

Criminal Injuries Compensation Scheme Frequently Asked Questions (FAQs)

1. What is the Tribunal?

The Criminal Injuries Compensation Tribunal administers two schemes:

- The Scheme of Compensation for Personal Injuries Criminally Inflicted (“Criminal Injuries Compensation Scheme”) and;
- The Scheme of Compensation for Personal Injuries Criminally Inflicted on Prison Officers.

These Frequently Asked Questions concern the Scheme of Compensation for Personal Injuries Criminally Inflicted only and *not the Scheme of Compensation for Personal Injuries Criminally Inflicted on Prison Officers*. The terms and conditions of the Scheme are available on the Department of Justice website.

The Tribunal members are qualified barristers and solicitors. Under the terms of the Scheme, the Tribunal is limited to a Chair and ordinary members who act on a part time basis.

The Tribunal is independent in making decisions on individual applications and in its decisions on appeals. Only vouched out-of-pocket expenses are eligible for reimbursement under the Scheme and applicants should be aware that the Tribunal does not award compensation for pain and suffering to victims of crime.

In addition to applications made by victims of crime, applications by dependents arising from fatal injuries are also eligible for consideration by the Tribunal.

2. Who is eligible to make an application to the Criminal Injuries Compensation Tribunal?

- Individuals who have sustained a personal injury, where the injury is directly attributable to a reported crime of violence or
- Individuals who sustained a personal injury in circumstances arising from action by them in assisting or attempting to assist the prevention of a reported crime or the saving of human life or
- Dependents of a victim who has died due to a violent crime.

The injuries (fatal and non-fatal) must have been sustained within the State or aboard an Irish ship or aircraft.

One of the requirements for the Tribunal to consider an application under the Scheme is that the incident has been reported to An Garda Síochána (or the Garda Síochána Ombudsman Commission (GSOC) where the crime is alleged to have been carried out by a member of An Garda Síochána.) The applicant victim must also have co-operated and continue to co-operate insofar as possible, as required, with the Gardaí (or GSOC if applicable) in their investigation of the incident.

3. When must an application be made and is there a time limit?

An application must be made in writing as soon as possible after a crime of violence causing injury, including fatal injury, but in all cases not later than 3 months from the date of the event giving rise to the injury.

The official date of receipt of an application is deemed to be the date on which the Tribunal receives a signed hard copy of the Scheme's application form.

If an application is late, that is, if it is made in writing after 3 months from the date of the event giving rise to the injury, the Scheme allows the Tribunal to accept late applications on an exceptional basis for up to two years after the incident, if it is satisfied that the circumstances of the late application justify exceptional treatment.

In the case of late applications, applicants must insert reasons on the application form to explain the delay. It is a matter for the Tribunal to consider the circumstances of a late application and decide if the reasons provided by the applicant justify exceptional treatment and whether to admit it.

4. Are there minimum requirements?

Yes.

- Applications must be in writing and made as soon as possible but not later than 3 months after the injury event (see above re exception)
- The injury must have been criminally inflicted
- The event must have been reported to An Garda Síochána (or GSOC where the crime is alleged to have been committed by a member of the Gardaí) and full co-operation must be given to them in investigating the incident
- Applicants must indicate if the incident is the subject of criminal proceedings
- Applications must be supported by appropriate documents and receipts
- Other limitations also apply as set out in the Scheme

5. What are the terms and conditions of the Scheme?

The terms and conditions of the Scheme are available here:

http://www.justice.ie/en/JELR/Pages/Criminal_Injuries_Compensation_Scheme

6. How do I apply?

Two application forms are available depending on whether the application involves a fatal or non-fatal injury. These can be downloaded from the following website page:

http://www.justice.ie/en/JELR/Pages/Criminal_Injuries_Compensation_Scheme

In submitting an application, you should include a copy of your statement to an Garda Síochána (or GSOC where it is alleged a member of An Garda Síochána committed the crime), where available.

In considering applications, the Tribunal will require a report about the incident from An Garda Síochána.

7. What can I claim for?

The compensation available under the Scheme is intended to cover vouched out of pocket expenses incurred by the victim of crime, such as medical treatment, dental treatment, prescriptions, spectacles replacement, travel expenses to avail of medical/dental/optical treatment and loss of earnings to date and into the future, incurred, if any, as a result of the criminal injuries sustained.

