



THE
COMPENSATION
Agency

A GUIDE TO

CRIMINAL INJURIES

COMPENSATION

IN NORTHERN IRELAND

Contents

Summary

Introduction

Contents

- ❖ When is Compensation Payable?
- ❖ Who can apply?
- ❖ What can an Applicant be Compensated for?
- ❖ Property for which Compensation is not payable
- ❖ Are you insured?
- ❖ What can applicants do to help progress their claims?
- ❖ How and when to apply?
- ❖ Refusal or reduction of compensation
- ❖ How applicants are assessed?
- ❖ Basis of compensation
- ❖ Rights of appeal
- ❖ Complaints – Comments – Compliments
- ❖ Offences and Penalties
- ❖ Customers with disabilities

Summary

- You must **report the injury to the police forthwith** or at the most **within 48 hours of the commission of the injury**. It is the duty of every victim of violent crime to inform the police of all the circumstances without delay and to co-operate with their enquiries and any subsequent prosecution.
- A '**Notice of Intention**' to apply for compensation must be completed and served on the Department of Justice at the Compensation Agency **within 28 days** of the date of the injury.
- An '**Application for compensation**' must be completed and returned to the Compensation Agency **within 3 months** of the date when the 'Notice of Intention' was served.
- **It is important not to delay making an application** as the time limits for claiming may be extended by the Department of Justice or by the Court only if there is good reason for the delay.
- No compensation can be paid if the application is not made **within 3 years** of the date of commission of the injury (except in the case of children).
- No compensation will be paid:
 - a) Where the injury or death was caused by a **traffic offence**;
 - b) Where the injury or death resulted in loss of earnings, expenses, pain, suffering and loss of amenity for which the **total compensation is less than £1,000**;
 - c) In respect of mental impairment unless the applicant was **present when the violent offence occurred** and the injury amounts to a **serious and disabling mental disorder** for which the amount of **compensation payable is at least £2,500**;
 - d) Where the victim or applicant was at any time a member of an **unlawful association**;
 - e) Where the victim or applicant was at any time involved in the **commission, preparation or instigation of an act of terrorism**.
 - f) Where the victim or applicant fails to comply with all reasonable requests for information and assistance which might lead to the identification, apprehension, prosecution and conviction of the offender.

- Information given in support of a claim for compensation will be **checked thoroughly and verified** with the police, hospitals, doctors, employers and so on.

Introduction

1. The Criminal Injuries (Compensation) (Northern Ireland) Order 1988 which came into operation on 1 August 1988 provides a right to claim compensation from the Department of Justice for injury or death caused by violent (including terrorist) offences in Northern Ireland. The **Compensation Agency** carries out the Department of Justice's functions in relation to the provision of compensation for criminal injuries under the legislation.
2. The aim of this guide is to set out the main provisions of the statutory compensation scheme and to provide applicants with information to help them apply for compensation with the minimum of trouble. **It must be emphasised, however, that the guide is intended as an aid and not a substitute for the legislation itself.** Copies of the legislation can be obtained from The Stationery Office Bookshop, 16 Arthur Street, Belfast BT1 4GD.
3. Every application for compensation is determined by the Compensation Agency on its own merits and solely in accordance with the relevant provisions of the legislation. Compensation can be claimed without legal assistance but applicants need to consider carefully whether they should obtain the services of a solicitor. If a claim is successful, reasonable legal costs and medical expenses incurred in making out the claim will be paid in addition to any compensation awarded.
4. Applications for compensation should be made to:

The Compensation Agency
Royston House
34 Upper Queen Street
BELFAST
BT1 6FD

Telephone number (028) 90249944

The Customer Information Officer may be contacted direct on (028) 90547417.

When is compensation payable?

5. Compensation is payable if a person is injured or killed in Northern Ireland as a direct result of:

- a. a violent offence;
- b. attempting to arrest a suspected offender or to prevent an offence.

The injury must have been sustained in Northern Ireland

6. The term 'injury' includes any disease, any impairment of a person's physical or mental condition and pregnancy. In the case of mental impairment the injury would have to be of a serious and disabling nature to qualify for compensation.
7. An application for compensation can be made even if the injuries were caused by someone who could not be held responsible under the criminal law, because they were too young or insane.

Who Can Apply?

8. An application for compensation is usually made by the victim. However, an application may also be made by any person responsible for the maintenance of the victim for pecuniary loss (for example, loss of earnings) or expenses reasonable incurred as a direct result of the victim's injury.
9. Where the victim dies as a result of a criminal injury, an application may be made by a relative for pecuniary loss or expenses reasonably incurred as a direct result of the victim's injury or death. Where the victim has no relatives, any person who necessarily incurred expenses as a direct result of the victim's injury or death may apply for compensation for such expenses.
10. Where the victim dies but not as a result of the criminal injury, an application for compensation may be made:
 - a. by a relative for expenses reasonably incurred by the victim as a result of the injury; or pecuniary loss suffered by the victim between the date of the injury and the date of death; or
 - b. by any person who necessarily incurred expenses in connection with the injury to the victim.

