**West Sussex – Practice Guidance**

IROs are qualified social workers with at least five years’ experience, and who have acquired the right skills to carry out this role.

**Introduction**

The Criminal Injuries Compensation Scheme

[The Criminal Compensation Scheme 2012](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/243480/9780108512117.pdf) is a government funded scheme that allows blameless victims of violent crime to get a financial award. The first scheme for compensating victims of crimes of violence was established in 1964. Under the 2012 Scheme, each type of injury is given a value. The values together form a list that called ‘the tariff’. The award can never fully compensate for all the injuries suffered, but is recognition of public sympathy for the blameless victim.

The Criminal Injuries Compensation Authority (CICA) administers awards of compensation to people who have suffered personal injuries directly attributable to a crime of violence.

They can consider claims for the following:

* mental or physical injury following a crime of violence;
* sexual or physical abuse;
* a fatality caused by a crime of violence including bereavement payments, payments for loss of parental services and financial dependency; and funeral payments.

Neglect and emotional abuse are not considered crimes of violence by the CICA and are therefore outside the scheme. However, there has been precedent by other local authorities for successfully achieving awards on appeal against the CICA’s decision on this point. Appeal decisions are not binding on the CICA and each case should be looked at on its own merit. Legal advice should be taken before submitting an application for neglect.

There is no specific requirement that someone should have been convicted of the offence but the applicant should explain to the CICA why no prosecution occurred. Claims are assessed on the balance of probability rather than the claimant having to prove the case beyond reasonable doubt. There may, therefore, be occasions when an offender was found not guilty of an offence but the victim could still be awarded compensation.

Despite the fact that compensation has been available for a number of years there is still a great deal of ignorance of the scheme. As a result many victims of crimes of violence may be deprived of substantial amounts of compensation. The duty of a local authority is to safeguard and promote the welfare of children in its care. This includes the responsibility of making applications to the CICA for children who have suffered injuries and where this is considered to be in the best interests of the child. Failure to make a timely application may result in a child losing the opportunity of substantial compensation and a degree of subsequent financial security.

*The criteria for West Sussex making an application are:*

* The Local Authority should have parental responsibility;
* The child should have been the victim of a crime of violence, which can include the effects of trauma in witnessing a crime of violence;
* Death of a parent as the result of a criminal act; there should be some evidence of Police involvement, unless a reasonable explanation can be given to the CICA.

Where a child is accommodated, under s20, and has suffered a criminal injury the Local Authority can make an application on the child’s behalf in the usual way and send a covering letter to the CICA explaining the circumstances. The person with parental responsibility should sign the application form, but in certain circumstances the Head of Children’s Social Care can sign the application and acceptance forms, provided that a written explanation is sent to the CICA.

There is the overriding issue that the perpetrator should not benefit from any compensation awarded. Close liaison between social worker and the CICA can safeguard this.

Duty of Local Authority in Respect of Children Looked After by Them

The local authority has a responsibility to look after the best interests of children in its care. This includes making an application for Criminal Injuries Compensation (CIC) where appropriate. Although any amount of money may not fully compensate the abuse suffered by a child or young person, an award of compensation may at least provide some financial security.

Children looked after who are approaching adulthood should receive advice and guidance on how the money can be put to good use as part of their Pathway Plan from 16 years onwards.

Procedure for Making an Application

The question is asked at the first child protection conference and subsequent Child Protection/Children in Care Reviews:

*“Is this a case in which criminal injuries compensation should be claimed?”*

Where appropriate the views of the child should be sought as well as those of the parents and/or carer. If there is any doubt about whether an individual case comes within the criteria, advice should be sought from Legal Services.

Where an injury has been identified to a child or young person in care the allocated social worker should ensure that a claim is made on behalf of the child and that reports are requested. For other applications, the allocated social worker can offer assistance by means of sign posting to [citizens advice](https://www.citizensadvice.org.uk/family/children-and-young-people/child-abuse/financial-compensation-for-child-abuse/) or in certain circumstances help complete the application, and in any event not more than two years from the date of disclosure or the date of injury. However, the CICA has discretion on this issue and there are some circumstances where the CICA may accept a late application - see paragraphs 88/89 of the 2012 Scheme.

Applications should always be made as soon as possible and in general, must be made within 2 years of the event giving rise to the claim. However, where the applicant was under 18 at the time of the incident special provision is made regarding timescales as follows:

* If the incident or period of abuse was reported to the police before the young person turned 18, a claim will be accepted up to the young person’s 20th birthday;
* If the incident or period of abuse took place before the young person turned 18, but was not reported to the police at the time, a claim will be accepted within two years of the date when the incident was first reported to the police.

No matter how long ago the abuse took place, it should be reported to the police before a claim can be made. If it has not been reported to the police, then the CICA will reject the claim.

Whenever possible the following reports should be sought:

* Medical/psychological reports covering the first examination of the child, consequences of abuse, current position and prognosis.
* If a medical report already exists on the social work file which may be of use to the CICA then the permission of the author of the report should be sought to release it to the CICA.
* The Headteacher, if applicable, should be requested to provide a written assessment if there are any behavioural or educational challenges presented by the child.
* Any other reports considered helpful to the CICA.

The CICA will write to the Police directly to obtain evidence of their involvement.

If any of the above reports or statements were used in the Care Proceedings then the allocated social worker should make sure, through discussions with legal services, that the Court which made the Care Order has also given leave to disclose the papers to the CICA, otherwise an application to the Court for leave will need to be made. Legal Services (or privately commissioned lawyers) should always ask the Judge for permission to use the relevant reports submitted at the Final Care Hearing, in support of a Criminal Injuries Compensation application.

