



## **Rights of Women: helping women through the law**

### **A Guide to Criminal Injuries Compensation**

Being a victim of crime, such as domestic violence or sexual violence can have significant and long-term consequences for a woman's health and well-being. If you have received a physical or mental injury as a result of crime you may be eligible to apply for compensation through the Criminal Injuries Compensation Scheme 2001. This information sheet is designed to give you information about criminal injuries compensation and how to apply for it.

Rights of Women also publishes a number of other information sheets and publications that may be useful (on domestic violence, reporting an offence to the police and sexual offences). For further information about these and other Rights of Women publications contact us or visit our website at [www.rightsofwomen.org.uk](http://www.rightsofwomen.org.uk).

### **Language**

In this information sheet we will use the terms "victim" and "applicant" to describe the person who is applying for compensation and "assailant" for the person who is responsible for the criminal offence. We use these terms because this is the language used in the Scheme; however, we recognise that many victims of domestic violence or sexual violence would rather be referred to as survivors.

### **The Criminal Injuries Compensation Scheme 2001**

The **Criminal Injuries Compensation Scheme 2001** (the Scheme) is a statutory scheme created under the **Criminal Injuries Compensation Act 1995**. This means that the Scheme was drafted by the Home Secretary (the Government minister responsible) and was approved by Parliament. The Scheme is administered by the **Criminal Injuries Compensation Authority** (CICA). Applications for compensation made on or after 1<sup>st</sup> April 2001 in England, Scotland and Wales will be decided under the Scheme's criteria. Applications for compensation made before 1<sup>st</sup> April 2001 or from Northern Ireland are dealt with under different arrangements.

The purpose of the Scheme is to compensate victims of violent crime for the physical or mental injuries they have received. This may include, in some cases, compensation for lost earnings or certain other expenses such as for medical treatment or equipment. The compensation that a victim receives comes from the CICA not the assailant.

## Who is eligible to apply for criminal injuries compensation?

In order to be able to apply for criminal injuries compensation you have to have **received a criminal injury on or after 1<sup>st</sup> August 1961 in England, Scotland or Wales**. A criminal injury is one that is directly attributable to a **crime of violence**. A crime of violence could be an assault, such as assault occasioning actual bodily harm or a sexual assault. It could also include injuries received as a result of arson (deliberate fire-starting) or while preventing an offence from being committed.

Under the Scheme the following people **will not** be able to receive compensation:

- An applicant who received an injury **before 1<sup>st</sup> October 1979** where the victim and the assailant were living together at the time as members of the same family.
- An applicant who has **already made a claim** for compensation for the same injury under this or another criminal injury scheme in Great Britain.

## What is a criminal injury?

Under the Scheme a criminal injury is a **physical injury** (including a fatal injury), a **mental injury** (for example, mental illness) or a **disease** (a medically recognised illness or condition) which is directly attributable to a crime of violence. While all injuries are serious for the person involved, compensation is not available where the injury received is comparatively minor such as a scratch or a bruise.

A physical injury award includes an element of compensation for the mental distress receiving an injury may cause. If you have medical evidence (from a doctor, psychiatrist or psychologist) that you have received a more significant mental injury you may be entitled to a separate award for this.

Under the Scheme an applicant who received a mental injury but not a physical injury will only be able to receive compensation if:

- she was in reasonable fear of immediate personal physical harm; or
- she received the injury because:
  - someone she was in a close relationship of love and affection to at the time suffered a criminal injury; and,
  - she either witnessed the incident and was present when the other person sustained the injury or was closely involved in its immediate aftermath; and,
  - the relationship is on-going (unless the victim has since died).

This means that a person whose only injury is a mental injury caused by the loss of property following a burglary will not be eligible for compensation.

An injury that is caused by a motor vehicle (such as a car or coach) is not a criminal injury for the purposes of the Scheme **unless** the vehicle was used as a weapon. People who are injured as a result of a vehicle accident may be able to claim compensation from other sources.

## Time limits

An application for compensation must be made as soon as possible after the incident that caused the injury and should be **received by the CICA within two years** of the date of the incident. The two year time limit can only be waived if it is **reasonable** and in the **interests of justice** to do so. For example, it may be reasonable and in the interests of justice to waive the time limit where an applicant only became aware that she had received an injury some time after the incident occurred and it is possible to obtain reliable supporting evidence.

## Compensation and criminal proceedings

It is **not necessary** for an assailant to have been charged or convicted of a criminal offence in order for you to be able to claim compensation.

However, a claim for compensation may be reduced or refused where the applicant:

- failed to personally report the crime to the police or appropriate person as soon as was possible (taking into account any good reasons for a delay);
- failed to co-operate with the police or Crown Prosecution Service in the investigation or prosecution of the offence (for example, by refusing to give a statement or attend court and give evidence);
- failed to assist the CICA, for example, by giving them important information about the claim or attending medical examinations.