11. Persons under a legal disability:

In the case of a criminal injury sustained by a person who is under the age of 18, or a person who is legally incapable of managing his or her own affairs, the application may be made on their behalf by the parents, guardian or representative. In all such cases the Court is required to approve any award of compensation which has been determined by the Compensation Agency on behalf of the Department of Justice.

What compensation will be paid?

12. Where a person has sustained a criminal injury, compensation may be paid for:

- a. expenses actually and reasonably incurred as a result of the injury;
- b. pecuniary loss resulting from the injury, including loss of earnings arising from incapacity for work; and
- c. pain, suffering and loss of amenities caused by the injury.

13. Where a person dies as a result of a criminal injury, compensation may be paid for expenses and financial loss reasonably incurred by the relatives of the victim as a result of the death. Such expenses may include a reasonable sum for funeral expenses and the cost of a headstone.

14. Deductions from compensation:

The full value of any social security benefits and any pension or gratuity paid to the applicant or victim by the Crown or the victim's employer consequent on the injury or death, together with any payments received from the offender, will be deducted from the amount of compensation payable. Generally, payments received under a private insurance policy or from voluntary donations are not taken into account.

15. Compensation for certain consequences of rape:

A victim of rape may claim compensation for pain, suffering and loss of amenity; pecuniary loss; expenses reasonably incurred; and mental impairment caused by the rape. In addition, if the victim gives birth to a child conceived as a result of the rape and the victim intends to keep the child, an additional award of compensation of £5,000 is payable

16. Bereavement awards:

In addition to other types of compensation, where the victim of a criminal injury dies as a result of the injury a bereavement award of £7,500 is payable to the spouse of the victim or, where the victim was under 18 years of age and never married, to his or her parents.

17. Discretionary payments

The Compensation Agency may make a discretionary award when the pecuniary loss payable to the spouse and children of a victim who dies as a result of a criminal injury is reduced below certain limits by the deductions of State and

other benefits. The maximum amount of a discretionary award is £10,000 for the spouse and £1,300 for each child.

How and when to apply?

18. There are 3 steps in making a claim for compensation. The injured person or his/her relative or representative must:

- a. Report the injury to the police **forthwith** or at most **within 48 hours** of the commission of the injury:
- b. Complete a '**Notice of Intention**' to apply for compensation and serve it, **within 28 days** of the date of the injury, on the Department of Justice at the Compensation Agency (address at paragraph 4 above). Notices of Intention can be obtained from the Compensation Agency or from solicitors, police stations or a Citizen's Advice Bureau;
- c. Complete an '**Application for Compensation**' (which will be sent to you once you have submitted a Notice of Intention) which must be returned to the Compensation Agency **within 3 months** of the date when the Notice of Intention was served. **It is important, therefore, not to delay making an application.**

19. **Extension of time limits:**

These time limits may be extended by the Compensation Agency or by the Court, but only if there is good reason for the delay. **No compensation can be paid if the application is not made within 3 years of the date of commission of the injury.** Applications made outside the 3 year period cannot be considered (**except for children** - see next paragraph).

20. **Time limits and children:**

There is special provision to protect the interests of victims who were under the age of 18 at the date of the injury. A victim who was criminally injured when he or she was under 18 years of age has until his or her 21st birthday to make an application for compensation if there was good reason for not making the application sooner.

Conditions which apply in all cases

21. **This paragraph should be read with particular care.** There are certain circumstances in which no compensation will be paid. These are:

- a. Where the injury or death was caused by a traffic offence. In such cases the victim's remedy is through the driver's insurance company or, if the

driver was uninsured or unidentified, through the Motor Insurer's Bureau. The address of the Motor Insurer's Bureau is:

152 Silbury Boulevard
Central Milton Keynes
MK9 1NB

- b. where the injury or death resulted in loss of earnings, expenses, pain, suffering and loss of amenity for which the **total compensation is less than £1,000**;
 - c. in respect of mental impairment unless the applicant was present when the violent offence occurred and the injury amounts to a serious and disabling mental disorder for which the amount of **compensation payable is at least £2,500**;
 - d. where the victim or applicant was at any time a member of an **unlawful association**. "Unlawful association" means any organisation which is engaged in terrorism and includes organisations which are proscribed under the Northern Ireland (Emergency Provisions) Act 1991; and
 - e. Where the victim or applicant was at any time involved in the **commission, preparation or instigation of acts of terrorism**
 - f. Where the victim or applicant fails to comply with all reasonable requests for information and assistance which might lead to the identification, apprehension, prosecution and conviction of the offender.
22. Even if there is no doubt that a person has sustained a criminal injury for which compensation could be awarded, there are circumstances in which the Compensation Agency is empowered to refuse or reduce compensation. The following notes are to help applicants anticipate the Compensation Agency's likely approach.

