

LSA

Legal Services Agency

Doing the Right Thing,
the Right Way

Criminal Injuries Compensation:

Your rights



A brief leaflet summarising the 2012 Scheme.
Includes information about how LSA can help.

www.lsa.org.uk

Freephone: 0800 315 8450

About this leaflet

If you have been injured by violent crime you may be able to claim money (compensation) from the publicly funded 2012 Criminal Injuries Compensation Scheme. This money can help with costs caused by the crime, such as losing earnings because you are too ill to work.

This leaflet gives some information about the scheme¹ including:

- Who can claim and what for
- When and how to claim
- The role of the social services department
- How LSA can help you claim

The Criminal Injuries Compensation Authority (CICA) administers the scheme, on behalf of the UK Government.

What this leaflet does not deal with.

This leaflet does not explain other forms of compensation that may be available for victims of crimes of violence. In some circumstances, it may be possible to claim against the perpetrator or their employer or even, in limited circumstances, a public authority responsible for protecting victims.

The procedures, legal principles and time limits in such matters are different. If this may affect you, you should seek legal advice.

¹ For people claiming from 27 November 2012 onwards

About the scheme

The scheme is for people who are seriously injured by violent crime. The injury can be physical and/or mental. The crimes coming within the Scheme include a wide range of physical, sexual or domestic abuse to both adults and children.

The person who injured you (the offender) can be a stranger, a partner, a family member or someone else you know.

If it is your partner you must prove that:

- You stopped living together before you claim and
- Any money you get will not benefit them

CICA generally expects you to report the crime to the police promptly and to cooperate with the police and the courts in bringing your assailant to justice. Get the crime reference number, this will make filling in the Criminal Injuries Compensation Authority's application form much easier.

Remember you can claim Criminal Injuries Compensation whether or not the offender is arrested or convicted: providing, in general, you report the crime to the police as soon as reasonably practicable, cooperated with them and that there is enough evidence to show that the crime took place. However there does not need to be enough evidence upon which to base a prosecution. The test is: is there enough evidence on the balance of probability? This is a lower standard than required for a criminal prosecution.

Who can claim

You may be able to claim if a violent crime has:

- Seriously injured you (mentally or physically)
- Injured or killed a close relative

Parents or caring relatives can claim for children or adults unable to manage their own affairs ... but you may need advice on this.

A child can also apply if a parent has been fatally injured through violent crime as can a parent claim for fatal injury to a child.

You can claim for "historic" or domestic abuse.

You can also claim for mental injuries caused to you coming upon a crime of violence or its immediate aftermath where the victim is a loved one. ("Secondary victimisation").

You can generally only claim from the CICA if you usually live in the UK and were injured in the UK. If this does not apply to you, seek specialist advice. It may still be possible to claim.

There are many rules about claiming. An advisor can explain these to you. You can also get information from CICA (see the end of the leaflet).

Important: for children who have been subject to crimes of violence including some forms of abuse and neglect and who are in social work care, the social work authority can take steps to claim Criminal Injuries Compensation ... or instruct an outside firm of solicitors to do so upon their behalf. LSA undertakes this type of work regularly.

What you can claim for

Violent crime can mean many things. It includes threats and harassment, assaults, arson and poisoning.

Examples of what you can claim for are:

- Physical injuries such as broken bones, brain injury or scarring from wounds
- Serious mental injury from sexual assault or rape or any other violent crime
- Serious mental injury from seeing a loved one being assaulted
- Physical, domestic or sexual abuse against both adults and children: a wide range of situations are covered. These include for instance, minor physical acts over clothing in the case of children or intermittent assault resulting in healed wounds as well as, of course, serious assaults resulting in mental or physical injury.

You can also claim for expenses or losses caused by the crime. Some examples are:

- A contribution towards losing earnings ... or earning capacity
- Adaptations to your home
- Treatment costs not paid for by the NHS
- Or even, care costs not paid for by the local authority (council)

CICA will not give you money which you can claim elsewhere, for example through welfare benefits or other forms of compensation. So, it is important to get advice about any benefits or services you can claim.

The 2012 Scheme in many ways is not as generous an expression of sympathy as the previous Schemes, however the compensation for some victims does remain similar. This is particularly true for domestic, physical or sexual abuse and the more serious injuries (such as brain injury).

When to claim

You should claim as soon as possible (but reporting the crime to the police is still more urgent), and in any event, generally you must make a claim within **two years** of when you were injured. Very occasionally, CICA may allow more time. This could be, for example, if you delayed reporting to the police because you were a child (under the age of 18) and frightened of the attacker, or an injury (such as brain damage) only became obvious later.

But if you miss the two-year deadline for a less serious reason, it is still worth claiming anyway (as soon as possible). LSA can help you with this.

In summary, where you seek extension of the standard two year time limit, particular care is required.

More on time limits and other complications

The time limits affect children, or adults who were injured as children, in different ways.

