

Criminal Injuries Compensation

RELEVANT GUIDANCE

[A Guide to the Criminal Injuries Compensation Scheme](#)

[House of Commons Library Briefing Paper: Criminal Injuries Compensation for Victims of Child Abuse](#)

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1. The Criminal Injuries Compensation Scheme

The scheme deals with injuries suffered in Great Britain only (England, Scotland and Wales). Northern Ireland has its own scheme.

Compensation may be paid by the Criminal Injuries Compensations Authority to the victims of crimes of violence, including the close relatives of any person who has died as the result of a crime of violence. The definition of a crime of violence includes both sexual offences and physical assault, as well as arson, poisoning, the deliberate use of an animal or motor vehicle as a weapon etc.

The Local Authority has a responsibility to look after the best interests of the children in its care. This includes making an application for compensation where appropriate. On reaching the age of 18 years, a successful claimant may be credited with a substantial amount of money (usually several thousand pounds). Although any amount of money will not fully compensate for the abuse or other harm suffered by the child or young person, compensation may at least provide some financial security. Where the child is not the subject of a [Care Order](#), responsibility for making an application rests with their parent or other person with [Parental Responsibility](#), who should be advised to take appropriate advice. They may wish to consult a solicitor, or free advice may also be available from organisations such as [Victim Support](#) and [Citizens Advice Bureau](#).

Time Limits

Generally, applications will only be considered within 2 years of the incident which caused the injury.

Applications may be accepted outside this 2-year period only if, because of the particular circumstances of the case, it is reasonable and in the interests of justice to do so.

Applications will not be considered for injuries caused before August 1964.

In the case of family violence, compensation is payable for incidents occurring on or after 1st October 1979.

- An application for compensation must be made within two years of the incident which caused the injury. Where there were a series of offences, this time limit runs from the date of the most recent incident. The Criminal Injuries Compensation Authority may, however, waive this requirement where 'it is reasonable and in the interests of justice to do so', e.g., if the injury was not apparent until sometime after the incident. In cases involving child abuse, the scheme will generally accept late applications if:
 - They are made on behalf of children, (or are made by children themselves within a reasonable time of reaching the age of 18); and
 - It seems likely that the scheme will be able to find enough supporting evidence to make an award.

It is not necessary to wait until someone has been convicted of an offence before applying for compensation.

Delay in submitting an application should be avoided to ensure the application is not refused because it exceeds the time limit.

Application Conditions

The application forms can be filled in on line at the [Criminal Injuries Compensation Authority website](#).

The conditions for making an application are:

- that the applicant has suffered a physical or mental injury;
- that the injury was sustained in Great Britain;
- that the injury arose directly from a crime of violence, or an attempt to prevent an offence or an attempt to catch an offender;
- that the injury was serious enough to qualify for the minimum award payable under the scheme (£1000 at the time of writing);
- that there is no likelihood that the person who caused the injury would benefit from any award.

Mental injury means a medically recognised psychiatric or psychological illness. Where mental injury is present without physical injury, compensation is not payable unless:

- the applicant was put in reasonable fear of immediate physical harm; or
- A person with whom the applicant had a close relationship sustained a physical injury due to a crime of violence and the applicant witnessed it or was closely involved in the immediate aftermath; or
- the applicant was the non-consenting victim of a sexual offence.

Claims are assessed on the basis of the balance of probability rather than on proof beyond reasonable doubt. There may therefore be cases when compensation is payable although no-one is to be prosecuted for the offence or the alleged offender has been found not guilty.

There are further conditions if the victim and the offender were living in the same household as members of the same family at the time of the crime. These are:

- In the case of violence between adults, that the applicant and the offender stopped living in the same household before the applications and are unlikely to do so again. This does not apply if the victim was a child, but in this case the Criminal Injuries Compensation Authority will take particular care in satisfying itself that the offender will not benefit from any award and that making an award will not act against the child's interests.

The Applicant

An application for compensation should be made by the victim of the offence. If the victim is under the age of 18, the application must be made by an adult who has [Parental Responsibility](#) for them. If the victim is the subject of a [Care Order](#), the Criminal Injuries Compensation Authority will expect any application to be made by the Local Authority named in the order (See [Section 2, Application Procedure](#)). In all other situations application should be made by a person who holds parental responsibility for the child, even if the child is accommodated by the local authority. Hull Children, Young People & Family Services (CYPFS) has no power to apply on behalf of a child who is not in its care.

Calculation of the Award

At the time of writing, the Criminal Injuries Compensation Scheme is based on a tariff. Various injuries are assigned to a series of tariff levels. Each level has a tariff payment assigned to it. If the victim suffers two or more separate injuries, the award is calculated as the tariff value for the highest related injury and a percentage of the second and third highest.