An applicant may also apply for any expenses that were incurred in obtaining medical or other expert reports to support an application to the Tribunal. Where required by the Tribunal, expert reports (e.g. from medical professionals/actuaries etc) must be submitted from certified professionals who operate independently of the applicant.

Applicants should state the net amount claimed, including any relevant supporting documentation. Receipts for expenses must be submitted when advised by the Tribunal secretariat to do so.

Please note that the Criminal Injuries Compensation Scheme does not pay compensation for general damages, i.e. pain and suffering, which may have incurred because of a crime of violence.

Further details on the nature of compensation which can be claimed is provided on the Scheme's application forms available at http://www.justice.ie/en/JELR/Pages/Criminal_Injuries_Compensation_Scheme

8. I have a medical card and have no out of pocket medical expenses. Can I claim for medical expenses?

No. The Scheme provides that there can be no double compensation. Where the State has already funded medical treatment and/or prescription costs, those costs cannot be recovered again.

9. Can I claim for the prescription costs?

Yes. If prescription costs were not covered by a medical card or otherwise by the State, these expenses may be claimed for.

Any amounts not reimbursable and paid for by the applicant under the Drugs Payment Scheme may be claimed. Receipts for expenses incurred must be submitted when advised by the Tribunal secretariat to do so.

10. Can I make a compensation claim for general damages otherwise known as damages for pain and suffering?

Under the terms and conditions, the Criminal Injuries Compensation Scheme does not award compensation for general damages i.e. pain and suffering, which may have been incurred because of a crime of violence.

11. What is double compensation and how does it affect me?

Where a victim claims compensation otherwise than under the Scheme for the injury (e.g. through the courts) or where the applicant has received funding from another source (e.g. Department of Social Protection, HSE), the victim will not be prohibited from making an application to the Tribunal.

However, under the terms of the Scheme, when making an award, the Tribunal has to ensure that a person is not being or has not been compensated for the same injury from a different source.

Where someone receives compensation for the same injury from another source the Tribunal may decide that no award should be made or that the award should be reduced by a certain amount to take into account the other funding or award received. They may also decide that where the Tribunal has already paid money to an applicant, the applicant should repay it.

12. If I am awarded compensation through the courts, can I also make an application to the Tribunal?

Yes, but as per question 11 above and in accordance with the terms of the Scheme, no payment under the Scheme may result in compensation being duplicated.

It is a matter for the applicant to inform the Tribunal of the conclusion of any criminal or civil proceedings and any compensation awarded. Typically, secretariat staff will not forward an application to the Tribunal for decision while civil and or criminal court proceedings are ongoing and the Tribunal will wait for the conclusion of the proceedings before a decision on the application is made.

When making an award, the Tribunal has to ensure that a person is not being compensated for the same injury from a different source. So where someone receives compensation for the same injury through the courts, the Tribunal may decide that no award should be made or that the award should be reduced by a certain amount. They may also decide that where the Tribunal has already paid money to an applicant, the applicant should repay it.

13. Can I make a claim for stolen or damaged property?

The Scheme covers personal injury only and makes no provision for compensation in respect of stolen or damaged property, even if such property was stolen or damaged at the same time and by the same offender who caused or inflicted the injury the subject of an application.

14. What are the limitations and restrictions of compensation?

The terms and conditions of the Scheme set out limitations and restrictions of compensation.

Applicants will note that:

- no compensation is payable where the Tribunal is satisfied that the victim was responsible, either because of provocation or otherwise, for the offence, giving rise to his injuries and the Tribunal may reduce the amount of the award where, in its opinion, the victim has been partially responsible for the offence.
- no compensation is payable where the Tribunal is satisfied that the conduct of the victim, their character or their way of life make it inappropriate that they should be granted an award and the Tribunal may reduce the amount of an award where, in its opinion, it is appropriate to do so having regard to the conduct, character or way of life of the victim.

15. I am an Irish national who while abroad was injured because of a crime of violence. Can I make a claim to the Criminal Injuries Compensation Tribunal?

No. The Criminal Injuries Compensation Tribunal only considers applications from those injured as a result of a crime sustained within the State or aboard an Irish ship or aircraft.