23. Informing the police:

It is the duty of every victim of violent crime to inform the police of all the circumstances without delay and to co-operate with their enquiries and any subsequent prosecution. The legislation requires a report to be made to the police **forthwith**, or at the most **within 48 hours** of the commission of the injury. Such a report should be made by the victim in person unless he or she is prevented from doing so because of the nature of the injuries. In this case, a report should be made by a relative or representative of the victim. It is the victim's duty to contact the police and co-operate with their enquiries as soon as he or she is able to do so. A victim who has not reported the circumstances of the injury to the police and can offer no reasonable explanation for not

doing so is likely to have his or her application for compensation rejected altogether.

24. The victim must report all information within his or her knowledge or belief which might lead to the identification and apprehension of the offender or otherwise be material to the investigation of the matter by the police. If the victim deliberately leaves out any important information or otherwise misleads the police, an application for compensation will be rejected

25. Helping the police to prosecute:

Even if the incident has been promptly reported to the police, the Compensation Agency will refuse to pay compensation if the victim subsequently fails to co-operate with the police in bringing the offender to justice.

26. Provocative or negligent behaviour:

In determining whether any compensation should be paid the Compensation Agency is required by the legislation to have regard to any provocative or negligent behaviour on the part of the victim which contributed, directly or indirectly, to the criminal injury. If the victim was in any way responsible through provocative or negligent behaviour for the incident in which he or she was injured compensation may be refused or reduced.

27. Character and way of life:

In determining whether any compensation should be paid the Compensation Agency is required by the legislation to have regard to any criminal convictions which are indicative of the character and way of life of the victim and, where the applicant is a person other than the victim, of the character and way of life of the applicant. The Compensation Agency may refuse compensation or reduce it on account of previous criminal convictions. Convictions that are entirely unconnected with the incident giving rise to the claim for compensation can be taken into account.

28. Violence within the family:

No compensation can be paid in respect of an injury where the victim was at the time living in the same household as the person responsible for causing the injury unless:

- a. the person who caused the injury has been prosecuted (or there is sufficient reason why this could not happen); and the victim and the person who caused the injury have stopped living together for good (unless there are exceptional circumstances which prevent them from ceasing to live in the same household); and

- b. the person responsible for causing the injury cannot benefit from the compensation if it is paid.

How applications are assessed

29. Every application will be acknowledged by the Compensation Agency on behalf of the Department of Justice as soon as practicable after receipt. The applicant will be given a **personal reference number** which should always be quoted in subsequent correspondence.

30. **Disclosure of all relevant information:**

Applicants are required to sign a section of the application form permitting the police, hospitals, doctors, employers or anyone else to be contacted in order to confirm what an applicant has said about his or her injuries, loss of earnings or other pecuniary loss or expenses incurred. Applicants will be asked to provide details verifying their financial loss and expenses. The legislation also places a duty on applicants to make a full and true disclosure of all facts within their knowledge or belief material to the determination of the application. Failure to do so may result in an application for compensation being rejected. Information given in support of claims will be checked thoroughly and verified with the police, doctors, employers and so on. **All such enquiries are dealt with in strictest confidence.**

31. **Medical evidence:**

An applicant for compensation may be required to:

- a. Undergo an independent medical examination;
- b. Produce his or her medical records, x-rays or other documents relating to the injury or his or her medical history;
- c. Produce any medical report relating to his or her injury obtained by the applicant for the purpose of an application for compensation or civil proceedings.

Failure to do so may result in an application for compensation being rejected.

32. **Photographs:**

If any scarring has been caused as a result of the injury, the applicant may be asked to provide photographs (the reasonable cost of which will be refunded if an award of compensation is made) to assist in assessing the proper amount of compensation. Alternatively, a scar viewing may be arranged.

33. **Assessment of compensation:**

The necessary enquiries to verify a claim for compensation inevitably take time. However, once an applicant has received an acknowledgement he or she can be sure that the enquiries on the case have been started and will be dealt with as quickly as possible. It may not be in an applicant's interests for a quick decision to be made on his or her application, since it may be many months before the long term prognosis on the applicant's injuries is known and any award of compensation is in full and final settlement of the claim. Once a final award has been made the case cannot be re-opened at a later date. In order to minimise delays, applicants should ensure that all evidence in support of their application for compensation is provided as quickly as possible.