The tariff levels include an element of compensation for shock. Shock also appears on the tariff, assigned to several levels, depending on the length of time for which symptoms persist. If the effect of the shock is such that it would fall into a higher tariff band than the physical injury, then the award for the shock will be paid rather than the award for the injury.

Compensation can be withheld or reduced if the applicant has unspent convictions, even if they have been blameless in relation to the incident giving rise to the claim. Reduction depends on how recent the conviction was and its severity.

The compensation payable by the Criminal Injuries Compensation Scheme is generally lower than the amount of compensation payable if the claim is pursued as a civil claim. The Criminal Injuries Compensation Scheme exists as a safety net for victims of any crime of violence to receive some compensation. If the injuries arise in rare circumstances where the perpetrator has funds or assets consideration must be given to pursuing a civil claim for compensation. Legal advice will need to be taken if necessary. Even if a civil claim is pursued, the application for Criminal Injuries Compensation can still be made (and should be done to avoid the time limit expiring) – any repayments to the CICA can be made as appropriate if the civil claim is successful.

Injuries resulting in death

If the victim has died as a result of injuries received in a crime of violence, application may be made for a "fatal award". In this case the Criminal Injuries Compensation Authority may make an award even if the victim received an award whilst they were alive. Application for fatal award may be made by:

- The victim's spouse or civil partner. They must either have been living together in the same household at the time of the deceased's death, or, if not living together, this must have been because of ill-health or infirmity;
- The unmarried partner of the victim, if living together as husband and wife or as partners of the same sex (although not registered under the Civil Partnership Act 2004), at the time the victim died and for at least two years before that;
- The victim's parents, including anyone they accepted as a parent,
- The victim's children, including anyone who was accepted by the victim as a child of their family and who was dependent on the deceased for parental services. 'Child' includes adult children and an unborn child of the deceased, conceived before they died and born alive after they died.

2. Application Procedure

The application forms can be filled in on line at [Criminal Injuries Compensation Authority website](#). The Criminal Injuries Compensation Authority is based at: Tay House, 300 Bath Street, Glasgow G2 4LN.

In order to avoid delay in the processing of compensation applications, the supporting evidence (e.g., medical reports, police statements and school reports) should be submitted with the application. In addition to speeding up the processing of the application it enables the child's social worker to gather the information rather than have another agency make enquiries into the child's life at what is often a very sensitive time.

Consideration should be given to making an application in respect of any child who:

- Is in the care of Hull CYPFS and
- Has been the victim of a crime of violence.

In all other cases, responsibility for making any application rests with the child's parents or other person with parental responsibility, who should be advised to obtain appropriate advice. This may be available from organisations such as [Victim Support](#) and [Citizens Advice Bureau](#). They may also consult their solicitor, although they should be advised that there will be cost implications of seeking paid representation.

In respect of children who have become looked after following the issue of proceedings, but for whom the final outcome is a special guardianship order or child arrangement order, any application for criminal injuries compensation would need to be made by a person with parental responsibility conferred by the order. In these circumstances, the potential qualification for an award of compensation should be carefully considered during the proceedings and reflected in any post-order support plan. In these circumstances, post-order support workers should provide advice and assistance to the person with parental responsibility to make application.

Social workers and child protection conference chairs should also be mindful that children subject of child protection plans may have been the victim of physical or sexual assault and may be entitled to compensation. The circumstances should be considered carefully, since applications can only be made by a person with parental responsibility. There may be circumstances where the perpetrator of the abuse does not have parental responsibility for the child and/or will no longer play a role in caring for the child and an application for compensation is in the child's best interests. In these circumstances, a person with parental responsibility should be provided with advice.

It should be noted that the responsibility for deciding whether to apply in relation to children subject of a care order rests with Hull CYPFS. The child's social worker should seek legal advice and, in any case where it is considered that an application should NOT be made, this decision should be endorsed by a group manager. Any such decision should be recorded on the child's record.

The potential for a child looked after to be entitled to criminal injuries compensation should be carefully considered during proceedings. For example, it should be considered by independent reviewing officers and at scrutiny forum, so that clear plans are put in place for an application to be made once a care order has been made, or as a part of any post-order support plan in respect of children who become subject of an SGO or CAO at the conclusion of proceedings.

Where appropriate, the views of the child and their parents and carers should be sought. The child's parents should normally be told of the intention to apply for compensation, but with due consideration of the potential sensitivity of the issues involved. The social worker and team manager will discuss:

- When to tell parents;
- How much detail to give; and
- Whether to keep parents informed of the progress of the application and the amount of any award.

