



Department of  
**Justice**

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# **REVIEW OF CRIMINAL DAMAGE AND CRIMINAL INJURIES COMPENSATION SCHEMES**

## **CONSULTATION OVERVIEW AND RESPONSE PAPER**

**DECEMBER 2015**

**Response to consultation completed by the Department of Justice**

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## INTRODUCTION

The Department of Justice has consulted on proposals to change the legislation which underpins compensation paid to victims of **criminal damage** and compensation paid to victims of **criminal injury** in Northern Ireland. The consultation document can be found at: [Consultation Document on the Review of Criminal Damage and Criminal Injuries Compensation Schemes](#). An overview of the Department's reform proposals, revised to take account of the consultation, is contained at **Appendix A**.

1.1 This Report summarises the responses received to the public consultation document and the issues raised and explored at meetings with key stakeholders during the consultation period and in the months following the formal closure of the consultation period. The document provides:

- extracts from the responses received in answer to the consultation questions and the issues raised by stakeholders at meetings held with Departmental officials both during and post the consultation period;
- the Department's analysis of the issues raised and its considered position; and
- what the Department intends to do in terms of bringing forward proposals into new compensation schemes.

1.2 The legislation which is the subject of this report is:

- a. Criminal Damage (Compensation) (Northern Ireland) Order 1977<sup>1</sup>
- b. The Criminal Injuries Compensation (Northern Ireland) Order 2002<sup>2</sup>

The Criminal Injuries Compensation (Northern Ireland) Order 2002 is enabling legislation which provides for the eligibility criteria, the detailed arrangements

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<sup>1</sup> [Criminal Damage \(Compensation\) \(Northern Ireland\) Order 1977](#)

<sup>2</sup> [Criminal Injuries Compensation \(Northern Ireland\) Order 2002](#)

governing the payment of compensation and the amount of awards relating to the extent of injuries, to be set out in an administrative 'Scheme'. The first statutory Compensation Scheme, Criminal Injuries Compensation Scheme 2002, came into operation in Northern Ireland in May 2002 and was updated in 2009 by the [Criminal Injuries Compensation Scheme 2009](#).

1.3 The current statutory Criminal Damage and Criminal Injuries Compensation Schemes are administered by the Department of Justice, Compensation Services Branch, which operates from offices in Millennium House, Great Victoria Street, Belfast.

## **Background and Purpose**

1.4 The Minister of Justice made a commitment in the Victim and Witnesses Strategy 'Making a Difference to Victims and Witnesses of Crime - Improving Access to Justice, Services and Support'<sup>3</sup>, to **review the Criminal Injuries and Criminal Damage Compensation Schemes**. The Victim and Witnesses Strategy focuses on developing new services and delivering existing support services more effectively. The emphasis of the Strategy is very much on improving access to justice and targeting support to those most in need to ensure that increasingly limited resources are put to best use.

1.5 The existing Criminal Damage and Criminal Injuries Compensation Schemes were developed and introduced during a period when Northern Ireland was in a serious and sustained terrorist campaign with serious public disorder a regular feature of the conflict. A very different environment exists today flowing from the political developments and the restoration of local political institutions.

1.6 The **purpose** of the review was to examine the Schemes to ensure that they are **relevant and responsive** to the needs of victims today and for those in the

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<sup>3</sup> [Making a difference to victims and witnesses of crime: Improving access to justice services and support - A five year strategy](#)

future. It is also important that the terms on which any new Schemes operate are future-proofed so they remain **sustainable and affordable**.

1.7 In developing reform proposals for the Schemes, it was important to acknowledge that while Northern Ireland is emerging from a period of conflict, regrettably there remains within our society a residual terrorist threat and a continuing risk of serious public disorder.

## **Context of Review**

2.1 To understand the context of the reform proposals it is important to remember the background and the underlying principles of the existing Schemes and the key factors which influenced the proposals for change.

### **Criminal Damage**

2.2 The Criminal Damage (Compensation) (Northern Ireland) Order was introduced in 1977 in response to an escalating and sustained terrorist campaign which included attacks on the commercial heart of our cities and towns, resulting in an increasing number of high value criminal damage claims. In addition, as a society in conflict there was a level of serious public disorder on our streets, leading to damage to both commercial and private property on a significant scale.

2.3 In response to the worsening security situation, many in the insurance industry withdrew from the Northern Ireland insurance market completely or refused to provide cover for riot and terrorist related damage. The Government therefore had to step in to effectively underwrite the insurance industry by introducing a legislative scheme funded by the taxpayer. Given the scale of property damage in the 1970s the fundamental purpose of the Criminal Damage Order was to reinstate victims of criminal damage to the position that they were in immediately prior to the incident which gave rise to their claim. The legislation was, however, not intended to cover

damage or loss caused by ordinary crime or vandalism<sup>4</sup>, nor was it intended to act as an alternative to private property or household building and contents insurance cover.

2.4 The security situation, threats of serious public disturbances and terrorist related atrocities, which provided the backdrop and rationale for the introduction of the existing Criminal Damage Compensation Scheme, are thankfully no longer a feature of our daily life. The re-establishment and restoration of political institutions have significantly changed the environment, as evidenced by the reduced number of criminal damage claims received and the amount of compensation paid in recent years.

2.5 There is no European Directive which obligates Member States to compensate for criminal damage. Northern Ireland and the Republic of Ireland (ROI) are the only regions which provide, under legislation, cover for damage to property from both terrorist activity and serious public disorder.

2.6 The Republic of Ireland provides cover under the Malicious Injuries Act 1981 amended by the Malicious Injuries (Amendment) Act 1986<sup>5</sup> which confines awards of compensation to damage caused by riot and by the activities of unlawful organisations. The person who suffers the damage is entitled to make an application to the court to obtain compensation from the local authority. Proof of damage caused by terrorist activity must be provided by way of a certificate from an appropriate superintendent from the Garda Síochána – this is similar to the current provision in Northern Ireland where proof of damage must be by way of a Chief Constable's Certificate.

2.7 In Great Britain the Riot (Damages) Act 1886, as amended by the Public Order Act 1986 provides that, in the event of a riot (deemed to involve **12 or more** people), the Police Authority for the area concerned pays compensation to the owner of the

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<sup>4</sup> [Commons Sitting 19 July 1977 Hansard: Northern Ireland \(Compensation for Criminal Damage\)](#)

<sup>5</sup> [Malicious Injuries Act, 1981](#) as amended by [Malicious Injuries \(Amendment\) Act, 1986](#)

property which has been damaged or destroyed. Compensation paid under the Riot Act does not extend to damage caused to vehicles unless they are within the property affected. There is no publicly funded scheme to cover for other forms of criminal damage except in the event of a major terrorist attack when central government steps in under the Pool Re Scheme<sup>6</sup> to assist the private insurance market to meet its obligations in full. Government support is only evoked where the 'pooled' reserves of the private insurance industry are insufficient to meet the scale of losses incurred.

2.8 Our research indicates that in other EU states responsibility rests with the individual citizen to protect their property from the effects of criminal damage, including riot, through normal commercial and domestic insurance cover.

2.9 The fundamental question at the heart of the review of our Criminal Damage Compensation Scheme relates to the **extent the State, and therefore the taxpayer, should continue to be responsible for providing compensation** to those who suffer loss as a result of criminal damage and whether some responsibility should be returned to the individual citizen to insure their own property through the private sector insurance industry?

### **Criminal Injuries**

2.10 The Criminal Injuries Compensation Scheme in Northern Ireland is also funded by the taxpayer. In 2002 the Government introduced a tariff based system where awards to victims of violent crime were made as **an expression of public sympathy** for the pain and suffering caused by the injury. This system moved the Government away from a position where it had accepted responsibility for the criminal act which gave rise to the injury. Instead, under the tariff based Scheme the State's position became one of concern for the victim of crime and recognition that a gesture of a monetary award may help some victims to recover and move on from the incident. It is also important to recognise that the publicly funded Scheme is

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<sup>6</sup> [Pool Re Scheme 1993 - Pool Reinsurance Company Ltd](#)

intended to be one of last resort and that victims can and should pursue compensation from other sources e.g. the offender and/or the insurance industry.

2.11 It has previously been reported that some victims receive a sense of ‘closure’ as a consequence of the compensation payment. While we fully accept that view, we also recognise that for many victims, particularly those who are bereaved or seriously affected by their injuries and where the impacts of a criminal injury are long-term and life changing, no amount of compensation can restore the harm done, lessen the hurt caused or bring closure.

2.12 The Department of Justice recognises the central position of victims in the criminal justice process and through the ‘Making a Difference’ Strategy has already improved access to justice services and support for victims and witnesses of crime. A range of victims services and support are better publicised and more accessible than when the statutory Compensation Schemes were established and against this backdrop compensation is now only one element of support offered to victims.

2.13 We are obligated under the European Convention on the Compensation of Victims of Violent Crimes (ETS 116 1983)<sup>7</sup> and the more recent EU Directive 2004/80/EC<sup>8</sup> to compensate victims of crime who have sustained **serious injury or impaired health** directly as a consequence of an intentional crime of violence and the dependants of persons who have died as a result of such a crime, **where compensation is not fully available from other sources**. The underlying EU principle is that responsibility for compensating a victim of crime rests with the offender and that the State should only step in where that is not possible. Member States have chosen to interpret their obligations under the Directive in different ways and to varying degrees. There is also a responsibility to ensure the Department is compliant with EU Directive 2012/29/EU which establishes minimum standards on the rights, support and protection of victims of crime. This includes ensuring victims are given information on how and under what conditions they can access compensation. It also provides that victim support services shall, as a minimum,

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<sup>7</sup> [Compensation of Victims of Violent Crimes \(ETS 116 1983\)](#)

<sup>8</sup> [European Council Directive - 2004/80/EC](#)



provide information, advice and support relevant to the rights of victims including accessing national compensation schemes for criminal injuries.

2.14 The GB Criminal Injuries Compensation Scheme is administered by the Criminal Injuries Compensation Authority, which is an executive agency of the Ministry of Justice. The current Scheme is the Criminal Injuries Compensation Scheme 2012<sup>9</sup> which came into effect in November 2012. As in Northern Ireland, the system is tariff based with award values starting at £1,000 rising to £250,000 for the most serious injuries. The 2012 GB Scheme introduced a UK residency test and a cap on the total amount of compensation payable at £500,000. Applicants contribute a £50 fee towards the cost of medical evidence. Compensation is payable for up to three injuries on a reducing scale of 100% of the tariff value for the most serious injury; 30% of the tariff value for the second injury and 10% of the tariff value for the third injury. The 2012 Scheme also introduced a cap on funeral expenses and a bar on applicants with unspent criminal convictions which had resulted in either a custodial sentence or a community order. While the Scheme covers for loss of earnings, the injury sustained must be serious enough to result in the victim's total inability to undertake paid work, or a very limited capacity to work. Where loss of earnings is demonstrated to this extent the Scheme pays a fixed rate equivalent to the amount of statutory sick pay (currently £88.45 per week) after the first 28 weeks of loss.

