



THE
COMPENSATION
Agency



**Child Abuse
and the
NI Criminal Injuries
Compensation Scheme 2009**

Introduction

The purpose of this brief guide is to assist those who wish to apply for compensation in respect of sexual abuse which they suffered as children, or who are applying on behalf of children who have suffered physical or sexual abuse. It cannot provide answers for all circumstances but it is hoped that it will help those without previous experience of the Scheme.

Crimes of violence and personal injury

To qualify for an award an applicant must have sustained "personal injury" directly attributable to a "crime of violence". There is no legal definition of the term "crime of violence". Physical assault is the most obvious example but the term may also include sexual abuse or interference which is not always thought of as a crime of violence. Rape, incest and buggery are further clear examples, but we can consider indecent assault too.

In all cases, the victim must have suffered "personal injury". Personal injury means injury of a physical or mental nature, including shock or psychological disturbance, which is directly attributable to the crime of violence. A physical injury must be one which would attract an award of at least Level 1 of the Tariff of Injuries otherwise we can make no award.

If the injury sustained is a direct consequence of a sexual offence and the victim consequently sustains a mental injury then compensation can be paid for mental injury arising from sexual offence, but a separate award will not be made for the sexual offence. The higher of the awards will always be paid.

Time limits

Claims must be received by the Compensation Agency within two years of the date of the incident, or where the applicant was under the age of 18 at the date of the incident within 2 years of his/her 18th birthday. However, we may waive this time limit where we consider that "it is reasonable and in the interests of justice to do so". We adopt a sympathetic attitude towards late claims made on behalf of children, or by children themselves when made within a reasonable time of reaching age 18.

Claims for offences prior to 1 April 2009

The 2009 Scheme allows for claims for sexual abuse to be considered where they would have been governed by previous legislation - **see main points below**. However, as the 2009 Scheme permits application only in respect of claims which would have failed under previous legislation because they were not made within the required time limit, **this means that there is one situation in which we cannot assist at all.**

Under the 1968 Act and the 1977 Order (i.e. incident dates of 11 June 1968 - 30 June 1988 inclusive) **persons/victims who were living together with the offender as members of the same household at the time of the offence would not have been entitled to compensation.** The 2009 scheme does not remove this bar to compensation.

Main Points

If the injury arises from an incident between 01 May 2002 and 31 March 2009 then the application for compensation should be submitted under the 2002 scheme. If the injury arises from an incident prior to 01 May 2002 then the Application for Compensation should be submitted under the 2009 Scheme. These out of time applications can only be considered if:

- the injury sustained is as a result of a sexual offence;
- the victim was under the age of 18 when the sexual offence occurred; and,
- the time limit for making a claim under the Compensation Scheme in place when the offence occurred has expired.

Informing / assisting the police

Under the 1988 Order and the 2002 Scheme, where the victim and any assailant were living in the same household at the time of the injury as members of the same family, compensation can only be paid if the person responsible has been prosecuted unless we consider that there are good reasons why a prosecution has not been brought. In cases of child abuse within the family where there has been no prosecution we will always require a full explanation on the child's behalf.

In these circumstances we must also be satisfied that it would not be against the child's interest to make an award, and no compensation can be paid at all unless we are satisfied that the offender will not benefit, as may happen if the child and the offender are still living under the same roof.

It is not necessary that the offender should have been convicted before an award can be made. Some offenders are never found. However, we may withhold or reduce compensation if an applicant has not taken, without delay, all reasonable steps to inform the police or other appropriate authority of the circumstances of the injury. We also expect an applicant, with a view to bringing the offender to justice, to cooperate fully with all aspects of the criminal justice process.

This provision is our main safeguard against fraudulent or collusive claims and is strictly applied in the case of adults. A more sympathetic view will be taken in the case of children who may be too young or too frightened to appreciate the right course of action. However, we must be satisfied on the balance of probabilities that the events alleged actually occurred and this will be much easier if the police have been informed on the child's behalf and been given the opportunity to investigate and prosecute.

Who makes the claim?

The Scheme requires that a claim on behalf of a person under the age of 18 should be made by an adult with parental responsibility for the child. If there is no one to act for the child there may be unnecessary delay before any compensation can be paid. Where there is no one legally entitled to act for the child help should be sought from the Official Solicitor for NI.

Usually the person to act will be one of the child's parents. But if the child has been subjected to abuse

within the immediate family this may be impossible. If the child is in care we will expect the claim to be lodged by or on behalf of the Authority to whom parental responsibility has been granted. The claim should be signed by the Director of Social Work/Services or other responsible officer. In other cases we will look to the person having parental responsibility over the child for the time being. Wards of court must first obtain leave from the Court to apply to the Agency.

Further enquiries

Before an award can be made we have to know the full circumstances in which the injury occurred, the extent of the injury and the prognosis. We get this information from the police, hospital, doctors, etc. named on the claim form. To minimise the stress of the victim where possible the existing medical/psychiatric reports will be obtained by the Agency and will be used in deciding the claim. Only where it is essential will further medical/psychiatric reports be requested.

Assessment and administration of awards

The standard amount of compensation is determined by the Tariff of Injuries appended to the Scheme and will be held in Trust for the applicant until he/she is 18 years of age. In exceptional circumstances awards may have conditions attached to them which will prevent offenders from inheriting awards on intestacy.

The Agency's decision will be notified to the person or Authority holding parental responsibility/Power of Attorney together with information on the

management of the award. An interest bearing account in the name of the victim/child will be opened with a designated bank. This will be operated jointly by the Agency and the designated bank.

Enquiries about this Information leaflet and all applications for compensation should be addressed to:

The Compensation Agency

Royston House

34 Upper Queen Street

Belfast BT1 6FD

Tel: (028) 9024 9944

Local rate number: 0845 6021994

Fax: (028) 9024 6956

www: compensationni.gov.uk

Email: comp-agency@nics.gov.uk