These decisions will be made in the light of the child's [Care Plan](#), with the assumption that the parents should be told as much as possible unless this would act against the child's welfare or would be likely to cause [Significant Harm](#) to another person.

In any discussion with the child's parents, the social worker should give clear information about the unusual arrangements for the administration of any award and about the need to assure the Criminal Injuries Compensation Authority that the person who caused the injury will not benefit from any award. It should be stressed that, if the compensation is paid, it will not be immediately handed over to the child as spending money.

If the decision is that compensation should be applied for, when a s31 [Care Order](#) is made the social worker will request reports (or permission to use reports which are already on the child's file) so that a claim can be made on behalf of the child. Whenever possible the following reports should be sought (there are standard letters requesting each of these):

- **Medical and/or psychological reports** covering the first examination of the child, the consequences of the abuse, the child's current condition and prognosis. If a medical report is written specifically for the application the Department will offer a fee in accordance with the BMA scales. This fee will be reimbursed by the Criminal Injuries Compensation Authority. The Police Surgeon's report is normally supplied by the Police, free of charge;

- **Police Reports** on their involvement and the outcome of any criminal proceedings, including witness statements. If there has been no conviction it will be helpful if the Police give an opinion as to how genuine the complaint is. It is Police policy to destroy reports after three years so, if a Police report which is more than three years old is on the file, a copy of the report should be enclosed with the letter asking for the consent of the Police to release it to the Criminal Injuries Compensation Authority;
- **School Report.** The head teacher should be asked to provide a written assessment if the child's educational progress or behaviour at school is felt to be relevant to the application;
- Any other reports relevant to the application.

N.B. If any report was prepared for Court proceedings and has been filed with the Court, it must not be disclosed without the consent of the Court.

When the reports have been received, the social worker will write a report setting out the facts of the claim. Guidelines for this report are set out below.

The following papers make up the supporting evidence in support of the application (the application is made online):

- A copy of the child's full birth certificate;
- A copy of the Care Order;
- Police reports;
- Medical reports;
- School reports;
- Social worker's report;
- Any other relevant reports;
- A covering letter stating what evidence is being provided and indicating that all correspondence relating to offers of awards should be addressed to the Head of Service.

Once the papers have been collated, the social worker should forward them for legal advice. The covering letter should then be signed by the Head of Service.

The Social Worker will [apply online at the GOV.UK website](#).

3. Guidelines for Social Worker's Report to the Criminal Injuries Compensation Authority

The following information should be included in the social worker's report:

- The child's name and date of birth;
- Family details and relationships;
- A brief family history;
- A brief history of the child to date;
- The child's present circumstances and a pen picture of the child;

- The child's circumstances at the time of the injury;
- The action taken;
- Whether or not prosecution took place and if not, why not;
- The dates and places of any medical examinations, psychological or psychiatric assessments, education reports and any other relevant reports. Indicate which of these are to be enclosed with the application;
- If appropriate, the child's view of the injury. This child may wish to write about this themselves;
- The parents' and carers' view of the injury;
- An estimate of the present and future effect of the injury on the child in terms of their physical, emotional and psychological state, relationships, health, mobility etc;
- Future plans, including the prospect of the child being re-united with the offender;
- Any other relevant information.

The report should be typed in double spacing, with numbered paragraphs. Copies should be retained for the child and for the file.

4. The Criminal Injuries Compensation Authority's Response

The Criminal Injuries Compensation Authority will either:

- Make an offer, giving reasons for any reduction in the award; or
- Reject the application giving reasons.

On receipt of the response, the social worker will forward a copy to legal services for advice after which the team manager will decide whether to accept the award.

5. Accepting a Payment

If this offer is accepted, the Head of Service will:

Sign the form accepting the offer and return it to the Criminal Injuries Compensation Authority (note that the form may also require the child's signature).

The acceptance form must be completed and returned within 56 days of it being sent. If it is not returned within 56 days, and no written request has been made for a review, a payment will not be made.

6. Review and Appeal

6.1 Reviewing Decisions

If the advice of legal services is that the response of the Criminal Injuries Compensation Authority is not acceptable, the group manager will apply for a review. Staff should be aware that:

- A written application for a review must be made within 56 days of notification of the original decision, using the review form sent with the decision. The Criminal Injuries Compensation Authority may extend this time limit if there are exceptional circumstances which mean that you could not have complied with the time limit. A request for an extension can be made even if the first 56 days have passed;
- Late applications will only be considered if this is in the interests of justice;
- On receiving the application for a review, a different claims officer will review the original decision. The review decision can be more or less favourable than the original decision, or the original decision may be unchanged.
- This then becomes the authority's decision, and it is not possible to go back and accept the original offer;
- Any additional supporting evidence should be enclosed. Legal services will advise about any further documents which should be submitted with the application;
- The Criminal Injuries Compensation Authority will consider the application and give a decision in writing. There is no requirement to attend the review;
- On receiving the decision of the review, the group manager will seek the advice of legal services without delay about whether an appeal should be made against the decision. The time limit for appeals is 90 days from notification of the review decision;
- If the review decision is accepted, the head of service will confirm the acceptance in writing to the Criminal Injuries Compensation Authority;
- If the review decision is not accepted, an appeal may be made.

