

Criminal Injury Compensation Fact Sheet

The Criminal Injuries Compensation Scheme was established to compensate innocent victims who suffer personal injury as a result of violent crime. The assailant quite often does not have the means to financially compensate the victim. This State scheme therefore provides some form of financial compensation to the victim in recognition of the personal injury sustained and of the traumatic ordeal experienced.

Legal costs are not payable by the CICA. If the victim of violence wishes to instruct a solicitor to handle the application eg because there are complexities or because it is of significant value an appropriate charging rate will be agreed with the victim at the outset of the claim. If we believe we can assist you and you wish to instruct us, we will explain fully how our charging system works before asking you to sign an agreement.

If you are a **Union member**, you may have the benefit of free legal assistance for a CICA claim and should contact your Union.

If you wish to consider instructing Thompsons to handle your CICA application please **contact us**.

If you wish to pursue a CICA claim yourself with a value of £1,000 or more, this section is aimed at providing you with some guidance through the claim process.

This factsheet should be used as a general guide only - if you require legal advice you should consult a solicitor.

Introduction to Criminal Injuries Compensation Scheme 2001, Compensation Claim Advice

What has to be proved?

What can you claim for?

How long do you have to start your personal injury compensation claim?

What do you do first?

How to commence a claim for personal injury compensation?

What do you do now?

The Four Golden Rules of claiming CICA Compensation

Examples of CICA Claims Cases

Introduction to Criminal Injuries Compensation Scheme 2008

The Criminal Injuries Compensation Authority (CICA) currently deals with personal injury compensation claims arising from crime. There is a threshold value of £1000 for personal injury compensation so **compensation** will only be

paid if the injury has a value that exceeds £1000. For example, an **undisplaced fractured nose** would attract an award of £1000. Simple bruising to the nose with discomfort for a few days and without medical intervention would fall below the threshold value at which personal injury compensation becomes payable.

The scheme has a tariff of injuries where common types of injuries are listed and a specific personal injury compensation figure has been allocated for each injury.

If there are multiple **personal injuries**, the CICA will only compensate for the 3 most **serious injuries**. The CICA have a table of injuries with a value alongside and this is called the 'tariff'. They will pay 100% of the tariff value for the most serious injury and then, 30% of the tariff value for the second most serious injury and finally 15% of the tariff value for the 3rd most serious injury.

If there are multiple minor personal injuries such as grazing or cuts, bruising, a black eye or say a bloody nose, the CICA may pay the threshold value of £1000 personal injury compensation as an inclusive figure provided symptoms last for 6 weeks and there are 2 visits to a medical practitioner for medical treatment. So, if it is single or even multiple minor injuries with symptoms lasting only a few days without the need for any medical treatment, the assault may not meet the minimum threshold value for criminal compensation to be payable.

The CICA generally seek medical confirmation of the injury sustained simply to identify the appropriate tariff for compensation or the ranking order of the injuries.

Loss of earnings is not payable for the first 28 weeks but is recoverable thereafter.

If the criminal assault occurred during the course of your employment, it may be possible to claim personal injury compensation from both the CICA and the **employers'** insurance company if the employers were negligent or at fault for failing to protect you if it was possible for them to foresee and prevent the assault.

However, if you recover compensation from both the CICA and your employers or any other source, you will be required to refund the CICA compensation.

What has to be proved?

To be successful in any CICA claim, you have to establish that you have been the innocent victim of violent crime. In other words, you need to prove that the someone else has assaulted you and caused significant injury. If you prove this, the State will compensate you as long as your injuries have a tariff value exceeding £1000.

If you are considered by the CICA to have provoked or willingly participated in the assault, the CICA can withhold or reduce compensation. If the victim of violence has a criminal record, the CICA again may reduce or withhold compensation.

It is crucial that the assault is reported to the police as soon as it occurs to allow the police to investigate and bring the assailant to court on criminal charges. If the matter is not reported to the police and promptly, the CICA may decline to award personal injury compensation. If the assault took place during your employment, you will also need to report it to your employers.

So, you think you may have a claim, what is involved and how do you go about applying to the CICA?

What can you claim for?

- You can claim criminal compensation for your injury which is the tariff award.
- The tariff awards are set out in the guidance notes to the scheme and the most common injuries are listed with the amount of compensation payable alongside.
- You can claim for loss of earnings beyond the first 28 week period.
- Other special expenses may be recoverable

How long do you have to start your personal injury compensation claim?

The general rule in CICA claims is that the CICA application must be lodged within 2 years of the date of the assault. If you take longer to lodge the application, the CICA will usually not be willing to consider the claim for compensation.

What do you do first?