2.15 While the scope and eligibility criteria of the Northern Ireland Scheme are similar to those for the GB Scheme, our existing Scheme is significantly more generous and the gap between the GB and Northern Ireland schemes continued to widen as a consequence of the changes introduced in GB by its 2012 Scheme.

2.16 The Republic of Ireland provides ex-gratia compensation for expenses and losses incurred as a result of personal injuries directly attributable to a crime of violence or sustained while helping (or trying to help) to prevent a crime or save a human life. The Scheme is intended to provide compensation to victims who have no other source of compensation open to them and is operated by the Criminal

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<sup>9</sup> [Criminal Injuries Compensation Scheme 2012](#)

Injuries Compensation Tribunal. For injuries with short term effects, the Scheme considers: actual loss of earnings; actual medical expenses; reasonable travelling expenses to medical appointments and costs of medications. Where the injury has long term effects, compensation may also be awarded for the estimated future loss of earnings and future medical expenses; expenses arising from a disability e.g. future care, special equipment, modifications to home or car, additional insurance costs. Compensation can be paid in fatal cases and is based on actual and future loss of earnings and expenses, funeral costs and mental distress for immediate family members. In assessing the amount of compensation to be awarded the Tribunal takes into account the victim's conduct, character, including criminal record and way of life.

2.17 At the heart of the Review of our Criminal Injuries Compensation Scheme we remained focused on the fundamental purpose which is **to recognise** victims of violent crime who have sustained a physical or mental injury or who have been bereaved. The compensation payment is made as an **expression of public sympathy or concern** in recognition of the pain and suffering caused by the injury or the grief and sorrow of bereavement. While no amount of money can truly compensate for an injury caused by a criminal act or for the loss of a loved one, the proposals advanced in the consultation document sought to **protect criminal injury compensation payments for those victims most seriously affected by their injuries and where their injuries are long term and life changing**.

2.18 By benchmarking our Criminal Damage and Criminal Injuries Schemes with those operating in other EU states, and in particular our closest neighbours in England, Scotland and Wales (GB) and the Republic of Ireland (ROI), it is clear that the Northern Ireland Scheme is the **most generous** of all EU States.

2.19 The Review of the Criminal Damage and Criminal Injuries Compensation Schemes comes at a time when public funding and budgets across all of our public services are under significant pressure. Many of our front line services are subject to reductions in funding. As the Department faces difficult budgetary prioritisation

decisions, it is prudent and right that the Compensation Schemes should be subjected to scrutiny. The proposals for change detailed in the consultation document were designed to ensure that the Schemes are affordable and that the public money made available for the purposes of criminal damage and criminal injuries compensation is properly directed towards those victims who are the most seriously impacted by violent crime and are deemed to be most in need.

## **Stakeholder Engagement**

3.1 During the pre-consultation stage of the Review, the Department engaged with individual victims, victims' representatives, other stakeholders and interested parties such as representatives of the insurance industry and the legal profession to gather views and opinion on the current Compensation Schemes and invite contributions to inform the proposals for change. Officials also consulted with other jurisdictions in order to research and benchmark our local Compensation Schemes with arrangements operating in other EU states.

3.2 Officials held individual meetings with criminal damage stakeholders, including the Orange Order, NI Independent Retailers Association, the GAA and National Farmers Union Mutual. Victim Support NI facilitated a workshop in Belfast to which a wide range of stakeholders were invited to help us shape the proposals for change. A list of stakeholder engagement is included at **Appendix B**.

## Public Consultation

4.1 The [Public Consultation Document](#) was published on 8 December 2014 and the formal consultation period closed on Monday 16 March 2015. 21 responses were received from a range of stakeholders, nine relating to the Criminal Damage Compensation Scheme, nine for Criminal Injuries Compensation Scheme, and three relating to both. A full list of the respondents is at **Appendix C**.

4.2 The number of responses to the Review of Criminal Damage and Criminal Injuries Compensation Schemes consultation has been benchmarked against other consultation exercises, and compares favourably with the average number of responses received for other DOJ consultations. The number of responses to this consultation also compared favourably to the number received to the public consultation carried out for the Review of the Riot Act in GB where 26 responses were received and with the Review of the GB Criminal Injuries Compensation Scheme where 27 responses were received.

4.3 The table below provides a breakdown of the respondents to the Review of Criminal Damage and Criminal Injuries Compensation Schemes:

<b>Sector</b>	<b>No of responses</b>	<b>Percentage of responses</b>
Political Parties/ Representatives	3	14.3%
Voluntary/Community/Charitable Organisations	10	47.6%
Statutory Organisations	1	4.8%
Members of the public	2	9.5%
Business sector	5	23.8%
Total	21	100%

4.4 The consultation document invited respondents to reply to 30 questions: 16 questions related to the proposals to reform the Criminal Damage Compensation

Scheme and 14 related to Criminal Injuries Compensation Scheme. Not all respondents provided comments against all the questions, most respondents concentrated on proposals specific to their own or their organisation's particular interest. The responses are available on the Department of Justice website <http://www.justice-ni.gov.uk/>

## Departmental Response

In this section we have provided:

- the Questions posed in the Consultation Document relating to the reform proposals;
- extracts from the responses received in answer to the consultation questions and the issues raised by stakeholders at meetings held with Departmental officials both during and post the consultation period;
- the Department's analysis of the issues raised and its considered position; and
- what the Department intends to do in terms of bringing forward proposals into new Compensation Schemes.

### 5.1 Criminal Damage Compensation Scheme

**Q1. Do you agree with the proposal to retain a statutory Criminal Damage Compensation Scheme which would compensate for damage caused as a result of (a) terrorist activity or by a person(s) acting on behalf of an unlawful association and/or (b) serious public disorder?**

A total of eight respondents commented on this question, and specific comments included:

Response 1

*Yes, we agree that the retention of a statutory Criminal Damage Compensation Scheme is essential given the residual risk of damage caused by terrorist activity or persons acting on behalf of an unlawful association and serious public disorder.*

**(Belfast Solicitors' Association)**

Response 2

*There may still be circumstances when the State may make compensation available or take action to reduce the cost of available commercial policies, for example, after extreme public disorder, or when the State has demonstratively failed in its duty to protect its citizens or when a particular group of people are unable to get or afford insurance due to particular circumstances.*

**(Disability Action)**

Response 3

*It is accepted that there has been an improvement in the general security and public order situations.*

*The pattern over the past 20 years shows an overall downward trend but spikes of disorder and targeting of property within that. Thus to base a new policy on the past couple of years is not a sure basis to proceed.*

**(DUP)**

Response 4

*In light of the proposal that rates exempt community halls should be dealt with in the same way as other properties, the GAA are in principle supportive of the proposals for change outlined in the consultation document.*

**(GAA)**

Response 5

*Yes. Farmers in Northern Ireland traditionally do not purchase as wide a range of insurance covers as their peers in GB and often focus on areas that they are statutorily obliged to have (e.g. Motor and Employers' Liability) or those that they feel are most likely to occur (e.g. Straying Livestock and Public Liability), so they may not all have the insurance protection that they would ideally need. The absence of a statutory Criminal Damage Compensation Scheme could potentially put their business at risk in the event of an incident arising.*

**(National Farmers' Union Mutual Insurance)**

Responses 6 & 7

*Agreed.*

**(NEXUS, Anon)**

Response 8

*The consultation document asks the question (3.12, p26) "in a society that is normalising and moving away from violent conflict, should the taxpayer compensate their fellow citizens for damage to their property?"*

*It answers its own question at a later stage (3.49, p39/40) where it says 'we can agree that a statutory Scheme should be retained for Northern Ireland because 'our society remains under a residual threat from dissident terrorist organisations' and that 'the threat of public disorder remains a concern.' 'It is appropriate therefore that the taxpayer should provide a publicly funded Compensation Scheme to cover for these situations to ensure that victims are appropriately supported.'*

**(UUP)**

## **ANALYSIS OF RESPONSES TO Q 1**

The proposal to retain a statutory Criminal Damage Compensation Scheme, which would compensate for damage caused as a result of terrorist activity or serious public disorder, was welcomed by all respondents. There was widespread acceptance among respondents that the operating environment has significantly improved in recent times. This is evidenced by the 56% reduction in the volume of new criminal damage claims lodged since 2008/09. Respondents acknowledged that the retention of a statutory Compensation Scheme recognised the residual threat of terrorism and the risk for serious breaches of public order. In welcoming the proposal respondents have accepted that the time is right to transfer responsibility back to individual citizens to ensure they have appropriate insurance cover for criminal damage which has not been caused by terrorist related activity or through a serious public disorder situation.

**What we will do in terms of bringing forward proposals into new**

**Compensation Schemes:**

Retain a statutory Criminal Damage Compensation Scheme which would compensate for damage caused as a result of:

- terrorist activity or by a person(s) acting on behalf of an unlawful association;  
and/or
- serious public disorder.

**Q2. Do you agree with the proposal to define the term serious public disorder to include a requirement for 12 or more people? Do you have any other comments on these proposals?**

A total of eight respondents commented on this proposal, and comments included:

Response 1

No.

**(Anon)**

Response 2

*We would have some concerns that the widening of the definition of serious public disorder to twelve or more people could in certain circumstances exclude from the scope of compensation, bodies, organisations or individuals who suffer unlawful damage from organised groups employing less than twelve people. The BSA would prefer if further consideration was given to this proposal.*

**(Belfast Solicitors' Association)**

Response 3

*The raising of the threshold to help define the attributes of the risk the State wants to cover is reasonable.*

**(Disability Action)**

Response 4

*The proposed definition seems to be based more upon the experience of the recent London riots and media dramatisations of riots rather than the bitter experiences Northern Ireland has endured.*

**(DUP)**

Response 5

*The situation in Northern Ireland, whilst greatly improved since 1977, is still incomparable to elsewhere in the United Kingdom. There remains a severe threat from dissident Republican terrorists and continued violence between communities at interfaces in Northern Ireland.*

*In our view, it is ludicrous to redefine 'serious public disorder' as consisting of twelve or more persons from the existing definition of three persons.*

**(Grand Orange Lodge of Ireland)**



Response 6

*No, we would not agree with this proposed change. This country is still subject to acts of terror and terrorist activity. The sinister groups involved in these activities are often small in number and appear to operate in rural areas under cover of darkness.*

**(National Farmers' Union Mutual Insurance)**

Response 7

*Agreed.*

**(NEXUS)**

Response 8

*We are not persuaded by the proposal to move away from the existing Order which requires 'three or more persons unlawfully, riotously or tumultuously assembled together' to enable a successful claim.*

*The Consultation proposal is that the new Scheme would require the involvement of 12 or more people to constitute serious public disorder. This is in line with the approach taken in Great Britain. Quite obviously the policing environment and public order considerations in Northern Ireland are not the same as in Great Britain and we do not support the change from 3 to 12.*

**(UUP)**

## **ANALYSIS OF RESPONSES TO Q 2**

The proposal to increase the qualifying criteria from three or more to 12 or more persons generated a mixed response from respondents to the public consultation. The proposal underscored the intention that a publicly funded Scheme would compensate for genuine and major incidents of public disorder and was informed by the recent review of the Riot (Damages) Act in GB, which retains the provision whereby 12 or more persons can be recognised as constituting a riot situation.

