

Criminal Injuries Compensation for Children in Care

Criminal Injuries Team, VSK

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1. Introduction

The Criminal Injuries Compensation Scheme 2012 (the scheme) is set by the Secretary of State under the Criminal Injuries Compensation Act 1995. Parliament decides the rules of the scheme and the value of the payments with its purpose being to compensate blameless victims of violent crime. This scheme is for people injured in England, Scotland and Wales. Northern Ireland has its own scheme, as do many other countries.

The Criminal Injuries Compensation Authority (CICA) administer the scheme and decide if applicants are eligible and assess the appropriate value of any award.

The following payments are available:

- Injury following a single incident.
- Injury following a period of abuse.
- Loss of earnings.
- Special expenses payments – to cover specific injury-related requirements which are not available free of charge from any other source.
- Bereavement payments, including child and dependency payments.
- Funeral payments.

Neglect and emotional abuse are not considered crimes of violence by the CICA and are therefore outside the scheme. However, an omission is considered a crime of violence if it could be described as violent in nature such as knowingly withholding something that another person needs to stay alive which resulted in a physical injury.

There is no specific requirement that someone should have been convicted of the offence. Claims are assessed on the balance of probability.

2. Criteria for Making a Claim

- The applicant is the victim of a crime of violence, for example, a physical attack; any other act or omission of a violent nature which causes injury; a sexual assault; fatal injuries to the deceased for parental services.
- There should be evidence of Police involvement,
- There is the overriding objective that the perpetrator should not benefit from any compensation awarded. The CICA will not provide a compensation award if the person who injured the applicant could benefit from the award because there is a continuing close link between the victim and the assailant. In such circumstances the CICA may direct that a trust is set up to prevent the assailant benefitting from a payment.

3. Duty of Local Authority

Statutory Schemes place a duty on a Local Authority to safeguard and promote the welfare of children in its care. By definition this includes the responsibility of facilitating 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 an application may result in a child being deprived of any potential compensation.

Although the award of 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.

4. Procedure for Making a Claim

Where the Local Authority has identified a child or young person who may be eligible for compensation the Criminal Injuries Co-ordinator can facilitate a claim on behalf of the child. For those not in care the Criminal Injuries Co-ordinator may offer support to complete the application.

The Criminal Injuries Co-ordinator will liaise with the social worker to confirm eligibility and where appropriate the social worker may seek the views of the child.

The Criminal Injuries Co-ordinator will record on Liberi a Criminal Injuries Form to include all discussions and actions whether a claim is submitted and the reason why if not.

See Appendix 1 for the Criminal Injuries Form Flowchart.

Applications should always be made promptly and in any event within two years after the date of the incident. However, where the applicant was under 18 at the time of the incident special provision is made regarding timescales as follows:

- In the case of an incident reported to the police before the applicant's 18th birthday, the deadline for a claim is the day before their 20th birthday.

- In the case of an incident reported to the police on or after the applicant's 18th birthday, then the deadline is two years after the date of the first report to the police in respect of that incident.

Wherever possible the following reports should be sought:

- Medical/psychological reports covering the first examination of the child, consequences of abuse and current prognosis. Permission to share it with the CICA should be obtained from the author.
- School attendance, if there are any educational challenges presented by the child.
- Any other reports considered helpful to the CICA.

If any of the above reports or statements were used in the Care Proceedings then the Criminal Injuries Co-ordinator should ensure that the Court has also given leave to disclose the papers to the CICA, otherwise an application to the Court for leave will need to be made.

Once all of the information has been collated, a claim should be submitted to the CICA by telephone or online at the earliest opportunity. Receipt of the application will be acknowledged and a CICA reference number allocated.

The Criminal Injuries Co-ordinator should then send all supporting documents to the CICA which may include:

- Copy of care order if applicable
- Birth Certificate of the applicant
- Home Office leave to remain for unaccompanied young people
- Police Reports
- Medical/Psychological Reports
- School/Attendance Reports

Progress should be monitored by the Criminal Injuries Co-ordinator and requests for additional information supplied within required deadlines.

5. Fatal Injury Claim Procedure

An application may be made for loss of a parent(s) or child as a result of a crime of violence.

Where the CICA is satisfied that multiple relatives are eligible for a bereavement payment in respect of the deceased, the amount of compensation will be £5,500. Otherwise, the single qualifying relative payment is £11,000.

A dependency payment may be made to a child if, at the time of the death of the deceased, they were under 18 years old and dependent on the deceased for parental services. The period to which a child's payment will relate begins on the day of the death and ends on the

day before the child's 18th birthday. The amount of a child's payment is £2,000 for each year (pro rata for each part year) of the period to which the payment relates.

A funeral payment of £2,500 may also be made with an additional £2,500 in respect of funeral expenses reasonably incurred.

6. Procedure of the CICA for Determining Awards

The application will first be considered by the CICA who will assess whether the applicant is entitled to compensation and the amount of the award. They will contact the police and may request further information from the Criminal Injuries Co-ordinator. The assessment is then passed to the Decision Maker for approval.