34. **Interim payments:**

Consideration may be given to making one or more interim payments on account, providing the applicant is in all respects eligible for compensation. This course will only be taken in circumstances where:

- a. there is likely to be a substantial delay before a final award of compensation can be made;
- b. there is evidence of need or hardship;
- c. the final award of compensation is likely to be substantial;
- d. serious injury or death gives rise to substantial additional expense on the part of the victim or applicant.

35. **Offers of compensation:**

When all the necessary information is available a decision will be made on whether or not the Compensation Agency can pay compensation. If so, the applicant will receive an offer of compensation and will be asked to sign a '**Form of Discharge**' confirming that the amount is acceptable in full and final settlement of the claim. When the completed form is returned to the Compensation Agency a payable order will be issued.

Refusal of compensation

36. If the Compensation Agency determines that no compensation is payable or declines to increase the amount of compensation on offer, the applicant will be sent a formal '**Notice of Determination**'.

Rights of appeal

37. Any applicant aggrieved by a determination of the Compensation Agency has a right of appeal to the County Court against the decision. An appeal must be

lodged within 10 weeks from the service of the Compensation Agency's determination, otherwise the decision becomes final and binding.

38. If an appeal is lodged against the determination, the case will be listed for hearing before the appropriate County Court. The court hearing provides an opportunity for all the relevant issues to be put before the court for decision. If an appeal is successful, reasonable legal costs and expenses will be paid in addition to the compensation awarded.

Complaints * Comments * Compliments

39. We recognise the trauma and difficulties suffered by victims of violent crime and we aim to provide a service which is efficient, sensitive and confidential. If you are not entirely satisfied with the service you receive please let us know and we will do our best to put the matter right as quickly as possible. This will include providing a full explanation within 10 working days and, where appropriate, an apology. We also value any general comments – good or bad – that you may have. They could help us to improve our service in the future.
40. **If you have a problem** you should write to the Compensation Agency, addressing your letter to the complaints officer. Alternatively, you may wish to phone us on the number given below to discuss the matter.

If you prefer, you can ask a friend to write or phone on your behalf. The address is:

The Complaints Officer
The Compensation Agency
Royston House
34 Upper Queen Street
BELFAST
BT1 6FD

Telephone: 028 90547329/90249944

Fax: 028 90246956

Email: comp-agency@nics.gov.uk

Your problem will be thoroughly and objectively investigated in confidence. When you contact us you will need to provide the following information:

- ❖ The claim number if known
- ❖ The name and address of the applicant and the date of the incident
- ❖ Full details of your problem
- ❖ A phone number where you can be contacted during working hours (if available)

41. We hope that your problem will be resolved at this stage, but if you are not satisfied please write to the Chief Executive; he will be glad to look again at the matter on your behalf.

Please write to:

Chief Executive
The Compensation Agency
Royston House
34 Upper Queen Street
BELFAST
BT1 6FD

42. If after having written to the Chief Executive you are still not satisfied with our response you can ask your local member of parliament to raise the matter on your behalf. You may also contact the Parliamentary Ombudsman, whose function is to investigate complaints by members of the public about the way they have been treated by government departments and their executive agencies.

Offences and penalties

43. It is an offence under the legislation:

- a. for any person to obtain compensation for him or herself or for any other person by any deception; or
- b. knowingly to make a false or misleading statement or to fail to disclose a material fact; and
- c. to fail to notify the Compensation Agency of any damages or compensation received from the offender.

On conviction an offender is liable **to a fine or to imprisonment for a period up to 5 years or to both.**

Customers with disabilities

44. The Compensation Agency is committed to promoting and developing equal opportunities both for its staff and customers. As part of this policy, special assistance is available for customers with disabilities.

a. Assistance for deaf and hard of hearing customers

• **Signers for the deaf and hard of hearing customers**

If you have any queries regarding your application for compensation the Agency can provide the services of a signer.

To help the Agency provide this service please arrange appointments through our Customer Information Officer. Telephone number: 028 90547417/90249944

- **Access to a quiet room**

Should you find that you have difficulty in hearing or understanding what is being said because of noise at the reception area, our staff can ensure that they answer your queries in a quiet room.

- b. Assistance for the blind and partially sighted customers**

- **Agency Literature**

Guides to Compensation and the Agency's Charter Standard Statement are available in large print, tape and braille versions on request.

To obtain copies please contact our Customer Information Officer.

- c. Customers who use wheelchairs**

- **Wheelchair Access**

Customers who use wheelchairs can gain access to our offices by ramp and lift. Prior notice is required for the ramp to be in place.

For further information on access for customers with disabilities please contact our Customer Information Officer.

- **Access to toilets for disabled customers**

Toilets for disabled customers are available within the building.