Having considered the responses to the public consultation, we have re-examined the original proposal. We acknowledge that the threat of serious public disorder on our streets continues to be of significant concern. However, the existing threshold of three or more people means that, with our changed operating environment, taxpayers' funds are very frequently used to compensate for incidences of common vandalism caused by small groups of people whose behaviour does not constitute public disorder. Compensation for this type of damage can be and should be claimed under standard vehicle and property insurance policies. It is clear that the Criminal Damage legislation<sup>10</sup> was not intended to cover ordinary crime or vandalism and the current practice places an unsustainable reliance on the public purse.

On balance, and with the value of the public consultation responses, we recognise that an increase from three to 12 or more persons may be a step too far at this time.

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<sup>10</sup> [Commons Sitting 19 July 1977 Hansard: Northern Ireland \(Compensation for Criminal Damage\)](#)

Having consulted with PSNI, who confirmed that a threshold of six persons or more will cover significant incidents of public disorder, we consider that an increase from the three to six or more persons would represent a reasonable way forward. We also appreciate that a numeric criterion is helpful to PSNI's decision on the issue of a Chief Constable's Certificate. The revised position continues to reflect the policy intention to compensate for significant incidents of criminal damage while acknowledging the differences between GB and Northern Ireland and a continuing threat of serious public disorder.

**What we will do in terms of bringing forward proposals into new compensation schemes:**

- Define the term serious public disorder to include a requirement for six or more people.

**Q3. Do you agree with the proposal to remove the bar on applicants with a terrorist related past or conviction (with the exception of offences committed since the Good Friday Agreement)?**

A total of 5 respondents commented on this question, and comments included:

Response 1

*Yes we do agree with this proposal. Society has moved on since the Good Friday Agreement and the thrust of progress has included comprehensive efforts to include in social and political life those who may previously have been involved in conflict.*

**(Belfast Solicitors' Association)**

Response 2

*The DUP does not accept the grounds for this distinction and does not support this change.*

**(DUP)**

Response 3

*Agreed.*

**(NEXUS)**

Response 4

*We believe that to exclude individuals for specific sentences, and without full consideration of their circumstances, may leave the Department quite vulnerable in terms of individuals pursuing legal action through Judicial Review for failing to consider an individual's Article 8 Rights under the European Convention on Human Rights (ECHR).*

**(NIACRO)**

Response 5

*We are not sure why there is a proposal that offences committed since the Good Friday/Belfast Agreement should be subject to this approach in this section. In the absence of further information on this we have no good reason to support it.*

**(UUP)**

### **ANALYSIS OF RESPONSES TO Q 3**

While the majority of respondents were supportive of this proposal, the two political parties who responded did not agree.

In addition to considering the responses received, we have also taken into account the content of the Belfast Agreement, the Ex- Prisoners' Working Group chaired by Sir George Quigley and Nigel Hamilton, and recent case law. The Belfast Agreement states *"The Governments continue to recognise the importance of measures to facilitate the reintegration of prisoners into the community by providing support to and after release, including assistance directed towards availing of employment opportunities, re-training and/or re-skilling, and further education."* The Quigley Report sets out the key principle arising from the work of the group *".....that conflict-related convictions of "politically motivated" ex-prisoners, or their membership of any organisation, should not generally be taken into account (in assessing employment, facilities, goods or **services**) provided that the act to which the conviction relates, or the membership, predates the Agreement. Only if the conviction, or membership, is materially relevant to the employment, goods or **services** applied for, should this general rule apply....."* In other words, a conviction arising from the conflict should not bar an applicant from obtaining employment, facilities and goods or services unless the conviction is manifestly incompatible with the job, facility or service in question.

In light of the above considerations, we remain of the view that the proposal to remove the outright bar on applicants with a conflict related past should stand.

**What we will do in terms of bringing forward proposals into new compensation schemes:**

- Remove the bar on applicants with a terrorist related past or conviction associated to the NI conflict (with the exception of offences committed since the Good Friday Agreement).

**Q4. Do you consider that safeguards, outlined at Para 3.55 [in the consultation document] are sufficient to ensure that compensation is made to genuine victims and that the public purse is adequately protected?**

A total of four respondents commented on this question, and comments included:

Response 1

Agreed.

**(Anon)**

Response 2

*Yes these safeguards were a significant factor in previous legislation and the BSA take the view that they are both necessary and proportionate to ensure that compensation is made to genuine victims and that there is sufficient accountability in the disbursement of public funds.*

**(Belfast Solicitors' Association)**

Response 3

Agreed

**(Disability Action)**

Response 4

*Yes, as this protects both the monetary resources available as well as genuine victims of crime.*

**(NEXUS)**

**ANALYSIS OF RESPONSES TO Q 4**

All respondents agreed and supported the retention of the existing safeguards to ensure that compensation is made to genuine victims and that the public purse is adequately protected.

**What we will do in terms of bringing forward proposals into new compensation schemes:**

- Retain the existing safeguards, which seek to ensure that compensation is made to genuine victims and that the public purse is protected, in the new Scheme.

**Q5. If you would wish to see further safeguards included, what are they? Do you have any other comments on these proposals?**

Only one respondent commented on this question as follows:

Response 1

*Whilst we agree that this proposal would be fair in most circumstances the BSA would consider that some discretion may be necessary in the interests of justice.*

**(Belfast Solicitors' Association)**

**ANALYSIS OF RESPONSES TO Q 5**

A level of discretion is currently applied when assessing whether criminal damage compensation should be paid, in particular with regards to how a person's own conduct contributed directly or indirectly to the loss/damage.

The new Scheme would enable other factors to be taken into account when assessing whether criminal damage compensation should be paid. These could include whether or not the applicant took all reasonable steps to reduce or avoid the damage/loss occurring, and if the applicant's conduct and behaviour was provocative or negligent and contributed directly or indirectly to the loss/damage or increased the chances of it being sustained. We therefore believe that it is appropriate to carry the existing safeguards forward to a new Scheme to ensure that compensation is made to genuine victims of criminal damage and that the public purse is protected.

**What we will do in terms of bringing forward proposals into new compensation schemes:**

- Retain the existing safeguards, which seek to ensure that compensation is made to genuine victims and that the public purse is protected in the new Scheme.

**Q6. Do you agree that rates exempt community halls should be dealt with in the same way as other properties?** If not, please explain why? Do you have any other comments on this proposal?

A total of nine respondents commented on this question, and comments included:

Response 1

Agreed.

**(Anon)**

Response 2

Yes we agree that rates exempt community halls which have been targeted by sectarian violence in the past should not be excluded from the scheme.

**(Belfast Solicitors' Association)**

Response 3

Community halls should be dealt with in the same way.

**(Disability Action)**

Response 4

The DUP does not accept this re-designation of community halls. This change of designation for community halls in general and Loyal Order Halls in particular would be the regulatory equivalent of declaring open season on them once again.

**(DUP)**

Response 5

The GAA are in principle supportive of the proposals for change outlined in the consultation document. The key point we welcome is the equality which would be brought about by the proposals around the Community Halls. However, should this proposal be changed the GAA will have to revise its position.

**(GAA)**

Response 6

We maintain that the 2009 Order is a necessary and successful safeguard to protect community halls and the communities they serve from wanton and criminal damage and attacks. We strongly believe that removing the provisions contained the 2009 legislation will not only leave these halls exposed and susceptible to attack, but will also incentivise sectarian hate crimes and attacks."

**(Grand Orange Lodge of Ireland)**

Response 7

No. These halls are often the centre of cultural activities for isolated communities and are easy targets for sectarian vandals. There is a reasonable belief that sinister elements within our community are aware of the present legislation, which allows for a re-build in the event of an attack on a hall. They would be equally aware of any change to the legislation that resulted in it being more difficult to obtain compensation, which might actually make these halls a more attractive target for sectarian attacks.

**(National Farmers' Union Mutual Insurance)**

Response 8

Yes we agree that all community halls should qualify for publicly funded compensation where the police evidence that the damage was caused by terrorist activity or as a result of serious public disorder and that other losses should rely on insurance.

**(NEXUS)**

Response 9

We would wish to see the retention of the 2009 Amendment, Community Halls and believe its repeal would have a number of very negative consequences. The Amendment was introduced following a spate of apparently co-ordinated and serious arson attacks on Orange Halls.

**(UUP)**

## **ANALYSIS OF RESPONSES TO Q 6**

There was a mixed response to this question, with strong opposition levied against the proposal by the Orange Order and the two political parties who responded.

We discussed with PSNI and legal representatives the views expressed in some responses that the current provisions act as a deterrent to attack. Both have advised that they have no evidence to support this opinion. The police advanced an alternative theory that the reduction in the frequency of attacks on Orange Halls could be attributed to a continuing programme of action that was instigated by them in 2010 in response to the high number of attacks on symbolic buildings (including such Halls). This programme included prevention, enforcement, intelligence and reassurance activity.

The insurance industry confirmed that there is a 'limited' market offering insurance cover to community and Orange Halls and that affordable insurance policies are currently available and held by most Halls. This is evidenced by the fact that from January 2007 (two years prior to the implementation of the 2009 amendment) to March 2015, Compensation Services received 71 claims relating to damage caused to Orange Halls and of those, 56 indicated that the facility was covered by insurance. It is interesting to note that the number of claims with recorded insurance cover has not changed significantly pre and post the introduction of the Rates Exemption criteria. Additionally, since the 2009 Amendment was introduced, fewer compensation payments are being made to insurance companies, which suggest that Orange Halls are using the Criminal Damage Compensation Scheme in preference to drawing on their own insurance cover and the nature of many of these claims can be categorised as common vandalism e.g. paint bomb attacks, broken windows and doors and minor arson attacks.

At pre-consultation stage we also met with the NI Regional Chair of British Insurance Brokers Association (BIBA) on two occasions. These meetings provided a useful insight into the important role played by the Criminal Damage Compensation Scheme in helping to stabilise the insurance market during the height of "the troubles" and how the industry now view the changed business environment in terms of cost of premiums and appetite to offer competitively priced insurance cover. The views expressed by BIBA were corroborated with other representatives of the insurance industry and helped to shape the original proposal as outlined in the public consultation document. BIBA's head office in London have since advised that as

they do not hold NI specific information centrally they would be unable to support the comments made by the NI Regional Chair at the pre-consultation stage.