An award may be withheld or reduced on account of an applicant's character, as shown by any criminal convictions (excluding spent convictions). However, no award will be made if there is a conviction resulting in a custodial sentence, community, or rehabilitation order.

The CICA will notify the Criminal Injuries Co-ordinator of the decision in writing and they will decide whether to accept the decision or seek to request a Review. If a Review is to be pursued the request must be sent to the CICA within the required time limit. The Review will be conducted by a Senior Claims Officer and the Criminal Injuries Co-ordinator will be notified in writing of the outcome.

- If the award is considered correct, the acceptance form is signed by the named Director and the applicant if aged 12 years or over. The CICA will retain the award and invest it on behalf of the young person until 18 years of age.
- If the decision of the CICA Review is not accepted, then it may progress to an Appeal to the First Tier Tribunal. The Tribunals Panel is an independent panel made up of three members who are entirely independent of the CICA. Application of the appeal requires prior agreement of the Director, VSK Headteacher and Legal Services. The Criminal Injuries Co-ordinator should liaise with Legal Services prior to the hearing.

The Criminal Injuries Co-ordinator will upload all correspondence from the CICA to the Liberi documents section.

7. Investment of Awards by the CICA

Once the award offer has been accepted, the award is retained by the CICA and invested and administered on behalf of, and for the sole benefit of the child until they reach 18.

The award should be discussed with the young person as part of their Pathway Planning.

8. Advance of Funds from the CICA

There are circumstances whereby an advance can be made from the award whereby the criteria is set by the CICA. **See Appendix 2 for the list as of May 2023.**

Procedure for an advance of monies from the CICA:

1. Request is made to the Criminal Injuries Co-ordinator along with the required evidence.
2. The Criminal Injuries Co-ordinator sends the forms and supporting evidence to the named Director for his/her agreement and signature.
3. The forms are sent to the CICA and if they agree the advance of money is transferred to the specified bank account.
4. If necessary, receipts are obtained and sent to the CICA.

9. Paying Money from Trust Funds Held by KCC

Up until November 2008 awards for compensation were held by Kent County Council and Trust Funds were setup in named accounts with the Bank of Scotland. Since November 2008 all awards for minors are retained and invested by the CICA.

Procedure for advance of monies from the Trust Funds:

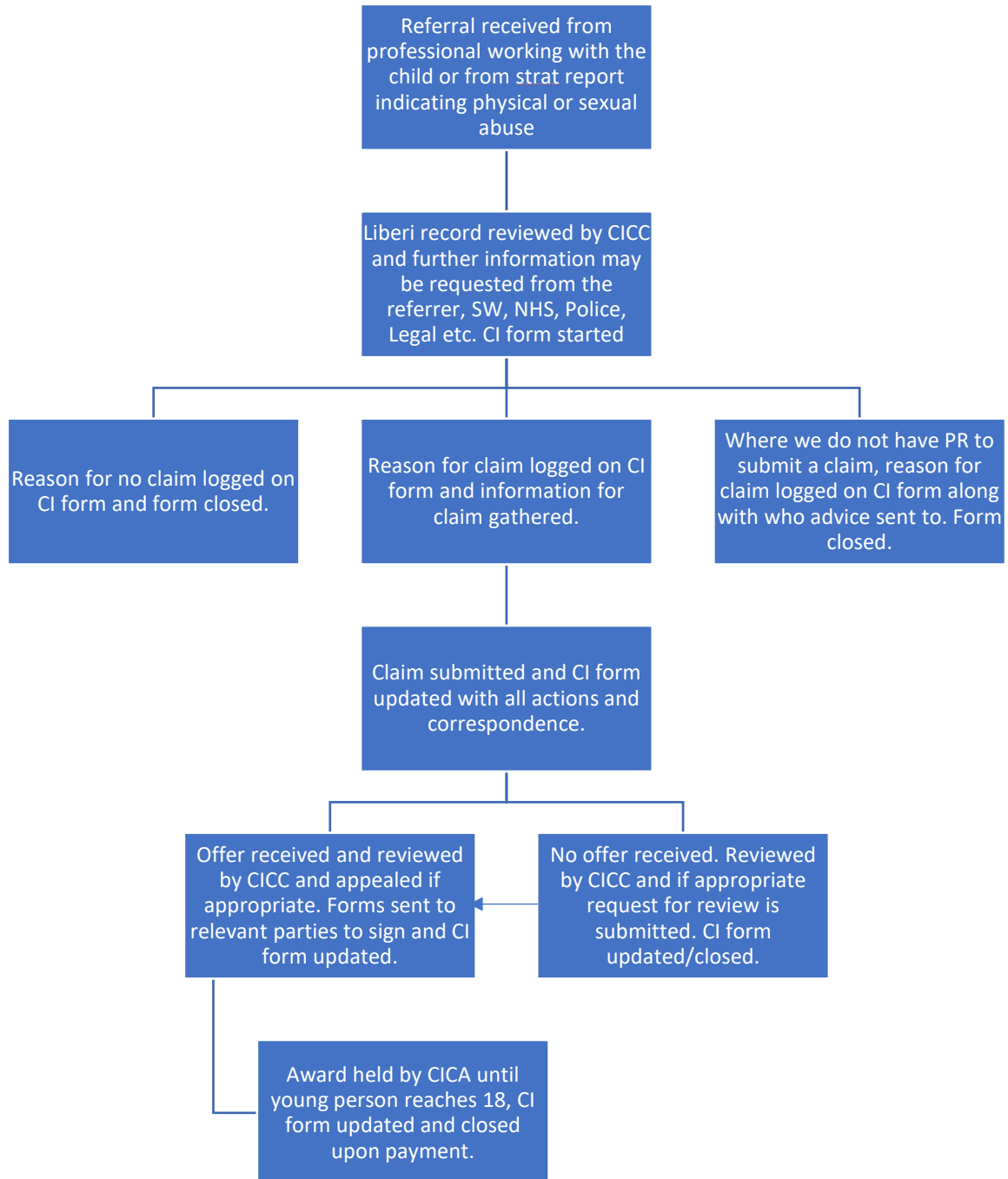
1. Request is made in writing to the Criminal Injuries Co-ordinator.
2. A cheque is drawn from the KCC Social Services Cheque Book Account and a form requesting transfer of funds from the young person's account to the Cheque Book Account is completed. Both are signed by two approved signatories and returned to the Criminal Injuries Co-ordinator.
3. The form is sent to the Bank requesting transfer of funds.
4. Once transfer of funds is confirmed the cheque is sent to the young person.