The initial application can be made [on-line.](https://www.gov.uk/claim-compensation-criminal-injury) This opening application should take no more than 20 mins to complete. The CICA will send the signature and consent page to the allocated social worker to obtain the signatures of whoever holds parental responsibility, and the young person if (s)he is 12 years or over. Where the application form has been signed by the child, their signature will later be required on the acceptance form.

Once all the information has been collated this should be submitted to the CICA at the earliest opportunity. This should include the following papers:

* A covering letter stating what evidence is being provided;
* Copy of care order if applicable;
* Police reports (if filed in care proceedings);
* Medical reports;
* School reports;
* Any other reports.

Receipt of the application is acknowledged and a CICA reference number is allocated. The allocated social worker is advised by the CICA. Progress should be monitored by the practice manager.

Fatal Injury Claim Procedure

An application may be made for loss of a parent(s) as a result of a crime of violence; the same [on-line](https://www.gov.uk/claim-compensation-criminal-injury) application should be completed. The compensation amount is awarded as a lump sum based on £2,000 per year, and part year from the time of loss until the child’s 18th birthday. There is also an amount for funeral costs which the allocated social worker should apply for re-imbursement if there has been a payment made by West Sussex. If the child also suffered injuries, a separate application for personal injury may be submitted at the same time.

Procedure of the CICA for Determining Awards

Assessments, Reviews and Appeal Hearings

|  |  |
| --- | --- |
| 1. | The application will first be considered by the CICA Area team who will assess whether the applicant is entitled to compensation and the amount of the award. The assessment is passed to the Decision Maker for approval. |
| 2. | The CICA Area Team will notify the allocated social worker of the decision in writing. A decision will then need to be made on whether to accept the result or ask for a Review. If a request for a review of the decision is decided upon this has to be sent to the CICA within the required time limit as stated in the decision letter and be signed by the Practice manager, in consultation with the Group manager. When requesting a Review the Practice manager may ask for a copy of the TB1, which is the information supplied to the CICA by the Police. The Review will be conducted by a Senior Claims Officer and the Practice manager will be notified in writing of the decision of the Review. A decision to Appeal must be lodged within the required time limit or the offer accepted. Decision to appeal must be in consultation with Legal Services. |
| 3a | If the award is considered appropriate, the acceptance form is signed by the Head of Children’s Social Care and returned to the CICA within the required time limit as stated in the decision letter, usually 56 days. Young People over 12 years old must sign their forms, and for those accommodated under s20 CA 1989 the person with parental responsibility must sign the form.The CICA will retain the award and invest it on behalf of the young person until 18 years of age. They will, in some cases agree for the award to be placed into a Junior ISA which cannot be accessed until the child reaches 18. |
| 3b | If the decision of the CICA Review is not accepted the allocated social worker may undertake to request an Appeal Hearing, prepare the papers and request new reports if necessary. Taking a case to Appeal needs the agreement of the Service Lead for Children Looked After (CLA) (for funding) and should be noted MOSAIC by the Service Lead. The completed Appeal Application form needs to be signed by the Head of Children’s Social Care. If the Appeal Hearing is granted, a copy of the Hearing Bundle should be forwarded to Legal Services. The allocated social worker, practice manager and group manager should liaise with Legal Services and may attend the hearing if appropriate. Young people aged 16 and over are expected to attend the Hearing (if appropriate) and support at the hearing should be arranged for them. |
| 4. | The Appeal Hearing may be an oral hearing before the [First Tier Tribunals Service](https://www.gov.uk/courts-tribunals/first-tier-tribunal-criminal-injuries-compensation). The Tribunals Panel is an independent panel made up of three members, the Chairperson being a Senior Lawyer. The members and staff of the Tribunals Panel are entirely independent of the CICA.  |
| 5. | An award may be withheld or reduced on account of an applicant’s character, as shown by his/her criminal convictions (excluding spent convictions) and conduct prior to crime. Mitigating circumstances can be presented by the allocated social worker to the Decision Maker, and taken into account in certain circumstances. This will probably necessitate liaison with the Youth Offending Team.  |

Investment Administration of Awards

Once the final decision is reached, the award is retained by CICA and invested and administered on behalf of, and for the sole benefit of the child.

It is expected that the award will be invested on behalf of the child until the age of 18. However, there may be circumstances whereby an advance could be made from the award but should only be used for the child’s ‘advancement, education or other benefits’. Any decision to apply for an advancement would need to be discussed with the group manager and service lead.

Advice should be sought from the Legal Department when the adoption of a child is imminent.

A note should be made on MOSAIC and the child’s file under the key information section that the money is held on their behalf by CICA.

The award should be discussed with the Leaving Care Personal Advisor as part of the young person’s Pathway Plan.

EU Criminal Injuries Compensation Schemes

UK residents who are injured as a result of a crime of violence in a member country of the European Union can apply for compensation from that country with the help of the Criminal Injuries Compensation Authority in Glasgow. They can also supply information about the member states schemes.

[The EU Compensation Assistance Team](https://www.gov.uk/compensation-victim-crime-abroad) (EUCAT) is based in Glasgow. They have produced a leaflet [“Applying for Criminal Injury Compensation in other EU Countries”](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/351331/claiming-compensation-eu-countries.pdf) and can be contacted on 0300 003 3601 or email eucat@cica.gsi.gov.uk

**Reference Points;**

[Criminal injuries compensation: A Guide](https://www.gov.uk/guidance/criminal-injuries-compensation-a-guide)

Standard Letter for Medical report



Standard Letter for School report