The number of attacks on community halls/rates exempt properties has decreased significantly over the past three to five years. A total of 9 claims were received for criminal damage to Orange Halls in 2013/14, there were no claims received in 2014/15 and only one to-date in 2015/16. Further evidence of the improved local environment is evidenced by the PSNI's confirmation that criminal damage offences involving attacks on buildings other than dwellings, which would include community hall type properties, have decreased by 30% since 2010/11. Having discussed this trend with insurance industry representatives they accepted that if the current trend continued, i.e. the frequency of attacks and costs of claims continued to reduce, the market appetite to offer competitive insurance is likely to increase.

Having considered the responses to the consultation document and the opinions and advice advanced in the follow-up meetings, we re-examined the proposal to treat rates exempt community halls in the same way as all other properties and we have developed an alternative proposal which we consider offers a compromise position and reasonable way forward.

The alternative approach would:

- (a) retain the basis of the existing provision for community halls that are rates exempt i.e. without needing to prove that the damage was caused by six or more persons, or as a result of an act committed maliciously by a person acting on behalf of or in connection with an unlawful association;  
**and**
- (b) introduce a damage value threshold of £25,000 above which the Criminal Damage Compensation could be assessed.

This would mean that the State would continue to compensate for serious incidents of criminal damage (i.e. where the cost of reinstatement is in excess of £25,000) by transferring responsibility for lower value claims to the insurance market, making



appropriate use of the malicious damage clause in existing insurance policies. We consider it reasonable to place responsibility on community hall trustees to ensure that their facility carries insurance cover to indemnify for criminal damage and consequential losses up to £25,000. In the event that damage and/or loss exceed that amount, a claim can be lodged with the statutory Criminal Damage Compensation Scheme for the excess amount. We considered that this approach provides a safety net to community facilities that in the event of substantial criminal damage the government scheme would continue to compensate to help restore the facility. Additionally, the retention of the provision for community halls mitigates the warnings given by the insurance industry that premiums would increase and/or insurers would withdraw from the market if the number and extent of attacks increased.

**What we will do in terms of bringing forward proposals into new compensation schemes:**

- retain the basis of the existing provision for community halls that are rates exempt i.e. without needing to prove that the damage was caused by six or more persons, or as a result of an act committed maliciously by a person acting on behalf of or in connection with an unlawful association; and
- introduce a damage value threshold of £25,000 above which the Criminal Damage Compensation Scheme could be accessed for the excess amount.

**Q7. Do you agree with the proposal to introduce a cap of £2 million per case on the amount of compensation paid from public funds? Do you have any other comments on this proposal?**

A total of six respondents commented on this proposal, and comments included:

Response 1

*No. If the claim is valid there should be no cap. Insurers would not fund the excess amount.*

**(Anon)**

Response 2

The BSA note that the risk of major commercial damage is considerably reduced but should any major deterioration occur this provision may require review as the insurance sector may once again withdraw from the market.

**(Belfast Solicitors' Association)**

Response 3

While understanding the State's concern about public funds, we would argue that as the State is accepting that there are extreme circumstances in which it should pay compensation, then the setting of a £2m cap appears to be arbitrary and unjustified unless there is an arrangement with the insurance companies to make up any difference dependent on the policy held, without claim on public funds.

**(Disability Action)**

Response 4

Yes. Not an unreasonable amount.

**(National Farmers' Union Mutual Insurance)**

Response 5

Yes, as compensation is from taxpayers' money and is a gesture of recognising/ acknowledging effects of violent crime, not assessing the gravity of that crime and its impacts in its overall totality.

**(NEXUS)**

Response 6

Why put a cap of £2m per case? If the claimant is entitled to in excess of this amount then they must be provided with whatever is inevitable.

**(Private Individual)**

## **ANALYSIS OF RESPONSES TO Q 7**

Having analysed the mixed feedback from the public consultation, we are mindful that the introduction of a cap of £2m on any criminal damage claim seeks to protect the extent of financial exposure to the public purse while supporting small to medium-sized businesses. A review of the successful criminal damage claims received during the last seven years has confirmed that almost £11m was paid out as a result of 1318 successful claims, with an average value of £8,259 per claim. Of the successful claims received during this period none of them had a value over the proposed £2m cap, the highest single compensation award being for approximately £742,000. This illustrates the fact that the proposed cap is well above the average value of successful claims and over double the value of the highest single claim paid.

Evidence also confirms that most businesses carry comprehensive insurance policies which can insure them against most hazards and risks which may interrupt their business and trading. The feedback from our meetings with Insurance representatives suggests that many businesses pursue claims directly through their insurance cover to quickly re-establish their business enterprise. It is the insurance

company who then seeks redress by way of the subsequent criminal damage compensation award.

We can also confirm that in GB the Riot Compensation Bill now proposes applying a £1m cap in compensation across the board. This is a change in approach as an earlier GB proposal recommended a £2m cap for businesses with a turnover of £2m or more. The reduction in the proposed GB cap to £1m was derived from a further analysis of the August 2011 riot claims, which showed that 99% of claims would have been paid under the new reduced cap level. The updated GB position means that the proposed NI scheme would remain the most generous in the EU, in recognition of the continuing risk of dissident terrorist attack and of large scale public disorder.

We therefore consider that the proposal to introduce a cap of £2m remains reasonable and should be brought forward into a new Scheme.

**What we will do in terms of bringing forward proposals into new compensation schemes:**

- Introduce a cap of £2 million per claim on the amount of compensation paid from public funds.

**Q8. Do you agree with the proposal that agricultural properties should be treated in the same way as other property in terms of qualifying for publically funded compensation by way of a Chief Constable's Certificate? Do you have any other comments on this proposal?**

Eight respondents commented on this proposal, and comments included:

Response 1

*Yes the BSA has no difficulty with this proposal.*

**(Belfast Solicitors' Association)**

Response 2 & 3

*Agreed.*

**(Disability Action/Anon)**

Response 4

No. The farming community along the border has seen sustained attacks on their property and possessions including sustained theft of livestock and agricultural machinery.

It is also worth noting that many farms are now on the cusp of larger settlements or urban areas. Regrettably, farms attract vandals and are particularly vulnerable to arson due to their open boundaries and readily ignitable property on site, all of which makes them an easy target.

**(National Farmers' Union Mutual Insurance)**

Response 5

Yes, all agricultural property should continue to qualify for publicly funded compensation where the police evidence confirms that the damage was caused by terrorist activity or as a result of serious public disorder and that other losses should rely on insurance.

**(NEXUS)**

Response 6

The issue [agricultural provision] must NOT be omitted from the NI Criminal Damage Compensation Scheme. We can't get insurance because of systematic failures. The Department of Justice must not rely on the PSNI to give Authority as to whether the claimant should or should not qualify for compensation.

**(Private Individual)**

Response 7

The UFU would have some concerns about the withdrawal of the compensation scheme for agricultural property in the current consultation. While the insurance industry may be in a stronger position now than it was in 1977 when the agricultural compensation scheme was introduced, but removing the scheme in the way could result in a significant rise in insurance premiums for the agricultural sector as the removal could lead to a sudden rise in claims going to insurers. This would be met with a substantial increase in the number of claims going in.

Unless measures are taken to mitigate this sudden increase in insurance premiums, we would oppose the removal of the compensation scheme for agricultural property.

**(Ulster Farmers' Union)**

Response 8

We further do not agree that the provisions to compensate the farming community should be repealed. While there are joint efforts by the Departments of Justice and Agriculture & Rural Development to reduce rural crime, however every effort possible must be taken to ensure rural crime is minimised. To make this as effective as possible it is vital that the current provisions remain in place.

**(UUP)**

## **ANALYSIS OF RESPONSES TO Q 8**

Although half of the respondents agreed with this proposal, there was opposition from the Ulster Farmers Union, the National Farmers Union Mutual Insurance, and the Ulster Unionist Party.

In considering the responses to the consultation, it is important to note that farm insurance cover is widely available and commonly used by the agricultural industry. The NFU Mutual has confirmed that the vast majority of farms in NI have insurance cover, but that the range of cover varies from farm to farm. This is evidenced by the fact that over a third of the claims paid by Compensation Services between 2009/10 to 2013/14, were made directly to insurance companies, who had already paid under

the terms of the claimants' insurance policy. It is therefore clear that the publicly funded compensation scheme is being used, albeit legitimately, to underwrite existing insurance policies.

Reference to the importance of the Criminal Damage Compensation Scheme to the agricultural community was also raised by the NFU Mutual in its response to Question 1. Tackling rural crime is a priority for the Department of Justice, the PSNI, and the Department of Agriculture and Rural Development. The most recent agricultural crime statistics (1 July 2014 to 30 June 2015) show that burglary, robbery and theft offences reduced by over 20% on the previous year. There are a number of Rural Crime Initiatives in operation which offer discounted insurance premiums to the farming community.

Having considered the responses to the consultation document, and other relevant factors and evidence, we re-examined the proposal to remove the existing agricultural provision and considered that an approach similar to the one now proposed for rate exempt community halls should be applied to agricultural property. This approach would mean that the agricultural community would rely on insurance cover to reinstate for damage to property up to a value threshold of £25,000. In the event that the extent of criminal damage and/or loss exceeds that amount, a claim can be lodged with the statutory Criminal Damage Scheme for the excess amount. We considered that it was reasonable to expect the farming community to protect their property up to the threshold value by making use of commercial insurance premiums and for the State to step in to compensate for serious incidents of criminal damage (i.e. where the cost of reinstatement is in excess of £25,000).

**What we will do in terms of bringing forward proposals into new compensation schemes:**

- Retain the basis of the existing agricultural provision and introduce a damage value threshold of £25,000 above which the Criminal Damage Compensation Scheme could be accessed for the excess amount.

**Q9. Do you agree with the proposal to streamline the application process and reduce timescales? Do you have any other comments on this proposal?**

A total of five respondents commented on this proposal, and comments included:

Response 1

*Yes the BSA is fully in agreement with this proposal. Given the reduced number of claims we feel this is both desirable and achievable.*

**(Belfast Solicitors' Association)**

Response 2

*Disability Action believes that the proposals to streamline the system are reasonable; however, we would highlight the requirements on the State to ensure the accessibility of all information in both the application process and the difficulties experienced by some claimants in obtaining some information within the timeframe allocated.*

**(Disability Action)**

Response 3, 4 & 5

*Agreed.*

**(NEXUS/ National Farmers' Union Mutual Insurance/ Anon)**

**ANALYSIS OF RESPONSES TO Q 9**

The responses to the public consultation support the proposal to streamline the application process and reduce timescales. The operational issues that were highlighted in the feedback from the respondents will be considered as part of ongoing business improvement processes and the development of a new case management system.

**What we will do in terms of bringing forward proposals into new compensation schemes:**

- Streamline the application process to a one stage process.
- Reduce timescales for the submission of the application for compensation.