10. Contact Information

The Criminal Injuries team can be contacted at criminal.injuries@kent.gov.uk

Further information can be found on the Virtual School Kent website at www.virtualschool.lea.kent.sch.uk

Appendix 1: Criminal Injuries Form Flowchart



Appendix 2: Advance of Funds by the CICA

Items we will consider providing advances for	Evidence you are required to provide with your application
School trips and extra-curricular activities associated or organised by the school	<ul style="list-style-type: none"> Confirmation from the school of trip or activity Advice from school regarding any additional spending money for the trip or related activity
Costs for sporting activities with reputable clubs and related competition fees	<ul style="list-style-type: none"> Confirmation of Membership with sports club Advice from Club regarding any costs/fees payable
Guide/Scout/Cadet trips	<ul style="list-style-type: none"> Confirmation from relevant organisation of destination and cost of trip
Computer and accessories	<ul style="list-style-type: none"> Quote from reputable retailer Letter from school or college supporting the request
Educational needs/Extra tuition	<ul style="list-style-type: none"> Letter from the school defining any particular need Quote detailing cost, dates and duration of tuition
Purchase of items necessary for college course	<ul style="list-style-type: none"> Documentation from college confirming items necessary for participation in the course Individual quotes for items required
Driving lessons if minor is aged 17	<ul style="list-style-type: none"> Quote from a reputable driving school for a maximum of 20 lessons Copy of provisional licence
Motor car for minors aged 17 who have passed their driving test and need transport to and from work/college	<ul style="list-style-type: none"> Copy of full driving licence Quote from a reputable dealer Confirmation of employment/enrolment in college
Motorcycle for minors aged 17 who hold a CBT Certificate and need transport to and from work/college	<ul style="list-style-type: none"> Copy of provisional licence & CBT Certificate Quote from a reputable dealer confirming bike is under 125cc Confirmation of employment/enrolment in college
Insurance for a motor vehicle/cycle	<ul style="list-style-type: none"> Confirmation of ownership of vehicle Quote from a reputable insurance company
First month's rent plus the deposit on a flat/accommodation for minor aged 16+ living independently	<ul style="list-style-type: none"> Tenancy agreement Quote from the landlord
Bus passes/train tickets to be used as transport to school, college or place of work	<ul style="list-style-type: none"> Confirmation from school/college that transport is required or a letter confirming employment Quote from a reputable transport provider confirming costs
Purchase of baby equipment for minors who have had or are expecting a baby	<ul style="list-style-type: none"> Copy of MATB1 cert. or child's birth certificate Quotes for major purchase such as pram/cot
Equipment to assist minors with disabilities	<ul style="list-style-type: none"> If we do not already have evidence of the disability, we will need confirmation from a GP or relevant specialist. Quote for equipment will also be required
Medical/dental treatment not available under the NHS	<ul style="list-style-type: none"> Confirmation from GP/Dental that treatment is required and why not available on the NHS Quote detailing cost, dates and duration of treatment
Payment to a Child Trust Fund, a Junior ISA or another type of account, where the full value of the account is protected until the applicant is 18 years old	<ul style="list-style-type: none"> Statement confirming account open Account details in order that funds can be transferred

Advance payments cannot be made for Family Holidays, Clothes and general expenses, Rent arrears or Mobile phones