



THE
COMPENSATION
Agency



**A Guide to Applicants for
Compensation in Fatal Cases**

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Glossary

Listed below are a glossary of terms which you may find helpful when you are completing your application form and reading this guide.

- “Victim”** means the person (including an unborn child) who has sustained a criminal injury.
- “Applicant”** means the person entitled to claim on behalf of the victim, if the applicant is a different person than the victim.
- “Representative”** means the person or other body representing the victim with their application.
- “Minor”** means a person who has not attained the age of 18 years.
- “Tariff”** means a set amount of money which will be paid for each kind of injury.





A Guide to Applicants for Compensation in Fatal Cases

(Made under the Criminal Injuries
Compensation (NI) Order 2002)

Introduction

1. Where a victim has died as a result of a criminal injury, compensation may be payable if you are a qualifying claimant under the provisions of the Scheme. Supplementary compensation may also be payable if the victim has died following, but not as a result of a criminal injury. The reasonable cost of funeral expenses may also be reimbursed to anyone who has paid them, even if he or she would otherwise be ineligible under the Scheme.
2. This guide explains the circumstances in which you may qualify for compensation and tells you how it is calculated. It is not a substitute for the provisions of the Scheme itself, under which your claim will be assessed according to your particular circumstances, but is simply aimed at enabling you to understand how these provisions work and to make a claim with as little trouble as possible. You may, of course, wish to seek professional or other advice. We do not require you to do so but if you choose to get such advice, you are reminded that the Scheme does not allow us to pay your costs.
3. You do not need to obtain the services of a solicitor or Trade Union to represent you in connection with your application, but if you choose to be represented the Agency will correspond directly with your representative. We will also copy correspondence to you for information.
4. Where references are made in this guide to paragraphs of the Scheme, the paragraph numbers are given in **bold type**.

Eligibility

5. Consideration of applications for compensation in respect of fatal cases is subject to the main eligibility requirements of the Scheme and apply to both the applicant and the deceased. (**Paragraphs 14**)

Who can apply

6. You can apply for compensation if you are a dependant or relative (as shown in the next paragraph) of someone who died as a result of a criminal injury, or who was criminally injured but died from some other cause.
7. A dependant or relative is someone who at the time of the deceased's death was:
 - (a) **the spouse** of the deceased, who was formally married to and living with the deceased as husband and wife in the same household immediately before the date of death; or
 - (b) **a person** who, was living with the deceased as husband/wife or as a same sex partner in the same household immediately before the date of death and had been so living for at least 2 years before that date; or
 - (c) **the spouse** of the deceased who, though not living with the deceased immediately before the date of death, was at that time financially supported by him/her; [**Note: a spouse living apart from and not financially dependent on the deceased is not a qualifying claimant**]
 - (d) **a former spouse** of the deceased, who was financially supported by him/her immediately before the date of death: [**Note: a former spouse does not qualify for a Bereavement Support Payment under Paragraph 39 of the Scheme**]
 - (e) **a parent** of the deceased, whether or not the natural parent, provided he/she was accepted by the deceased as a parent of his/her family; or
 - (f) **a child** of the deceased, whether or not the natural child, provided that he/she was accepted by the deceased as a child of his/her family or was dependent on him/her. [**Note: The definition of a 'child' is not restricted to a person below the age of eighteen**]

Any of the above may also apply where the victim has died from the injuries, even if an award has been made to the victim while still alive.

For the purposes of the Scheme a dependant or relative as defined above is known as a 'Qualifying Claimant'.

Compensation for death as a result of a criminal injury

8. If you are a qualifying claimant and the deceased died as a result of the criminal injury, we will assess your eligibility for compensation in

the form of a bereavement support payment. A bereavement support payment can comprise one or more of the compensation payments listed overleaf.

Bereavement support payment (Paragraph 39 of the scheme)

9. It is of course impossible for any amount of money to make up for the death of a close relative. The standard amount set by the tariff is intended to give recognition for the grief and distress caused by a death resulting from a criminal injury.
10. Qualifying claimants will receive a bereavement support payment of £12,000 (level 15 of the tariff).