## Other factors that may effect compensation

The following factors may also result in a claim for compensation being reduced or refused:

- Where the applicant's behaviour before, during or after the incident makes it inappropriate that a full award or any award may be given (for example, where a person received an injury in a fight he or she had caused or agreed to take part in);
- Where the applicant consumed significant amounts of alcohol or used illegal substances **and** this contributed to the circumstances that led to the criminal injury; or
- Where the applicant used offensive language or threatening behaviour that lead to an attack which caused injuries.
- Where the applicant has a criminal record (excluding spent convictions, if you are not sure whether your conviction is spent you should seek legal advice). Whether or not having a criminal record will result in a reduced award or no award being given will depend on a number of factors such as how serious the offence(s) were, when the offence was committed and what sentence you received for the crime.

## Crimes of violence within the family

The purpose of the Scheme is to compensate victims of crime, so compensation will not be paid if the person who has caused the injury may benefit from it. This means that an application for compensation will be refused if there is a continuing, close, link between the person who experienced the injury and the person who caused it.

Where the injury was sustained at a time where the adult (not child) victim and assailant were living in the same household as family members (for example, as husband and wife, civil partners or as a cohabiting couple) then compensation will not be paid unless:

- the assailant has been prosecuted for the offence or there are good reasons why a prosecution has not been brought (for example, because there is not enough evidence to charge the offender); and
- where the claim involves violence between adults, the applicant and the assailant stopped living in the same household before the application was made and are unlikely to share the same household again.

### **Crimes of violence committed against women who have been trafficked into the UK for sexual exploitation**

Whilst there are no specific criteria under the Scheme which apply to survivors of trafficking for sexual exploitation; women who have been trafficked are entitled to apply for compensation on the same basis as anyone else who has experienced violence. The CICA has awarded damages to women who have been trafficked for sexual exploitation.

### **Applying for compensation**

The CICA has two application forms; one for personal injury claims and one for fatal injury claims. Forms can be obtained from the CICA, they can be downloaded from their website, sent to you or you can make your application online (see **Other useful telephone numbers** for the CICA's details).

The application form has to be signed by the person making the application. By signing the application you are giving the CICA permission to seek and obtain information about you and your injury. The CICA may, for example, seek copies of your medical records to confirm the injuries you received or from the police to confirm that you reported the incident and co-operated with their enquiries. All information received by the CICA is confidential.

When you make your application you will be given a **personal reference number**. The CICA will then start to research your case by contacting the police and your doctor. Once information about your case is received by the CICA it will be passed to a **caseworker** who should contact you to inform you of his or her name and contact details.

The CICA aims to provide a decision on compensation **within 12 months**; however, a claim may take longer, for example, where there are ongoing criminal proceedings. When a decision on a claim can be made it will be passed to a **claims officer** who will decide whether compensation should be

paid and if so, how much. The claims officer should write to you and explain how he or she reached a decision in your case. In order for a claim for compensation to be successful an applicant has to show on the **balance of probabilities** that she suffered a criminal injury.

### **Help with applying for compensation**

The application process is designed for people to be able to make their own application. The CICA publish a guide to the Scheme which can help to explain how it works. You can contact a solicitor for help but public funding (often referred to as legal aid) is not generally available so you would have to pay for the advice privately. Victim Support can provide information about the Scheme as well as help completing the form. You can also approach your local Citizens' Advice Bureau or Law Centre. You can always contact our Sexual Violence Legal Advice Line for confidential advice and support.

### **Types of compensation that may be awarded**

A **Personal injury award** is designed to provide compensation for the injuries you have received. The amount of compensation payable is fixed according to a **tariff**, a list of fixed compensation payments for each injury that an applicant may have received. This can be found at the back of the Scheme. For example, the tariff amount for an applicant who has experienced non-consensual sexual intercourse by one assailant is £11,000. If, as a result of the incident she received serious injuries she may be eligible for a higher level of compensation. The tariff describes physical injuries but each award also includes an element of compensation for mental injury. You may receive additional amounts of compensation if you have received more than one injury.

If as a result of the violent crime, you **lost earnings** (or the ability to earn) for **over 28 weeks** you may qualify for additional compensation for the lost earnings and for any **special expenses** you have incurred (such as for medical expenses or for equipment). Compensation for special expenses can be paid for any expense that was incurred after you received the injury but you will only be eligible to apply for special expenses compensation if you have lost earnings (or the ability to earn) for over 28 weeks. If you are considering making a claim for lost earnings or special expenses you will need to complete additional forms and provide supporting evidence from your employer or doctor. If you received any welfare benefits during the period you were not able to work these will be deducted from any compensation you are awarded.