**Q10. Do you agree with the proposal to retain the application threshold and the statutory deduction at current levels? Do you have any other comments on this proposal?**

A total of six respondents commented on this proposal, and comments included:

Response 1

*Yes we have no difficulty with the present thresholds.*

**(Belfast Solicitors' Association)**

Response 2

*While understanding the State's need to recover costs and ensure the viability of the scheme, we would argue that the threshold and statutory deductions should be set to reflect the circumstances of the claimant.*

**(Disability Action)**

Response 3, 4 & 5

*Agreed.*

**(NEXUS, National Farmers' Union Mutual Insurance, Anon)**

Response 6

*In our ongoing situation, we would be entering claims for criminal damage on a regular basis. We believe it's then wrong for the Compo Agency to be deducting £200 from claims.*

**(Private Individual)**

## **ANALYSIS OF RESPONSES TO Q 10**

The current Scheme provides that criminal damage compensation is not payable for damage valued at £200 or less and where a claim meets that threshold and is successful, a statutory deduction (currently £200) is made from the claim. If more than one claim is made for the same property by the same applicant in a 12 month period, the statutory deduction is applied only once. The majority of responses to the public consultation were supportive of the proposal to retain the threshold and statutory deduction at current levels.

In considering the responses received we have been conscious of the need to weigh up the impact of the loss sustained by individual private victims and small businesses with the cost of administering the Scheme. It is however impractical to vary the statutory deduction in accordance with the claimants' circumstances, as this could make the processing of smaller claims not cost effective, and introduce an inequality into the scheme.

### **What we will do in terms of bringing forward proposals into new compensation schemes:**

- Retain the application threshold of £200.
- Retain the statutory deduction at its current rate of £200.

**Q11. What are your views on our proposals to retain the right of appeal to the County Court and for a time limit of six weeks of service of the Notice of Decision/Determination? Do you have any other comments on this proposal?**

A total of six respondents commented on this proposal, and comments included:

Response 1  
Agreed.

**(Anon)**

Response 2

*The BSA takes the view that there should always be right of appeal to the County Court in respect of these applications. A time limit of six weeks from the service of the decision we would consider reasonable in the circumstances. However, provision should be retained for discretion to extend the time limit where there is very good reason.*

**(Belfast Solicitors' Association)**

Response 3

*To ensure fairness in any system that there must be a right to appeal any decision. We can envisage circumstances where 6 weeks might be too short a time to lodge an appeal if a case is extremely complicated or the person has particular access/support requirements in relation to their disabilities which cannot be met within the timeframe, or information on which to base the appeal cannot be obtained.*

**(Disability Action)**

Response 4

*We believe that the present process works reasonably well and no change is necessary.*

**(National Farmers' Union Mutual Insurance)**

Response 5

*Yes, we are in agreement that 6 weeks is adequate time to appeal to the county court whilst not creating an unnecessary back log for new claimants in the overall scheme.*

**(NEXUS)**

Response 6

*Should there not be a different 'independent' body set up to deal with Appeals Process instead of the expensive system of going through the courts and it should be free to claimants.*

**(Private Individual)**

### **ANALYSIS OF RESPONSES TO Q 11**

The majority of the respondents supported the proposals to retain the right of appeal to the County Court within the time limit of six weeks from the issue of the Notice of Decision/Determination. The current Scheme provides that any person aggrieved by the issue of a Notice of Decision/Determination in a claim for compensation has a right of appeal to the County Court. The period in which an appeal must be lodged is six weeks from the date of service of the Notice. If no appeal is lodged within the



timeframe the Notice is then final and binding in all respects. The Criminal Damage (Compensation) (Northern Ireland) Order 1977 specifically states that neither the court nor the Minister can authorise an extension of the six week appeal period. It should be noted that the six week time limit is to allow an applicant time to make a decision whether to appeal to the County Court, it does not relate to the time required to present the case for appeal. We are not aware of any difficulties caused by this condition, and none were highlighted through the consultation exercise.

With regards the suggestion that an “independent” body should be established to deal with appeals, instead of the “expensive system of going through the courts”, we must first consider the principles behind the Criminal Damage Compensation Scheme. Unlike the Criminal Injuries Compensation Scheme, which provides for compensation payments to be made from a codified guide as an expression of public sympathy, the Criminal Damage Compensation Scheme seeks to restore individuals to their former position prior to the act of criminal damage. Whereas the Criminal Injuries Compensation Scheme uses the services of an independent appeals panel to review those claims that cannot be resolved by Compensation Services’ in-house review process in the first instance, criminal damage claims often require the assistance of professional engineers and loss adjustors when attempting to settle claims. The complex nature of those negotiations can on occasions lead to disputed outcomes, which in some cases may ultimately require the County Court to rule on the outcome. In addition to settling points of law, the judicial decisions of the County Court also lay down guidelines and are essentially a framework to ensure the proper application of the Criminal Damage Legislation.

Given the small number of claims which actually require the intervention of the Judicial system (approximately 48 per annum), and the complexities of such cases, it would be difficult to justify the financial cost that would be required to establish such an “independent body” with the necessary professional expertise. It is also likely that the already small number of cases which require a judicial intervention will reduce further when the new Scheme comes into operation. It therefore remains our intention that for criminal damage purposes, applicants will continue to retain the right of appeal to the County Court and that their reasonable legal costs will be met

by Compensation Services in the event of a successful appeal. Costs will be paid in accordance with the relevant scale set out in the County Court Rules.

**What we will do in terms of bringing forward proposals into new compensation schemes:**

- Retain the right of appeal to the County Court.
- Pay legal costs in accordance with the relevant County Court scale.
- Retain the six weeks time limit for the service of the Notice of Decision/Determination.

**Q12. Do you agree that in a new Scheme, Notice should be served on the applicant and similarly the right of appeal should be limited to those persons who have submitted the application? Do you have any other comments on this proposal?**

A total of five respondents commented on this proposal, and comments included:

Response 1  
Agreed.

**(Anon)**

Response 2  
Yes the BSA has no difficulty with this proposal.

**(Belfast Solicitors' Association)**

Response 3  
The right of appeal should be retained for all potential claimants

**(Disability Action)**

Response 4  
Frequently insurers will have made payment to an insured party who has suffered loss. We exercise our recovery rights in these cases and the present legislation allows us to pursue these recoveries. We may find a situation where a policyholder has received the benefits of a policy and then decides not to assist in the Compensation Recovery process. This may occasionally happen where a business ceases trading.

**(National Farmers' Union Mutual Insurance)**

Response 5  
Yes, this seems appropriate, fair and balanced.

**(NEXUS)**

## **ANALYSIS OF RESPONSES TO Q 12**

The majority of respondents were supportive of the proposal that, in future, the right of appeal should be limited to those persons who have submitted the original application.

One respondent highlighted the fact that on occasions, insurers will already have paid out under the terms of the claimant's insurance policy – this has been addressed at Q8.

We therefore consider that the proposal that a Notice of Decision should only be served on the applicant and similarly the right of appeal should be limited to those persons who have submitted the application is fair and equitable and that it helps ensure that public monies are used to support those victims who are most affected by acts of criminal violence.

### **What we will do in terms of bringing forward proposals into new compensation schemes:**

- In future, only serve the Notice of Decision on the original applicant.
- Limit the right of appeal to those persons who have submitted the application.

### **Q13. Should legal costs continue to be paid in the event of a successful appeal? Do you have any other comments on this proposal?**

A total of **five respondents** commented on this proposal, and comments included:

#### Response 1

*In the context of criminal damage compensation appeals we take the view that it is necessary and proper that legal costs continue to be paid in the event of successful appeals.*

**(Belfast Solicitors' Association)**

#### Response 2, 3, 4 & 5

*Agreed.*

**(Disability Action/ NEXUS/ National Farmers' Union Mutual/ Anon)**

## **ANALYSIS OF RESPONSES TO Q 13**

We note that all respondents were supportive of this proposal and it is intended to proceed with the proposal that legal costs continue to be paid in the event of a successful appeal.

### **What we will do in terms of bringing forward proposals into new compensation schemes:**

- Continue to pay legal fees in the event of a successful appeal.

## **Q14. Do you agree with the approach to payment for reinstatement?**

A total of five respondents commented on this question, and comments included:

### Response 1

*The policy as outlined in the Consultation document is reasonable.*

**(Disability Action)**

### Response 2

*The BSA take the view that it is reasonable and proper that reinstatement works have been carried out before the compensation is paid. However a conditional offer subject to completion of works would be necessary and proportionate.*

**(Belfast Solicitors' Association)**

### Response 3 & 4

*Agreed.*

**(NEXUS/ Anon)**

### Response 5

*We see no reason for amending the present arrangement.*

**(National Farmers' Union Mutual Insurance)**

## **ANALYSIS OF RESPONSES TO Q 14**

We note that all respondents were supportive of this proposal and we are therefore content that the existing approach taken with regards to payments for reinstatement is fair and reasonable and that it should be replicated in any new Scheme.

Under the current Scheme we release interim payments as reinstatement proceeds and Article 11 of the Scheme allows us to put conditions on money being released. It would be difficult, as proposed by one of the respondents, to move to a process of

conditional offers as the final amount due in rebuilding cases is often hard to gauge and only becomes clear when the project is at an advanced stage.

**What we will do in terms of bringing forward proposals into new compensation schemes:**

- Replicate the existing approach with regards payments for reinstatement in any new Scheme.

**Q15. Are there any other safeguards that could be introduced to protect public funds and ensure that compensation is paid for the purposes for which it was intended? Do you have any other comments on this aspect?**

A total of two respondents commented on this question, and comments included:

Response 1

*Signposting information in relation to support groups would be useful. This should have been done at the time of the offence; however, it would be useful to reinforce the help available.*

**(Disability Action)**

Response 2

*The BSA take the view that a completion certification requirement could be introduced to ensure that funds are only paid in appropriate circumstances.*

**(Belfast Solicitors' Association)**

**ANALYSIS OF RESPONSES TO Q 15**

As highlighted by one respondent, Compensation Services is conscious of the need to signpost information in relation to support groups for victims of crime, and will consider how best this can be achieved and incorporated into the development of the new Scheme, associated guidance and web page development. The design of a new case management system with customer portal will also provide an opportunity to explore this issue. There are also new powers in the Justice Act (Northern Ireland) 2015 that provide for automatic referral of victims details to Victim Support NI so that they can be advised of available services. In addition, a victim of crime leaflet with details of support groups should be provided to all victims of crime when they report to the police.

In relation to completion certificates, Compensation Services already seek these in high value building claims, but this is not practical in all cases as some reinstatement work would be too small to warrant the involvement of an architect. Where an architect is not involved, Compensation Services request production of receipted accounts to demonstrate that the monies claimed have actually been expended in reinstating the property. Completion certificates are not relevant for cases involving damage to vehicles as payments are made based on receipted accounts which are subsequently verified by an independent motor engineer in order to safeguard public funds.

**What we will do in terms of bringing forward proposals into new compensation schemes:**

- Compensation Services will continue to seek additional safeguards which could be introduced in order to protect public funds and to ensure that compensation is paid for the purposes for which it was intended.