Dependency (Paragraph 40 and 41 of the Scheme)

11. If you are a qualifying claimant who was financially dependent on the deceased, you may be eligible to apply for additional compensation for that dependency. The period of loss will begin from the date of the deceased's death. Financial dependency will not be applicable however, if the deceased's only normal income was from social security benefits. Cases where, for example, the deceased relied temporarily on social security benefits but had an offer of employment which he or she was expecting to take up, would however be considered on the basis of the information supplied. **(Paragraph 40 and 41)**
12. To calculate the compensation for loss of financial support we first assess the total net annual loss to the qualifying claimant which we call the 'multiplicand' (annual rate of loss). A multiplier is then applied. It is calculated by taking the number of years the qualifying claimant would have been dependent on the deceased (where the claimant is the widow/widower, this period would usually run to the date on which the deceased would have retired). This is further explained in Paragraphs 14 to 17.

Loss of parental services for a child under 18 years of age (Paragraph 42 of the Scheme)

13. A qualifying claimant under 18 years of age may be eligible, in addition to any sum apportioned under **Paragraph 14**, for compensation for loss of parental services at an annual rate of Level 5 of the Tariff. Compensation may also be payable to meet other resultant losses, eg any additional costs of childcare or loss of earnings suffered by an adult in looking after the child. An appropriate

multiplier, applied to the period until the child reaches the age of 18, will be used.

Note: Unlike assessments under the Fatal Accidents Act, the Scheme recognises the services contributed by both mothers and fathers to the upbringing of children. Children who claim personally and who were receiving parental services from the deceased parent receive a Level 5 loss of services award whether it was the mother or the father who was the victim.

The multiplicand (annual rate of loss)

14. When the claim for financial dependency is made by an adult who was living with the deceased, we calculate the dependency by taking the total amount of the deceased's annual earnings and deducting a percentage for the cost of the deceased's personal expenses. Where the deceased has a spouse (which includes someone with whom the deceased was living, as explained in Paragraph 7) and there were no children – 33 per cent will normally be deducted. Where there was a spouse and children – 25 per cent will normally be deducted. Where the spouse was also earning, his/her net earnings will also be taken into account. Part of the total sum assessed may be apportioned to the children.
15. We will also take account of any changes to the annual rate of loss which may have arisen, eg the promotion prospects of the deceased.
16. In assessing the dependency we must also deduct any social security benefits, and **ANY INSURANCE PAYMENTS**, pensions or other entitlements resulting from the death and which have **NOT** accrued solely as a result of payments by the deceased or a dependant, because you are not entitled to be compensated for the same loss from more than one source.
17. There may be different multiplicands for different periods or types of loss or benefits received.

The multiplier

18. The multiplier is the number by which the multiplicand will be multiplied to determine the amount payable as a capital lump sum representing the present value of the dependency over the years ahead. It may also be used to calculate the value of benefits to be received which are to be deducted in the calculation of dependency. The multiplier will be selected by reference to the Actuarial Tables for use in personal injury and fatal accident cases as published by the Government Actuary's

Department. We may take account of any factors and contingencies which we think are relevant.

19. The Actuarial Tables, which you can purchase from The Stationery Office, provide a range of multipliers according to age, the different life expectancy of men and women and their different retirement ages and when the loss starts (either from the present or at some future point). We use them, where appropriate, to refine our selection of the multiplier.
20. The Actuarial Tables do not however take account of the risks or chances in normal life (contingencies) or special factors which may be present in individual cases (other than mortality). As a general rule, we will reduce the multiplier to take account of ordinary risks. Where we consider it appropriate, a further reduction will be made for particular factors such as a likelihood that the deceased would not always have been in full employment up to the normal retirement age.

Funeral expenses

21. Where the victim dies as a result of a criminal injury, an application will be considered for reimbursement of reasonable funeral expenses from the person incurring those expenses, even where that person is otherwise ineligible to claim under the Scheme (**Paragraph 37**). In calculating the expenses to be reimbursed we will take account of the religious and cultural background of the victim and his/her family.

Example

22. The example at the end of the guide shows how the approach to calculation and assessment in a fatal application described in paragraphs 9 to 21 above can work in practice.

