structural work on private rented housing.

4.4 Connection and participation

The aim of interventions in this range is to encourage and support an active life and community participation; and connection with family, friends and life. Eligible services will include: provision of payment for membership of clubs, groups and activities (active retirement, exercise, lessons); top ups for better quality wheelchairs; local travel to attend activities and social outings; contribution to travel to connect with first order relatives; family tracing and Genealogy.

Interventions that are not eligible will be funeral costs and repatriation of remains; accommodation and travel for people visiting Ireland and relocation costs.

4.5 Being healthy physically and mentally

The aim of interventions in this range is to encourage survivors to pay attention to their health and to improve their access and take up of health and treatment services. Particular attention will be paid to people with complex needs. Eligible services include: Counselling, psychotherapy, stress and behaviour management and assessments for psychological treatment; assessment for addiction treatment and contribution to treatment; ear and eye tests and top ups for spectacles and hearing aids; minor elective day surgery, dental assessment and treatment, complementary therapies and massage, chiropody, physiotherapy, occupational therapy

4.6 Learning and development

The aim of interventions in this range is to improve access to further education and encourage participation in skills development by survivors. Eligible services will include: Courses leading to recognised qualifications and evening, adult education and other course available through education authorities.

4.7 Approval of services

Appropriate services to enhance the health and wellbeing of survivors will be variable and many will be approved in advance. However given the complex needs of many survivors it is likely that approval of services will be an ongoing process as new situations are presented. To be "approved" services must meet a range of specified standards which are set out here.

Caranua Scheme – Standards for Approved Services

Caranua is committed to working positively with service providers to ensure that survivors of institutional abuse are enabled to access the necessary services to improve their quality of life in a timely way.

Caranua will not duplicate or replace any public services to which survivors are eligible for or entitled to. However, we may "top up" such services where it would make a positive improvement to the quality of life or living conditions of a survivor or improve his or her access to services.

Caranua cannot approve services which fall outside the categories outlined in the Residential Institutions Statutory Fund Board Act, 2012 namely, Participation & Connection, Being Healthy, Staying at Home and Lifelong Learning and Development.

Caranua has developed the following principles relating to the standards of operation of service providers:

- Services will be person-centred and needs-led
- Services will be holistic
- Services will be non-discriminatory
- Services will be bound by confidentiality and non-disclosure of survivors' information without their consent unless in the case of child protection or elder abuse concerns
- Services will comply with all statutory requirements relating to their area of responsibility

- Services will be aware of the special needs and requirements of survivors in their dealings with them and ensure that they are treated with respect and dignity
- Service will agreed to provide information to Caranua to allow for monitoring and evaluation of their service delivery
- Services will be transparent and effective in their decision-making and ensure that provision is made in the most cost-effective way

In order for services to become approved services with Caranua, they will need to meet the following minimum standards:

- Membership or registration with the appropriate recognised professional body in relation to the delivery of any professional service
- Evidence of meeting the national standards, quality assurance schemes and guidelines for the relevant sector
- Adequate professional indemnity and public liability insurances must be in place
- Possession of a current tax clearance certificate
- Willingness to sign a service contract with Caranua for the provision of services to survivors

Caranua may alter or amend these minimum standards on the basis of an exceptional request for services from survivors. Where a service is provided outside of Ireland, the same standards must be met in the country of operation of the provider.

Services should be aware that Caranua will be imposing limits for individuals benefiting from the fund and so it is possible that Caranua will make top-up or part-payment for certain service provision.

Caranua may advertise for expressions of interest to create panels of service providers for certain classes of provision which are likely to experience high demand from applicants e.g. personal health services. In order to be considered for inclusion on a panel a service must meet all the standards above.

Caranua will approve services under four categories:

Participation & Connection
Caranua interprets this to mean that survivors are supported to achieve their potential to enjoy complete mental and social well-being. Well-being reflects the concept of positive mental health, in which a person can realise their own abilities, cope with normal stresses of life, work productively and fruitfully and be able to make a contribution to their community (*Healthy Ireland, 2013*).

Examples include in-patient treatment, counselling, psychotherapy, addiction and alcohol services, behaviour modification programmes, psychological assessments, etc.

Being healthy physically and mentally
Caranua interprets this to mean that survivors are supported to achieve their potential to enjoy complete physical and mental wellbeing. Health is more than an absence of disease or disability and its affects the quality of life for the individual. Health is an essential resource for everyday life (*Healthy Ireland, 2013*).

Services include:

- A general practitioner, medical or surgical service provided by a registered medical practitioner in relation to all medical conditions
- A hospital treatment service
- A Pharmacy service including provision of drugs, medicines, medical or surgical appliances
- A nursing service provided otherwise than in a hospital
- A service to assist in the maintenance at home of a former resident who is sick or infirm and who, but for the provision of the service, would require to be maintained otherwise than at home
- Dental, ophthalmic or aural treatment service; including provision of a dental, ophthalmic or aural appliance
- A service of an ancillary nature such as chiropody, chiropractic, occupational therapy, physiotherapy, podiatry or speech therapy

Learning and development
This includes both formal education and opportunities for personal and social development. Examples of these opportunities could include exercise, club membership, meditation, music or art therapy, driving lessons, survivor specific events, etc.

Staying at Home
Services that will enable survivors to live in well-maintained, warm,safe and secure homes, which are suitable to their physical and social needs (*National Positive Ageing Strategy, 2013*). Examples include insulation, draught-proofing, adaptations, alarms, minor repairs, bathrooms.

Caranua expects that it will be approving services on an ongoing basis and as a result is outlining a range of possible services rather than developing a prescriptive list.

Appendix 2

Extract from *Caranua Scheme of Assistance for Survivors.* [Draft October 25th 2013]

Caranua Scheme – Criteria for Applicants

Caranua is committed to supporting survivors of residential institutional abuse to access those services outlined in the Residential Institutions Statutory Fund Board Act, 2012 which will have a positive impact on their quality of life and living conditions. The overall aim of Caranua is to enhance the health and well-being of survivors, in whatever circumstances or country they now live.

All information that is provided to Caranua through the application process will be treated confidentially and will only be used by Caranua.

Applications may be made directly by survivors or by others (family member, key worker, etc.) on their behalf with their consent.

Caranua is working with a range of organisations to ensure that survivors are supported to assess their needs and to complete the application process. We would encourage applicants to consider using this support before making their applications.

The process of application will be "person focused" and "needs led". As a result, eligibility will be determined based on the following criteria:

- Applicant is in receipt of an award through the Residential Institutions Redress Board or the Courts
- Applicant has provided the required information to Caranua to allow us to check details against Redress Board or Courts information
- Applicant has applied for assistance for an approved service i.e. Participation &
- Connection, Health, Home and Lifelong Learning
- Applicant has shown how the service will have a positive impact on their quality of life or will add value to an existing service
- The service applied for is for the survivor and not any other person
- Applicant is not currently eligible for or entitled to the service
- Applicant can prove their identity (through documentation or verification by a recognised official)

Applicants are made aware that limits will apply to the level of support that Caranua can make to any one person through this Scheme. These limits are XXXX
Applications can be made for any or all of the services outlined above.

Caranua may choose to prioritise applications based on the following:

- Age of applicant
- Disability
- Chronic health conditions
- Living circumstances (e.g. living alone, resident in a hostel, etc.)

As a result, it will be important that you fully complete the sections of the application form relating to personal information.