**Q16. Do you agree that the Scheme should continue to recover compensation from offenders when they subsequently become eligible for compensation?**

A total of seven respondents commented on this proposal, and comments included:

Response 1

*While agreeing with the statement, Disability Action also believes that a more robust system is required to ensure that the State recovers full costs from offenders including the greater use of compensation orders at Courts.*

**(Disability Action)**

Response 2

*Reimbursement of compensation has always been a feature of previous schemes and there would not appear to be any legitimate reason to change this.*

**(Belfast Solicitors' Association)**

Response 3

*We appreciate that the system should be a last resort and that victims should be able to first pursue compensation from the perpetrator directly. However, in domestic violence cases this would not be appropriate, as it is likely that a victim would be pursuing funds that she part-owns due to the nature of her relationship with the perpetrator.*

**(Women's Aid Federation)**

Response 4, 5 & 6

*Agreed.*

**(NEXUS/ National Farmers' Union Mutual Insurance/ Anon)**

Response 7

*Victim Support NI believes that offenders should pay more towards repairing the harm they have caused to their victim. In order for this to have most meaning for both the offender and the victim we believe that this should be considered at the point of conviction when it has a clear link to the crime as opposed to what can often be many years later when the offender has fully rehabilitated and becomes a victim themselves.*

**(Victim Support NI)**

**ANALYSIS OF RESPONSES TO Q 16**

The principle of recovering compensation from offenders when they subsequently become eligible for compensation applies equally to both the Criminal Damage and Criminal Injuries Compensation Schemes. The responses received to the public consultation related to both the Criminal Damage and the Criminal Injuries Compensation Schemes, with the vast majority of respondents being supportive of the proposal to retain the provision to recover compensation from offenders.

The current legislation provides a right of redress against the person convicted of causing criminal damage, and also to victims of crime who suffer a personal injury and enables Compensation Services to make an application to the court directing the offender to reimburse an amount equal to the compensation paid to the victim. In practice, such action to recover is taken when an offender has themselves lodged a claim for compensation against a government department and is likely to come into funds.

Victims' representatives agreed that offenders should be held responsible, but highlighted that using the compensation process for recovery may not be the most effective method, suggesting instead that recovery should be more robust and considered at the point of conviction when it has a clear link to the crime. Compensation Services agrees that, where possible, the offender should provide adequate compensation to the victim through the court system.

**What we will do in terms of bringing forward proposals into new compensation schemes:**

- Retain the existing provision which provides a right of redress against the persons convicted of causing the criminal damage.

## 5.2 Criminal Injuries Compensation Scheme

**Q17. Do you agree that the tariff levels should be altered, as outlined at paragraph 4.37 [of the consultation document]; to ensure that limited financial resources are targeted towards those most adversely affected by a violent crime?**

A total of eight responses commented on this proposal, and comments included:

Response 1

*We do not believe that tariff bands 1-5 [minor injuries] should be removed...these injuries may upset and disrupt a person's life for a significant amount of time...even a crime which results in a minor injury can lead to the victim feeling traumatised.*

**(Association of Personal Injury Lawyers)**

Response 2

*The BSA are not convinced that a reduction in the tariff of compensation for modest injuries is necessary and in terms of overall saving to public funds this could be minimal.*

**(Belfast Solicitors' Association)**

Response 3

*We agree that limited resources are targeted towards those most adversely affected by a violent crime. However, we believe that some other form of support/recognition should be given by the State to those people with injuries from which compensation will be removed or reduced perhaps in the form of access to counselling.*

**(Disability Action)**

Response 4

*The impact of the injuries is wide and will vary case by case, but will still have had a detrimental effect on the person. We would propose that in lieu of removing levels 1-5 that a standard payment be applied for those who meet that criterion e.g. £500.*

*We endorse the view that limited financial resources should be targeted towards those most adversely affected by a violent crime.*

**(NEXUS)**

Response 5

*Yes, resources should be targeted towards those who have a real and genuine need. I disagree with the reduction in tariff for disabling mental illness giving consideration to the issues I have raised concerning the financial costs incurred for those who have sustained mental injury through abuse and the cost of appropriate treatment.*

**(Private Individual)**

Response 6

*We are persuaded that the changes outlined do broadly protect the current value of awards for those victims most seriously injured and accord with the principle that limited financial resources must be targeted towards victims who are the most seriously injured by violent crime, particularly those who suffer injuries that are long-term and life changing.*



We support the proposal at 4.37 p65 [of the Consultation Document] to adopt the tariff levels introduced in the GB 2012 scheme, on the grounds that they will retain the current rate for injuries described as serious and severe.

**(UUP)**

Response 7

Victim Support NI does not agree with this approach. Tariffs Levels 1-5 should remain as they are. While we can understand the rationale, this approach is going to protect the few and disadvantage the majority of victims. If financial pressures require savings then we would recommend a standard reduction (for example 10%) of the amounts payable for injuries in the levels of 13 to 25 to offset against the cost of keeping tariffs 1-5.

**(Victim Support NI)**

Response 8

Women's Aid supports the principle of focusing on those who are most seriously injured by violent crime and where the impacts of the criminal injuries are long-term and life changing. This is a fair and reasonable way to amend the system if savings must be made.

**(Women's Aid Federation)**

## **ANALYSIS OF RESPONSES TO Q 17**

The majority of respondents agreed that the limited financial resources should be targeted towards those victims most adversely affected by violent crime.

We recognise many of the comments made by respondents and have re-examined our proposal to take account of the alternative suggestions advanced by some. Our assessment is set out below:

- suggestions were made that we should apply a standard payment of £500 for minor injuries or preserve awards for minor injuries (tariff levels 1-5) by reducing the awards for injuries at tariff levels 13-25. While we recognise the impact that violent crime has on many victims our proposals sought to ensure that the public money made available for the purpose of criminal injury compensation is directed towards those victims who are **the most seriously injured** by violent crime and **where the impact of the criminal injury is long-term and life changing**.
- if we were to continue to make awards for minor injuries as highlighted above, or at a reduced level, we would not be able to protect the level of compensation awards made to the most seriously injured, or for those injuries relating to sexual offences and physical abuse. Through the re-investment of the savings made as a result of the implementation of a new Criminal Injuries Compensation Scheme we will seek to improve the existing range of support services that are now more accessible to victims.

Having considered the responses received to the reform proposals in the full context of the review set against the back-drop of the 'Making a Difference' Strategy we are conscious that a compensation payment is now only one element of support offered to victims. In developing the new Scheme we therefore remain of the view that compensation awards must be directed towards those victims who are most seriously affected by a violent crime.

**What we will do in terms of bringing forward proposals into new compensation schemes:**

- Remove the awards for minor injuries (Tariff Levels 1-5, £1,000-£2,000).
- Reduce the award levels for injuries described as moderate (Tariff Levels 6-12, £2,500-£8,200).
- Protect the existing awards for injuries described as serious or severe (Tariff Levels 13–25, £11,000 to £250,000) at their current rates.
- Realign the Tariff scale from 23 to 26 levels; however, compensation payable under the new Scheme will continue to range from £1,000 to £250,000.
- Amend the tariff descriptors to better reflect the degree of seriousness of hemiplegia, paraplegia and tetraplegia injuries.

**Q18. Do you agree that tariff levels attaching to injuries relating to sexual offences and physical abuse should be protected from change?**

A total of eight respondents commented on this proposal, and comments included:

Response 1 & 2  
Agreed.

**(Association of Personal Injury Lawyers/Disability Action)**

Response 3  
*The existing tariffs for these injuries are in our view relatively modest and at the very least should be protected from change. The BSA considers that there should be scope for a further discretionary award in the most serious cases.*

**(Belfast Solicitors' Association)**

Response 4

We strongly endorse the protection of the tariffs relating to both sexual and physical abuse. We compliment the considerations taken to maintaining and justifying a different approach to such injuries and agree that they are some of the most appalling cases in terms of the impact on the victims.

**(NEXUS)**

Response 5

I support the rationale for retaining existing tariff levels for the most serious injuries including sexual offences and physical abuse.

**(Private Individual)**

Response 6

We endorse the proposal to protect categories of awards for sexual and physical abuse for adults and children by retaining all existing tariffs for this type of injury.

**(UUP)**

Response 7

Yes, we support this proposal.

**(Victims Support NI)**

Response 8

Women's Aid warmly welcomes the proposed exception for sexual and physical abuse related violent crime.

**(Women's Aid Federation)**

## **ANALYSIS OF RESPONSES TO Q18**

All respondents supported the proposal to protect categories of awards for sexual and physical abuse of adults and children by retaining all existing tariff levels for this category of injury.

### **What we will do in terms of bringing forward proposals into new compensation schemes:**

- Maintain awards relating to injuries associated with sexual and physical abuse of children and adults at the current levels.

## **Q19. Do you agree that the bereavement award should be protected from change? Do you have any other comments on these proposals?**

A total of seven respondents commented on this proposal, and comments included:

Response 1, 2, 3, 4 & 5

Agreed.

**(Association of Personal Injury Lawyers/Belfast Solicitors' Association/Disability Action/NEXUS/Private Individual)**

Response 6

*We agree that bereavement payments should be protected at the current level.*

**(UUP)**

Response 7

*We agree that the bereavement award should not be reduced any further. Death is the most severe consequence of criminal injury and an award of £11,000 really does not recognise the severity of the crime or the impact on the family of the loss. If Compensation Services approach to the new tariff is that the most severely impacted should be better compensated then the payment for fatal injury should be increased.'*

**(Victim Support NI)**

**ANALYSIS OF RESPONSES TO Q 19**

All respondents supported the proposal that the bereavement award should be protected from change, including for the loss of a foetus, whether as a result of a sexual or violent crime.

With regards to the suggestion that the level of the award should be increased further, it is important to remember that the bereavement payment is not intended to place a monetary value on the life lost but is made as an expression of public sympathy in recognition of the loss of a loved one.

**What we will do in terms of bringing forward proposals into new compensation schemes:**

- Maintain the bereavement award at the current level of £11,000.

**Q20. Do you agree with the proposal to exclude private medical treatment and private nursing care from the special expenses categories? Do you have any other comments on this proposal?**

A total of six respondents commented on this proposal, and comments included:

Response 1

*Whilst we do not dispute that the Health Service provides a good standard of care to those in need, private medical care may be the most appropriate option for the victim in some circumstances.....We believe that private medical treatment should continue to be provided within the scheme.*

**(Association of Personal Injury Lawyers)**

Response 2

The BSA take the view that given the budgetary constraints impacting on the scheme it would be legitimate to exclude private medical treatment and private nursing care from the special expenses category.

**(Belfast Solicitors' Association)**

Response 3

Disability Action agrees with the proposal that if the treatment or care can be provided by the health service in a reasonable period of time that private medical treatment and private nursing care should be excluded from the special expenses categories. We believe that there are some treatments, which are not provided by the health service but are provided by the private sector, which may be essential for the recovery or an improvement in the quality of life for the victim.

**(Disability Action)**

Response 4

Yes, with the exception of cases where a specialist service and/or treatment is required and it is not available on the NHS or within a reasonable and achievable distance from a person's residence.

**(NEXUS)**

Response 5

I do not agree that private medical treatment should be excluded from the special expenses categories.