Award to victim before death

23. Applications for compensation in fatal cases can be made even if an award has previously been made to the victim for that injury, before his/her death. Applications will be subject to the conditions in **Paragraphs 56-57** of the Scheme (re-opening of cases). Any compensation (except funeral expenses and the Bereavement Support Payment) payable to qualifying claimants will be reduced by the amount paid to the victim.

Death following, but not as a result, of a criminal injury (Paragraph 44)

24. A qualifying claimant who was financially dependent on a victim may be eligible for supplementary compensation in respect of the victim's loss of earnings (except for the first 28 weeks) and any special expenses incurred if the victim died, but the death was not as a result of the criminal injury.

Maximum award and limit on rate of loss

25. There is no overall limit payable in respect of fatal injury, irrespective of the number of claimants. All claimants will receive a bereavement support payment of £12,000 (level 15 of the tariff).
26. **Paragraph 34** of the Scheme applies a limit on the rate of net loss of earnings which we can take into account when assessing applications under **Paragraphs 41-44** of the Scheme. The figure is one and a half times the gross average industrial earnings in Northern Ireland at the time when an application is assessed.

Method of payment

27. Awards under the Scheme are normally paid as a single lump sum (**Paragraph 50**), but **Paragraph 51** enables us, on the instructions of the applicant or his representative, to pay an award, or part of it, in the form of an annuity, which can provide a secure, tax-free income. Any expenses incurred in such instructions will be met from the award.

Re-opening, review and appeal

28. The Guide to the NI Criminal Injuries Compensation Scheme 2002 briefly explains the provisions for re-opening of cases (**Paragraph 56-57**), review of decisions made by the Agency, (**Paragraphs 58-60**) and for appeals against reviewed decisions to the Criminal Injuries Compensation Appeals Panel for Northern Ireland (**Paragraph 61-82**). Your attention is simply drawn to those rights to seek redress if you consider that our assessment is wrong.

Example of fatal injury calculation

Husband and wife, both working, 2 young children

29. The husband was aged 32 when he died as a result of a criminal injury. He had been in full time employment for the past 10 years and was earning £240 net per week before his death. His employers certified that he had been due for promotion shortly, taking his net earnings to £265 per week. His wife, 30, was earning £96 net per week. There are two children, aged 5 and 3.

	£	Scheme References
Dependency		
Joint weekly income (£265 + £96) is £361. Dependency is 80% of that figure (£289) less the wife's income (£96) = £193 per week or £10,036 per year. The period of loss (to deceased's retirement at age 65) is 33 years, for which the indicative multiplier is 17, reduced to 15 to take account of contingencies. $15 \times £10,036 =$	<u>150,540</u>	Paragraphs 40-41
Less		
Widow's Benefit (lump sum)	1,000	Paragraph 45
Widowed mother's allowance £3,060 per year to age 45 when the younger child becomes 18; multiplier 10 =	30,600	
Widow's children's allowance:		
1 aged 3, £575 per year to age 18, multiplier 10	5,750	
1 aged 5, £512 per year to age 18, multiplier 9	4,610	
Widow's pension from age 45, £920 per year, Multiplier 5 (remainder of dependency Multiplier of 15)	4,600	

	£	Scheme References
Employer's Pensions Employer pays widow £1,500, and children £400 each per year (until aged 18). These sums are taxable so only half is deductible.		Paragraph 47
Widow £750 per year x 15	11,250	
younger child £200 x 10	2,000	
older child £200 x 9	1,800	
Widow also received a taxable gratuity of £2,000, of which half is deductible	<u>1,000</u>	Paragraph 47
Total to be deducted	<u>62,610</u>	
Dependency total	<u>87,930</u>	
Bereavement Support Payment	<u>12,000</u>	Paragraph 39
	<u>99,930</u>	
Children's awards		
Younger child, loss of parental services £2,500 x 10	25,000	Paragraph 42
Bereavement Support Payment	12,000	
Older child, loss of parental services £2,500 x 9	22,500	
Bereavement Support Payment	<u>12,000</u>	
	<u>71,500</u>	

	£	Scheme References
Funeral expenses		
Cost paid by widow	950	Paragraph 37

Summary

Total award (including funeral expenses to widow)	100,580
Total award to younger child	37,000
Total award to older child	<u>34,500</u>
	<u>172,080</u>