A **Fatal injury award** is available where the applicant's parent, child, husband, wife, cohabitee or same sex partner (who lived with the deceased as man and wife for 2 years before the death) died as a result of a violent crime. An applicant may recover the cost of funeral expenses. Further, an applicant may be eligible for 'additional compensation' reflecting loss of financial support by the deceased or for loss of care which the deceased

person provided to the applicant before their death. Child applicants may also bring claims for loss of the services or care of their deceased parent.

### **Challenging a decision made by the CICA**

If you believe that a decision to refuse you compensation or reduce the amount awarded is incorrect you can ask for a more senior officer within the CICA to **review** it. An application for a review should be sent to you with the letter informing you of the decision. An application for review should be made **within 90 days** of the decision. This time limit may be extended if an extension is requested within the 90 day period. As a result of the review the decision made may not be changed or the amount of compensation you are awarded could be increased or decreased.

If, following a review, you still disagree with the decision you can bring an appeal before an independent body, the **Criminal Injuries Compensation Appeals Panel** (the Appeals Panel). A form and information about appealing a decision should be sent to you with the letter explaining the outcome of the review. If you wish to appeal a decision to the Panel you should do so within 90 days (although this time limit may be extended in some circumstances). The Appeals Panel will consider the whole application again. They may make the same decision as the CICA, or increase the award or decrease it. They will hear evidence as to how the decision was made from a presenting officer from the CICA and information as to why you disagree with it from you or your representative. The Appeals Panel's decision is final. However, it may be possible to challenge it, in certain exceptional circumstances, by Judicial Review.

### **Actions for damages**

In addition to, or as an alternative to, claiming criminal injuries compensation you may wish to bring a **civil claim for damages** against the person responsible for your injury or against someone who failed to protect you from violence (such as Social Services). If you are awarded damages by a civil court, the CICA will take these into account in assessing your compensation. In order to recover damages you will have to show a civil court (not a criminal court) that you have received a personal injury as a result of someone's blameworthy behaviour. There are time limits for bringing a civil claim which vary depending on the nature of the injury that you received. However, recent case law has enabled these time limits to be applied more flexibly in certain circumstances. In order to bring a civil action you will need a solicitor. You may be eligible for public funding to help you with your case. For information about public funding and finding a solicitor contact the Community Legal Service or the Law Society (see **Other Useful Telephone Numbers**).

### **Injuries received in other countries**

Britain is a member of the **European Union** (the EU); an organisation of States who share certain laws. The 26 countries that make up the EU (in

addition to the UK) are: Austria, Belgium, Bulgaria, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Greece, Germany, Hungary, the Irish Republic, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain and Sweden.

Under EU law all Member States have to have compensation schemes for victims of violent crime although States can choose the type of scheme they adopt. In order to be eligible for compensation you have to be resident in (living in) the UK and have received an injury in another EU country **on or after 1<sup>st</sup> July 2005** as a result of a violent crime. The CICA are responsible for assisting UK residents with claims in other EU states by providing information about the scheme, giving you an application form and information about what supporting evidence may be required.

**The law and procedure relating to criminal injuries compensation is complex and we have provided a very basic overview of the terminology, law and application procedure. If you require advice or wish to discuss any of the issues in this information please contact our advice line, your local Citizen's Advice Bureau or Law Centre.**

**Please note that the law referred to in this information sheet is as it stood at the date of publication. The law may have changed since then and accordingly you are advised to take up to date legal advice. Rights of Women cannot accept responsibility for any reliance placed on the legal information contained in this information sheet. This information sheet is designed to give general information only.**

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For free legal advice on sexual violence, criminal injuries compensation, immigration or asylum law please call **020 7251 8887 (telephone) or 020 7490 2562 (textphone)**. The advice line is open on **Mondays 11-1pm and Tuesdays 10-12 noon**.

For free confidential legal advice on family law including domestic violence, divorce and relationship breakdown, children and contact issues call on **020 7251 6577 (telephone) or 020 7490 2562 (textphone)**. The advice line is open on **Tuesday, Wednesday and Thursday 2pm – 4pm and 7pm – 9pm and Friday 12noon – 2pm**.

#### **Other useful telephone numbers**

Criminal Injuries Compensation Authority      0800 358 3601  
[www.cica.gov.uk](http://www.cica.gov.uk)

National Domestic Violence Helpline      0808 2000 247  
[www.womensaid.org.uk](http://www.womensaid.org.uk)

Rape Crisis Federation (for details of local services) [www.rapecrisis.org.uk](http://www.rapecrisis.org.uk)

Rape & Sexual Abuse Support Centre (RASAC)

0845 122 1331 [www.rasac.org.uk](http://www.rasac.org.uk)

Samaritans 08457 909090 [www.samaritans.org.uk](http://www.samaritans.org.uk)

Victim Support Line 0845 3030900 [www.victimsupport.org](http://www.victimsupport.org)

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