It is my contention that those with a claim surrounding traumatic psychiatric injury must still be allowed to claim the cost of treatment as a reasonable expense.

**(Private Individual)**

Response 6

In general we accept the principle that if something is available through other publicly funded systems, such as the NHS that publicly funded system should be used. However, we propose that there is discretion built in to this area so that where treatment or care is not available or where the waiting time is so significant that a victim is negatively impacted, private treatment or care should be provided.

**(Victim Support NI)**

## **ANALYSIS OF RESPONSES TO Q 20**

This proposal received qualified support from respondents and we have considered the concerns expressed about the availability and timeliness of treatment provided through the Health Service. Our considerations brought us back to the overriding purpose of the Scheme, which is as an expression of public sympathy and concern in recognition of the pain and suffering caused by a criminal injury. We remain of the view that the Health Service provides an appropriate and acceptable standard of care throughout Northern Ireland. Applicants may avail of private medical treatment and private nursing care if they choose to do so and have the benefit of the criminal injury compensation award to financially assist them.

**What we will do in terms of bringing forward proposals into new Compensation Schemes:**

- Retain all categories of special expenses other than for private medical treatment and private nursing care.

**Q21. Do you agree with the proposal that applicants who receive compensation should make a contribution of £50 towards the cost of obtaining the initial medical evidence required to support their claim from their award?**

A total of five respondents commented on this proposal, and comments included:

Response 1

*If it has been established that the person has been injured as a victim of crime, they should not have to pay anything towards the cost of obtaining medical evidence. Such an expense may put off potential applicants from making an application.*

**(Association of Personal Injury Lawyers)**

Response 2

*The BSA has no difficulty with a modest nominal deduction of £50.00 from an award to contribute to the cost of medical reports.*

**(Belfast Solicitors' Association)**

Response 3

*The proposal is reasonable if the £50 is taken from any compensation awarded or is written off by the Department if no compensation is awarded.*

**(Disability Action)**

Response 4

*Agreed.*

**(NEXUS)**

Response 5

*We support this proposal in order to generate savings in administration which could allow for protection of tariffs.*

**(Victim Support NI)**

## **ANALYSIS OF RESPONSES TO Q 21**

The responses received to the consultation exercise demonstrated substantial support for the proposal that applicants who receive compensation should make a contribution of £50 towards the cost of obtaining the initial medical evidence required to support their claim from their award.

With regards to the concern expressed by one respondent that such an expense may put off potential applicants from making an application, it is important to note that the £50 contribution will only be deducted if an award of compensation is made,

and if no award is made the cost will be borne by the Department. Consideration had previously been given to an upfront charge, but this was not taken forward as it was considered that it could disadvantage those with limited income and may prevent some people from making a claim in the first instance.

**What we will do in terms of bringing forward proposals into new Compensation Schemes:**

- Deduct £50 as a contribution towards the cost of **initial medical evidence** if an award of compensation is made.
- No charge levied against the applicant if no compensation awarded.

**Q22. Do you agree with the proposal that Compensation Services would continue to source the medical report and, as per Q21, then deduct £50 from any award of compensation? Do you have any other comments on these proposals?**

A total of five respondents commented on this proposal, and comments included:

Response 1

*We do not believe that a successful victim of crime should be made to pay to use the system. Awards from the compensation scheme are designed to compensate the victim of a crime for their pain and suffering. They are not calculated to cover the cost of obtaining medical reports.*

**(Association of Personal Injury Lawyers)**

Response 2 & 3

*Agreed.*

**(Belfast Solicitors' Association, Disability Action)**

Response 4

*Yes if award is successful.*

**(NEXUS)**

Response 5

*We welcome this approach as there is no initial outlay for victims who may otherwise be deterred from making an application.*

**(Victim Support NI)**

## **ANALYSIS OF RESPONSES TO Q 22**

Considerable support was expressed for the proposals that Compensation Services would continue to source the medical report and then deduct £50 from any award of compensation.

### **What we will do in terms of bringing forward proposals into new Compensation Schemes:**

- Continue to source the medical report and to deduct £50 from any award of compensation that is made.
- Not levy a charge against the applicant if no award of compensation is made.

**Q23. Do you agree with the proposal to retain and tighten the application of the existing provisions whereby unspent criminal convictions are taken into account when making an assessment of character? Do you have any other comments on this proposal?**

A total of six respondents commented on this proposal, and comments included:

Response 1

*We do not agree with tightening the application of existing provisions, but we do agree with retaining them. We believe that currently, there is a balance and the system allows the rehabilitation of offenders.*

**(Association of Personal Injury Lawyers)**

Response 2

*Yes we agree with this proposal however it is imperative that Compensation Services will continue to exercise discretion in the interests of justice. We also agree that given the developments in society those who have terrorists related convictions predating the Belfast Agreement should be excluded from the penalty points scheme.*

**(Belfast Solicitors' Association)**

Response 3

*No, we believe that the current reductions are already significant.*

**(NEXUS)**

Response 4

*This Scheme (proposals) intends to replicate the eligibility criteria set out in the existing Criminal Injuries Compensation Scheme 2009. We believe that the existing criteria are discriminatory against people with convictions, victims of abuse, families and children.*



*We believe that the process is flawed as it uses the sentence imposed as the sole indicator of the seriousness of offence instead of taking into consideration the circumstances behind the offence.*

**(NIACRO)**

Response 5

*We believe that the current reductions are already significant and cannot support the proposed increase to the reductions.*

*Where an unspent conviction resulted in a fine only that was paid, the applicant should not be penalised twice with a reduction in compensation as well. In this scenario there is no cost of court attendance and there is no strain on the public purse. These are also minor offences where there is no victim of the crime. Where one incident results in several convictions, discretion should be more readily applied – one incident will result in one court attendance, one set of sentencing and only one set of costs, but the applicant is being penalised multiple times in his or her application for compensation.*

**(Victim Support NI)**

Response 6

*We appreciate the sentiment behind this proposal. However we would query whether criminal offences such as non-payment of TV licences would be included in this deduction.....including financial crimes like these risks penalising those who have suffered financial abuse...it risks penalising those in poverty simply for being poor and unable to pay such fees.*

**(Women's Aid Federation)**

### **ANALYSIS OF RESPONSES TO Q 23**

This question produced a mixed response from respondents and, having considered the responses received, we continue to believe that stricter application of the penalty point system continues to be warranted since the Scheme is a taxpayer funded expression of public sympathy and it is reasonable to expect robust criteria to inform who should receive a share of its limited funds. We consider that the onus must transfer to the applicant to provide reasons why an award of compensation should not be reduced to take account of unspent criminal convictions in line with the penalty point guidance. On the strength of the applicant's reasons, Compensation Service will continue to apply some discretion when considering an award of compensation. However, as with the existing 2009 Criminal Injuries Compensation Scheme, unspent criminal convictions must be considered in the assessment of character and may result in a reduction to an award.

Informed by the comments made in some responses, we consider that there is justification not to reduce awards where the applicant's conviction relates to penalty points (endorsements) or a fine for certain types of driving offences or for non-payment of a TV licence. We will reflect further on these issues and how provision may be incorporated into a new Scheme.

Similar to the considerations outlined at Question 3, we believe that it is appropriate to recognise that the circumstances in Northern Ireland have changed significantly. We consider therefore that only those who have been convicted of terrorist offences committed after the Good Friday/Belfast Agreement should be subject to the penalty point scheme.

**What we will do in terms of bringing forward proposals into new Compensation Schemes:**

- Retain the existing penalty point system and increase the percentage reductions.
- Transfer responsibility to the applicant to advance reasons why his/her compensation award should not be reduced on account of unspent criminal convictions
- Consider the applicant's justification and exercise appropriate levels of discretion.
- Consider further whether awards should be reduced on account of unspent convictions which relate to minor offences such as some types of driving offences and non-payment of a TV licence.
- Continue to take into account and apply penalty point reductions for terrorists convictions committed after the Good Friday/Belfast Agreement.

**Q24. Do you agree with the proposal not to place a cap on the total amount of compensation payable and to retain the existing provisions to compensate for multiple injuries on a scale of 100% of the tariff level for the most serious injury, 30% for the tariff level for the second injury, 15% for the third and 10% for each subsequent injury? Do you have any other comments on this proposal?**

A total of five respondents commented on this proposal, and comments included:

Response 1

*We are pleased with the proposal not to place a cap on the total amount of compensation payable.....however, object to the existing provisions in place to compensate for multiple injuries. Members in Northern Ireland have expressed the difficulty in managing the expectations of victims of*

*violent crime who seek compensation but who cannot understand why their injuries are divided up for assessment, and why they are not compensated in full for each injury. After all, the injuries are not “overlapping” – the loss of sight in one eye is not related to a broken ankle, and there is no justification for reducing the amount of money that the victim should receive in this circumstance.*

**(Association of Personal Injury Lawyers)**

Response 2

*The BSA has considered this proposal and are in agreement that no cap should be placed on the total compensation payable. This should ensure adequate compensation for the most serious injuries in appropriate circumstances.*

**(Belfast Solicitors’ Association)**

Response 3 & 4

*Agreed.*

**(Disability Action/ Nexus)**

Response 5

*VSNI supports this proposal, and the retention of the provisions to compensate for multiple injuries.*

**(Victim Support NI)**

## **ANALYSIS OF RESPONSES TO Q 24**

All respondents supported the proposal not to place a cap on the total amount of compensation payable. We also note the substantial support expressed for retaining the provision for multiple injuries, using the existing scale of 100% of the tariff level for the most serious injury, 30% for the tariff level for the second injury, 15% for the third, and 10% for each subsequent injury.

When considering these proposals it is important to note that compensation for injuries is provided as an expression of public sympathy and that the Scheme does not seek to fully compensate for each and every injury sustained. It is also important to note that the NI Scheme compares much more favourably than its GB counterpart where the total compensation award is capped at £500,000 (including for cost of care) and only the first three injuries are considered for compensation on a reducing scale. Overall, the proposed new NI Scheme will therefore continue to be much more generous in supporting victims who have suffered serious and complex injuries which are likely to have long-term effects.

### **What we will do in terms of bringing forward proposals into new Compensation Schemes:**

- No cap will be placed on the total amount of compensation payable.
- Retain existing provision to compensate for multiple injuries on a scale of: 100% of the Tariff level for the most serious injury

30% of the Tariff value for the next most serious injury  
15% of the Tariff value for the third injury; and  
10% of the Tariff value for each subsequent injury.

**Q25. Do you agree with the proposal not to introduce a residency/nationality requirement to the new Scheme? Do you have any other comments on this proposal?**

A total of six respondents commented on this proposal, and comments included:

Response 1, 2 & 3  
Agreed.