6.2 Appealing Decisions

If the review decision is not accepted, an appeal may be made.

A review decision can be challenged by appealing, within 90 days of the date of the review decision, to the [First-tier Tribunal \(Criminal Injuries Compensation\)](#). An appeal form will be sent with the review decision. The form and supporting evidence should be sent to:

HMCTS

Glasgow Tribunals Centre

20 York Street

Glasgow

G2 8GT

The head of service will decide whether to appeal on the basis of advice from legal services about reasons for appealing which are likely to be acceptable to the Criminal Injuries Compensation Authority. The social worker must fill out the appeal application setting out in detail the reasons why Hull CYPFS disagrees with the review decision. The application should be signed by the head of service.

The tribunal must hold a hearing before making a decision unless it considers that it is able to decide the matter without a hearing and each party has consented to, or has not objected to, the matter being decided without a hearing.

The appeal tribunal may make a decision that is more favourable or less favourable than the review decision, or the review decision can stay the same.

On receiving an appeal decision, the head of servicer will write to the Criminal Injuries Compensation Authority accepting the offer. This should be done within 7 days.

7. The Award

Payment of compensation is usually by a single lump sum, but if the medical situation is unclear, one or more interim payments may be made.

No compensation will be paid until the Criminal Injuries Compensation Authority receives an acceptance of the award in writing. Every effort must therefore be made to minimise the delay in responding to the authority.

If the payment is accepted, the CICA will then normally put the money in an interest-earning deposit account in the child's name, the payment to be paid to the child (together with all interest earned) when they reach 18.

The CICA may consider requests to make payment into a Junior ISA or another type of account where the full value of the payment is protected until the child is 18 years old.

The social worker will ensure that the financial statement is filed in the confidential section of the child's file. The social worker will note the child's age and as their 17th birthday approaches will initiate planning regarding release of the fund at the point of their 18th birthday.

8. Advancing Money from the Award to the Child

The CICA may allow advances if these are needed for the child's sole benefit, education or welfare.

They may consider making a full payment if the child is 16 or 17 years of age and living independently.

It may be appropriate to consider applying for an advance for expenses such as:

- Extra school holidays or educational trips in addition to normal holidays with foster carers or residential establishment;
- Education expenses such as additional tuition or equipment which could not normally be provided;
- Purchase of a car, plus tax and insurance;
- Costs associated with the pursuit and development of particular skills and aptitudes, especially as the child becomes older;
- Medical and/or psychological treatment which cannot be provided on the NHS; or
- A deposit for the purchase of a property.

If it seems appropriate to advance money from the award to the child, the social worker will initiate the application by compiling a written report setting out the reasons why the advance is necessary. Whenever possible applications should be made with the agreement of the child, and this should be stated in the report.

Any request for an advance for medical treatment should be supported by a medical report stating that the treatment is required and whether or not it is available from the NHS.

The following guiding principles should be borne in mind:

- Any advance should be for the benefit of the child;
- In deciding whether the advance would in all circumstances, benefit the child, the panel will have regard to the child's age and development;
- No money will ordinarily be granted for day-to-day maintenance of a child who is in care;
- Funds must not be available from any other source, such as DSS, Health Services or charitable trusts;
- Whether it would be better to allow the capital to accumulate.

If an advance is approved, an individual will be designated as responsible for spending the grant in the approved way.

The social worker will place a copy of the application, the decision and a receipt for the money spent on the child's file

The CICA will need evidence (normally a receipt) proving that it has been used for the purposes intended. If they don't get this evidence, they will not allow any further advances.

9. When a Young Person is 18

When the young person reaches the age of 18 years, responsibility for handling the money awarded by the Criminal Injuries Compensation Authority will be handed over to them unless they are felt to be incapable of dealing with it.

If the CICA receive evidence which shows it would not be in the child's best interests to be given the payment as a lump sum when they turn 18, they may give further consideration to the use of an annuity or a trust at that time.

It should be noted that the award will be taken into account in respect of all means tested benefits and that the usual saving rules will apply.

End