- Report the matter to the police and if appropriate your employers if the assault occurred during the course of your employment. Keep a written record of the names and positions of the individuals that you report the assault to.
- Explain how the assault happened
- Identify the assailant or assailants to the Police if you can
- Cooperate fully with the Police to help them catch and successfully prosecute your assailant
- State briefly the nature of all of your injuries. Include all injuries no matter how minor
- Obtain and complete a CICA application from either the Police, the CICA direct on their freephone number 0800 358 3601. You can also visit their website on www.justice.gov.uk/guidance/compensation-schemes/cica/index.htm.

Contact Thompsons if you want to discuss instructing us to assist you with the claim.

How to commence a claim for personal injury compensation

Lodge the application form with the CICA by sending it to the address on the top of the form. Their address is: ~

Criminal Injuries Compensation Authority,
Tay House,
300 Bath Street,
Glasgow,
G2 4LN.

Complete the form as fully as you can but do not delay lodging the form.

Provide as much information as you can about the incident and provide details of the report to the police. Describe all of your injuries and if you have ongoing symptoms, describe them fully.

If you have suffered loss of earnings or other losses, include details.

Remember to sign the form.

Once the form is lodged, the CICA will send you an acknowledgement with a reference number. Please quote this reference on all correspondence. You may have to wait several months for the CICA to deal with your application.

What do you do now?

Once the CICA have considered the claim, they will write with a decision and either accept or reject the claim for criminal compensation.

If they accept your personal injury claim, they will assess and pay you compensation. They will provide you with details as to how this has been calculated.

If they reject it, the CICA can be asked to give reasons why they have turned the claim down.

You can ask the CICA to review the decision if you think it is wrong and do not accept the reasons for the award that has been made or as to why the claim has been rejected. This request for a Review must be made within 90 days of the initial decision.

If after the Review, you still do not accept the CICA's decision you can formally appeal. The Appeal has to be lodged again within 90 days of the Review decision.

The CICA will send you clear explanatory guidance sheets when they make a decision describing how you can seek the initial Review if desired and then how you can lodge an Appeal if you still feel their decision is wrong.

Remember: if you want to rely on any documents to support your application or Review or Appeal, make sure you have sent copies to the CICA.

So remember the four Golden Rules of claiming CICA

Compensation:

1. **Report the matter fully and immediately to the Police** and your employers if applicable and keep details of this report, e.g the name and number of the police officer, the incident report number and the address of the police station.
2. **Lodge the application in time** - a 2 year time limit from the date of the criminal assault applies.
3. **Keep the CICA reference safely** and quote it on all correspondence so the CICA can trace the papers.
4. **If the application is rejected** and you do not accept this decision, remember the time limits for the Review and Appeal – 90 days from the decision that you feel is incorrect. Observe these time limits by applying well beforehand for the matter to be reconsidered. Keep copies of your paperwork.

Examples of CICA Claims Cases

The following CICA claims were made to the CICA. We hope they will illustrate the process and encourage you with your own claims:

CICA Claim 1

A nursery school assistant was working in a nursery in the outside playground when a man wielding a machete attacked the nursery assistants and the children. The nursery assistant placed her own life at risk to protect the children and was honoured with a public award for her bravery.

The children and the nursery assistant sustained severe injuries with considerable residual **scarring** and psychological injury. She faced a battle to recover personal injury compensation and the sum offered initially was inadequate. The Review and the Appeal process ultimately resulted in the best possible award being achieved under the scheme.

CICA Claim 2

Assume that a worker was attacked by a fellow employee and sustained significant injuries. The victim might sue the employer in Civil law for **damages** for negligence if the employers had failed to take earlier action against the fellow employee for previous incidents with earlier unprovoked assaults on other staff members.

A successful application should follow with the CICA.

If criminal compensation for example was awarded by the CICA in the sum of £5,000 and the civil compensation claim ALSO resulted in damages of £10,000, the CICA compensation of £5,000 would have to be refunded to the CICA but the victim would recover the higher of the 2 competing awards. It is always important that both avenues are explored to secure the best financial result for the victim of crime.

CICA claim 3

The victims of an assault made a claim for criminal compensation but this was rejected by the CICA because the assailants in the assault told the police that the victim started the fight. CCTV footage of the scene of the fight at the time was obtained which showed that the victim was an innocent victim of assault.

The CICA on Appeal having reviewed the CCTV footage reversed the decision and paid personal injury compensation to the victim.

THIS FACT SHEET IS INTENDED AS A GENERAL STATEMENT OF THE PROCEDURE AND DOES NOT PURPORT TO RENDER SPECIFIC ADVICE, LEGAL OR OTHERWISE, SPECIFIC ADVICE ON A PARTICULAR PROBLEM SHOULD ALWAYS BE SOUGHT.