In particular if you were injured as a consequence of a crime of violence as a **child** (under 18) and the crime was also reported to the police whilst you were a child, then you need to claim before your 20th birthday. However, if you were injured as a child but the crime was reported to the police after your 18th birthday, then the application to the Criminal Injuries Compensation Authority needs to be made within 2 years of the report to the police. In exceptional cases these time limits can be extended.

Trafficking victims can claim Criminal Injuries Compensation, however they should only do so after they have been referred to the Competent Authority as a potential victim of human trafficking. Access to this is through the police, social work or other specialist organisations. In case of difficulty get advice. Success of the CICA application will ultimately depend on the Competent Authority accepting that the person concerned has correctly been identified as a victim of trafficking. If these requirements seem to bar you from compensation seek specialist advice.

Asylum seekers can also claim compensation if they have suffered an injury as a consequence of a qualifying crime of violence, however they should only do so after having applied for asylum. The success of the CICA application will ultimately depend, in part, on whether the applicant is granted temporary or humanitarian protection or asylum. If there are problems here seek specialist advice.

The standard 2 year time limit still applies to trafficking victims and asylum seekers.

Family violence is, of course, covered by the 2012 Scheme, however, on the face of it, it was not covered at all before 1st October 1979. Accordingly, whilst, in appropriate cases, it is possible to apply now for injuries as a consequence of crimes of violence that occurred many years ago, the possibility of an extension of the usual two year time limit for lodging applications appears to stop at 1st October 1979. This is the case even if the abuse or injuries are very severe and the facts well established and even if the always difficult hurdle of justifying a very late claim could otherwise be met. **However**, it may be the case that the cut-off date of 1st October 1979 can be seen as a discriminatory exclusion and unlawful on human rights grounds. After all, other victims of crimes of violence could obtain compensation since 1964. This human rights argument is, as yet, undecided: it may, however, be worthwhile submitting an application now pending the resolution of this complex legal issue. LSA can advise further.

Amount of money awarded

CICA awards different amounts of money for different injuries based on a Tariff System. The Tariff System is available to be studied. Awards tend to be for serious injuries which cause disability or last a long time.

You can find out more about these amounts (the tariff) from an advisor or from the CICA helpline or website.

Even if you are familiar with the older arrangements, it is useful to study the 2012 tariff. This is because the first five lower tariff bands of injury that existed under the previous schemes were removed.

Remember, however, that reaching an accurate view of the amount of compensation that may be awarded for more complex injuries is not an easy task.

Money for other losses (see page 5) can, of course, be claimed too.

How to claim

You can claim by phoning the CICA helpline (see below) or by filling in the online form at www.gov.uk/claim-compensation-criminal-injury. CICA staff are friendly and helpful.

The CICA website explains the scheme, and the information you need to give.

You can apply yourself. But it is worth getting help because the rules about who can claim and the information you need to give can be complicated. Expert advice also helps if:

- The injury is very severe, making it more difficult for you to do things for yourself or if you are disabled in any way
- The time limit for claiming has passed
- You need evidence for claiming for mental injury or care costs
- You are claiming for loss of earnings or earning capacity
- CICA has refused your claim
- Your claim is going to review/appeal (see below)
- A child is applying

Asylum seekers, people from abroad or trafficking victims are particularly advised to get legal help.

During the application

Generally you must be sure to keep in touch with your medical advisors and make sure that you follow their advice so as to get better as quickly as possible.

If you have somebody helping you with your application, you must keep in touch with them.

If you do not have somebody helping you, ensure that you deal with any queries from the Criminal Injuries Compensation Authority promptly and keep copies of the correspondence. Tell the Criminal Injuries Compensation Authority about any changes in your circumstances as soon as possible. A claim can be rejected if you fail to keep in contact with the Criminal Injuries Compensation Authority.

Of course, if you start without help, it is still possible to get help after the application process has started.

If you disagree with CICA's decision

If you disagree with CICA's decision you can ask them to look at your case again (review).

If you disagree with the review's decision, you can appeal.

There are strict time limits for reviews and appeals and these are quite short.

It is best to get expert advice about reviews and appeals because you risk losing any award which CICA has already offered.

If you lose out because of the 2012 Scheme

The 2012 Scheme embodies many cuts compared with the earlier, more generous arrangements. Victims who are “losers” include people who were on higher earnings or with higher earning potential who have no or much reduced earning capacity, people who have criminal records, some visitors to the UK as well as some asylum seekers and trafficking victims. It is thought some of these cuts may, possibly, be open to legal challenge. If this applies to you seek specialist legal advice.

One group that may feel particularly aggrieved are those who suffered a crime of violence before the commencement of the 2012 Scheme, who didn't know their rights were in question or who lacked capacity and who submitted an application after the commencement of the 2012 Scheme. In such cases there may be legal issues worth investigating.

Of course, the largest number of people who lose out under the 2012 Scheme is the removal of the first five tariff bands of injury that existed under the previous arrangements. These will include, for example, injuries such as minor scarring to the face, certain nasal fractures, rib fractures and many more.