The victim of a crime of violence should make inquiries with the relevant State where the crime occurred, as to whether or not they have a criminal injuries compensation scheme.

The European Commission provides a portal, which sets out the schemes available in EU Member States. See: https://e-justice.europa.eu/content_compensation-67-en.do

16. I am a foreign national who while visiting Ireland suffered an injury because of a crime of violence. Can I make an application?

Yes. The Criminal Injuries Compensation Tribunal will consider applications from any resident in the State or any visitor injured as a result of a crime sustained in the State or aboard an Irish ship or aircraft.

17. Do I need a solicitor to make an application?

No, under the terms of the Scheme, proceedings before the Tribunal are informal. While an applicant is always entitled to seek independent advice or representation, including legal advice, the Scheme makes no provision for awarding legal costs and consequently the Tribunal has never awarded legal costs to an applicant.

18. How long will it take to process my application?

The length of time in finalising claims may vary considerably depending on the nature of any particular case. Some cases are more complex than others and it is not possible to provide a specific timeframe. Currently six Departmental staff act as secretariat to the Tribunal. These staff receive applications and gather the necessary information in relation to each application. In accordance with the terms of the Scheme, a decision of first instance on an

application may be made by a duly authorised officer of the Tribunal in cases where the amount involved does not exceed €3,000. The Tribunal may appoint one of the Tribunal staff, usually the Secretary, as a duly authorised officer.

Where the amount sought is greater than €3,000, the application must be submitted for decision of first instance to the Tribunal. Where the amount sought is below €75,000, the application will be decided at first instance by a single Tribunal Member and where the amount sought is above €75,000, the application will be decided collectively by three Tribunal Members.

In terms of the duration of the process, it may take several years before an application for compensation is ready for submission to the Tribunal for consideration and decision.

For example, typically final Garda reports on the crime are required, as are the outcomes of any court cases initiated. The Tribunal will not consider an application for compensation until An Garda Síochána (or GSOC where relevant) has concluded its investigation.

In addition, in some cases the extent of injuries suffered by the victim may not be known for some years. The Tribunal requires medical opinions on injuries. Depending on the nature of the injuries, the operations or other interventions required and reports on same, this may take months or years in some cases.

It is also the case that the assessment of loss of earnings for consideration by the Tribunal may be complex to determine and may require employer assessment, social welfare reports or actuarial assessment. These and other factors will have an impact on the duration of any particular application.

19. What can an applicant do if they do not agree with the decision made by the Tribunal member?

It is open to an applicant to appeal the decision of first instance to an appeal hearing consisting of a panel of three members of the Tribunal. Any members who made the original decision cannot be a member of the Tribunal appeal panel.

21. How is an appeal conducted?

Hearings will be in private. All information before the Tribunal will be available to the applicant. Three members of the Tribunal will hear the appeal (this will not include any Tribunal members involved in the first decision on the claim). A member of the Tribunal's secretariat staff will also be in attendance. The hearing may be held remotely (e.g. by teleconference or video conference) or onsite.

The proceedings will be by way of a presentation of his or her appeal by the applicant. Members will ask questions about the documentation submitted by the applicant. An appeal hearing treats the appeal as if the application is being made for the first time and will disregard the original application and the decision under appeal. The amount awarded may stay the same, may be increased or may be decreased depending on what the appeal panel

decides.

An applicant may be accompanied to the appeal hearing by their legal advisor or another person, however the Scheme makes no provision for awarding legal costs and the Tribunal cannot make any award in respect of the applicant's costs of legal representation.

21. Can I appeal the decision of the Tribunal Appeal Hearing?

No.

22. Will the administrative staff of the Tribunal make my claim on my behalf?

The onus is on an applicant to make the claim.

Tribunal secretariat staff are available to answer queries about the process of making an application. They have no role in decision-making.

The Tribunal itself consists of a Chair and ordinary members who are qualified barristers or solicitors. The Tribunal members decide in any particular application is admissible and whether an applicant is entitled to an award of compensation under the Scheme. The Tribunal is independent in the matter of decisions on individual applications.

23. Will the decision on my case be published?

Decisions of the Tribunal, redacted to remove personal data, may be made publicly available.