How LSA can help

LSA can help you with your claim. Although you do not need a solicitor to claim, it can make a great difference. Our solicitors are experienced in helping:

- Prepare, submit and manage applications to the CICA and follow on queries
- With complex cases
- With claims involving serious injuries, particularly brain injuries
- With reviews and appeals
- Children or adults who are unable to manage their own affairs
- Asylum seekers and trafficking victims
- Cases involving legal issues

We may be able to give you free or cheap legal advice. You may be able to get legal aid. There is no legal aid for appeal hearings. But we usually do this on a 'no win no fee' basis. This means that we only charge you a fee (agreed with you beforehand) if your claim is successful.

Once you have received a settlement it may be advantageous from a benefit or tax point of view for your funds to be placed in a Trust. LSA can help with this also.

More about LSA

All LSA offices can advise, assist and represent you for claiming criminal injuries compensation. LSA's legal work is done by the firm of Brown & Co. Solicitors, which is regulated by the Law Society of Scotland. You can get more information on our website at www.lsa.org.uk or by phoning us on 0800 316 8450 (free number).

If you have a mental health problem or dementia or brain injury or are a carer, contact our Mental Health Legal Service on free phone 0800 315 8450 or:

Glasgow: 0141 353 3354

Edinburgh: 0131 228 9993

If you are a young person from abroad, a refugee, an asylum seeker or a migrant woman or child who has experienced violence or been trafficked, phone our specialist Women and Young Persons Department. It can advise and represent you wherever you live in Scotland: 0800 316 8450 (free number) or 0141 353 3354.

More information

See LSA's free "Introduction to the Scheme" by Ewan MacPhillimy and Paul D. Brown: www.lsa.org.uk.

We can post a copy to you – there are a small number free whilst stocks last – send a stamped addressed envelope to LSA at the Fleming House, 134 Renfrew Street, Glasgow, G3 6ST.

You can also get more information from:

- CICA helpline: 0300 003 3601 (8.30am to 5pm Monday, Tuesday, Thursday and Friday and 10am to 5pm on Wednesday)
- CICA: www.gov.uk/government/organisations/criminal-injuries-compensation-authority
- Guide to criminal injuries compensation: www.gov.uk/criminal-injuries-compensation-a-guide
- Scottish Government: www.victimsofcrimeinscotland.org.uk
- Victim Support can help too but they cannot give legal advice: www.victimsupport.org.uk

LSA: Tackling Unmet Legal Needs

Legal Services Agency Ltd. is a human rights charity (SCO17160) and a law centre tackling the unmet legal needs of those in disadvantage. It has four offices in three cities: Glasgow, Edinburgh and Greenock.

Legal Services Agency's solicitors, through Brown & Co., provide advice, assistance and representation in all relevant courts and tribunals. All our offices undertake Criminal Injuries Compensation applications.

For more information, check our website www.lsa.org.uk.

LSA's projects include the following:

- Prevention of homelessness/defended eviction/defending mortgage repossession cases and other social welfare law problems. (Freephone: 0800 316 8450 or Inverclyde: 01475 725 665)
- Advice and representation in all areas of civil law for those with mental ill health, dementia, incapacity or acquired brain injury, their relatives and carers (offices in Edinburgh 0131 228 9993 and Glasgow 0141 353 3354).
- Advice and representation for refugee, asylum seeking or migrant women (any age) and young people (25 or under) living in Scotland. (Freephone: 0800 316 8450)

Office Bases

Main Office:

LSA, 3rd Floor, Fleming House, 134 Renfrew Street,
Glasgow, G3 6ST,

Tel: 0141 353 3354 Fax: 0141 353 0354

Freephone: 0800 316 8450 E-mail: lsa@btconnect.com

Clients can access advice, information and representation on all areas of LSA's work through LSA's main office at Fleming House.

Edinburgh Office LSA:

3rd Floor, Princes House, 5 Shandwick Place,
Edinburgh, EH2 4RG

Tel: 0131 228 9993 Fax: 0131 228 9994

E-mail: Isaedin@lsa.org.uk

Clients can access the services of LSA's Mental Health Legal Service through the Princes House office.

Greenock Office:

LSA's Inverclyde Housing Rights Project, 9 Sir Michael Street,
Greenock, PA15 1PQ

Tel: 01475 725 665 Fax: 01475 721 329

E-mail: greenock@lsa.org.uk

Clients from anywhere in Inverclyde can access advice, assistance and representation in all aspects of preventing homelessness at LSA's Greenock Office.

North Glasgow Advice Centre:

1169 Royston Road, Glasgow, G33 1EY

Tel: 0141 770 7869 Fax: 0141 770 7976

Clients can access advice, assistance and representation on all aspects of preventing homelessness and social welfare law through LSA's office within North Glasgow Advice Centre.

Legal Services Agency
134 Renfrew Street
Glasgow G3 6ST

Freephone: 0800 316 8450
0141 353 3354
www.lsa.org.uk

LSA is a charity (SC017160) and a company limited
by guarantee (SC123919).
It is community controlled.

Registered office: Fleming House, 134 Renfrew Street, Glasgow G3 6ST
Chief executive/principal solicitor: Paul D. Brown



Glasgow's Advice &
Information Network



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Edited by Shirley Henderson