**(Association of Personal Injury Lawyers/ Disability Action/ NEXUS)**

Response 4

*We do agree that it would be desirable not to introduce a residency / nationality requirement. In a number of high profile cases, including the Omagh bomb, visitors and tourists from other jurisdictions have regrettably been caught up in violent incidents and have suffered horrendous injuries. It would be wrong to exclude such victims from the scheme.*

**(Belfast Solicitors' Association)**

Response 5

*VSNI supports this proposal, both on the grounds that if a crime happened in NI, we are still sympathetic to the victim, particularly if the perpetrator was from NI. Additionally we anticipate the amount of administration that would be required to monitor residency would be costly, which could take away from the money being paid to victims.*

**(Victim Support NI)**

Response 6

*We welcome that the Department has chosen not to restrict compensation to residents or citizens, thus allowing migrants and victims of trafficking to claim compensation.*

**(Women's Aid Federation)**

**ANALYSIS OF RESPONSES TO Q 25**

The existing Criminal Injuries Compensation Scheme is open to all victims who have sustained a qualifying criminal injury in Northern Ireland, and all respondents supported the proposal not to introduce a residency/nationality requirement to the new Scheme. The importance of the Scheme remaining open to all victims who sustain a qualifying criminal injury in Northern Ireland was emphasised through examples provided by respondents to the consultation, describing cases involving visitors and tourists who became victims of conflict related incidents, the more recent

increase in immigration to Northern Ireland, and a rise in incidents of human trafficking.

**What we will do in terms of bringing forward proposals into new**

**Compensation Schemes:**

- Retain the existing provision which provides for the payment of compensation to victims who, regardless of their nationality or residency, have sustained a criminal injury in Northern Ireland.

**Q26. Do you agree with the proposal to retain the existing method for calculating loss of earnings? Do you have any other comments on this proposal?**

A total of five respondents commented on this proposal, and comments included:

Response 1

*We do not agree with the proposal to retain the existing method of calculating loss of earnings....most people who seek to claim compensation go to see a solicitor because they are off work for perhaps 4 weeks due to their injury, and are not able to survive on statutory sick pay. Most victims just want their loss of earnings back, and are not interested in receiving any more compensation.*

**(Association of Personal Injury Lawyers)**

Response 2, 3 & 4

Agreed.

**(Belfast Solicitors' Association/ NEXUS/ Victim Support NI)**

Response 5

*The existing arrangements are reasonable, however, Disability Action is concerned that in this complex area of assessment, which takes into account the applicant's entitlement to social security benefits, pension, insurance payments and any other compensation payments made in respect of the injury, that financial assistance is not available for the applicant to gain access to legal or specialist accounting services which are required notably in claims of high value.*

**(Disability Action)**

**ANALYSIS OF RESPONSES TO Q 26**

All responses supported the proposal to retain the existing method of calculating loss of earnings based on a comparison of actual and potential earnings pre-incident, with actual earnings and/or the ability to earn post incident, up to the applicant's date of retirement or estimated life expectancy.

Statutory Sick Pay is paid by an employer for up to 28 weeks to employees who are unable to work due to illness. The current and proposed compensation scheme arrangements address “loss of earnings” after the first 28 weeks period, if the inability to work is as a direct consequence of the criminal injury. The maximum amount payable for loss of earnings is one and a half times the median gross weekly net earnings (currently £498 per week for a male in full-time employment) in Northern Ireland when the assessment was undertaken. The Northern Ireland Scheme is significantly more generous than the GB Scheme, which pays loss of earnings after the 28 week period based on the rate of Statutory Sick Pay (£88.45 per week). It also places the emphasis on the applicant to demonstrate that they were either in work at the time of the incident or to establish a good work history or a reason for not having such a history during the three years prior to the incident.

**What we will do in terms of bringing forward proposals into new Compensation Schemes:**

- Retain the existing method for calculating loss of earnings based on one and a half times the median gross weekly net earnings in Northern Ireland when the assessment is undertaken.

**Q27. Do you agree with the proposal to continue to pay for ‘reasonable’ funeral expenses up to a maximum of £5,000 per claim? Do you have any other comments on this proposal?**

A total of five respondents commented on this proposal, and they were all supportive as follows:

Response 1, 2, 3, 4 & 5  
Agreed.

*(Association of Personal Injury Lawyers/ Belfast Solicitors’ Association/Disability Action/NEXUS/Victim Support NI)*

**ANALYSIS OF RESPONSES TO Q 27**

All respondents supported the proposal to continue to pay for ‘reasonable’ funeral expenses up to a maximum of £5,000 per claim.

**What we will do in terms of bringing forward proposals into new Compensation Schemes:**

- Retain the existing provision to pay for 'reasonable' funeral expenses and to introduce a maximum cap.

**Q28. Do you agree that we should retain the 90 day period for applicants to consider a decision and to notify either acceptance of an award or lodge a Review Request or an Appeal? If not, what do you consider to be appropriate? Do you have any other comments on this proposal?**

A total of six respondents commented on this proposal, and comments included:

Response 1

*Agreed that the 90 day period should be retained.*

**(Association of Personal Injury Lawyers)**

Response 2

*We take the view that a period of 90 days in which to appeal is reasonable however we would suggest a judicial discretion to extend the time in appropriate cases in order to avoid unfairness or hardship.*

**(Belfast Solicitors' Association)**

Response 3

*Agree with the retention of the 90-day period; however it is essential that the applicant has access to competent advice at this crucial time when the victim receives an offer according to the tariff scheme and they then must assess the value of the offer against the evidence, which they have provided.*

**(Disability Action)**

Response 4 & 5

*Agreed.*

**(NEXUS/Victim Support NI)**

Response 6

*We note the retention of the existing timescale which allows the applicant calendar days to consider a decision made on their claim.*

*It has often been the case that victims are traumatised by their experiences and we would wish to see some degree of flexibility and understanding exercised in such cases.*

**(UUP)**

**ANALYSIS OF RESPONSES TO Q 28**

All respondents supported the proposal to retain the 90 day period for applicants to consider a decision and to notify either acceptance of an award or lodge a Review Request or an Appeal.

A number of the respondents suggested there should be a degree of discretion to extend the timescale in appropriate cases. This is consistent with the approach already adopted by Compensation Services, however, requests for an extension of time must be made during the original 90 day period and there must be a justifiable reason for the extension.

We consider that 90 days remains adequate to allow applicants sufficient time to consider the detail of the award offer, and that it also provides sufficient time to allow the applicant to request an extension if necessary. In GB the 90 day timescale was reduced to 56 days, their experience indicates that the change has had little or no impact on applicants' decisions to accept the offer of compensation or to lodge a review request/appeal. The retention of the 90 day period in the NI scheme allows victims more time to consider their options particularly if they are still suffering from the effects of the injury.

**What we will do in terms of bringing forward proposals into new Compensation Schemes:**

- Retain the existing 90 day period for applicants to consider a decision and to notify either acceptance of an award or lodge a review request or an Appeal.
- Continue to exercise discretion by considering applications to extend the timescale during the 90 day period.

**Q29. Are there any other provisions, conditions or other features of the 2009 Scheme which you consider should be changed? If so, can you provide details of the change(s) and why you consider them to be necessary?**

A total of 12 respondents provided comments on a number of different areas. We have provided the comments and the Departmental response to each below:

**Medical Evidence**

**Response 1**

*Victims of violent crime who suffer from psychological problems associated with the attack will only be considered for an award where their condition has been diagnosed by a psychiatrist. For this to*



*happen, the victim will first need to see a GP willing to make the referral to a psychiatrist or clinical psychologist. Not all GPs are equally willing to make such referrals and many victims will only be referred to a counsellor.*

*We also believe that the previous system in relation to medical reports should be reinstated, whereby the victim has the right to obtain an independent medical report in the same way that an insurance company has that right.*

**(Association of Personal Injury Lawyers)**

## **ANALYSIS OF RESPONSES**

Medical evidence must be provided to substantiate an application for physical and mental injuries and the Scheme requires that a disabling mental illness must be confirmed by psychiatric diagnosis. Where an applicant's GP has not referred the patient for a psychiatric diagnosis, Compensation Services will consult with the GP and may make arrangements under paragraph 22 of Scheme for an independent assessment to be undertaken. In such circumstances, costs will be borne by Compensation Services. An applicant may at any time obtain and submit specialist medical reports to substantiate their claim, the costs of obtaining these reports are borne by the applicant.

### **Time Limits**

#### **Response 1**

*There have been incidents highlighted by constituents where victims of criminal injury have pursued compensation claims after the present 3 year post incident timeframe. This is because the victim believes that the full extent of the psychological damage did not become apparent until some considerable time later beyond the 3 year timeframe. It should be included within this consultation in order that future cases displaying such extenuating circumstances may be afforded a more positive outcome.*

**(Gregory Campbell MP MLA)**

#### **Response 2**

*Given the ongoing nature of abuse cases and the increasing success in securing prosecution for historical abuse I would like to see the timeframe for claims be reconsidered (with particular attention paid to periods of time...under which no compensation can be paid even if the offence has been tried and a conviction secured).*

**(Private Individual)**

#### **Response 3**

*The nature of domestic abuse often renders victims afraid to come forward and report their abuse or leave their perpetrator. The time limit for applying for compensation does not offer leeway for victims of abuse who tend to report crimes later, and who often need time to process the heinous abuse they have suffered before seeking any redress.*

**(Women's Aid Federation)**

Response 4

*We do have concerns about the amount of time that a victim has to bring a claim. It has often been the case that victims are traumatised by their experiences and we would wish to see some degree of flexibility and understanding exercised in such cases.*

**(UUP)**

Response 5

*Domestic Abuse – more discretion is required for victims of these crimes when it comes to issues like late reporting and retracting statements.*

**(Victim Support NI)**

## **ANALYSIS OF RESPONSES**

The existing Scheme advises that applications for compensation should be made as soon as possible after the incident giving rise to the injury and must be received within two years of the date of the incident or, where the applicant is under the age of 18 at the date of the incident, within two years of the applicant's 18<sup>th</sup> birthday. Compensation Services has discretion to waive the two year time limit in particular circumstances where it would have been unreasonable to expect the applicant to have made the application within the two year period. The scheme places the onus on the applicant to justify why the time limits should be extended and we propose to bring forward the same provisions into a new Scheme. Additionally, we will provide clear guidance and examples to applicants to illustrate the circumstances when discretion may or may not be applied.

### **Human Trafficking**

Response 1

*Within the current CICS no cognizance is given to the 'harm' caused to victims of human trafficking/modern day slavery by the traffickers/perpetrators. The severity of the trafficking experience, including the duration of abuse sustained will compound and exacerbate the impact of this crime on VOTs lives.*

*The uniqueness of the 'victims status' has not yet been awarded any recognition within the CICS. Applications for compensation are set against the standard physical and/ or psychological injury test and should be reviewed, taking into consideration the aforementioned severity of the ordeal suffered.*

*VOTs are often left with financial debt following their rescue. This in turn, can keep them locked into a perpetual cycle of debt bondage with OCGs or loan agencies.*

**(Migrant Help)**

Response 2

*Since the 2009 Scheme came into effect, we are facing a growing challenge in Northern Ireland with victims of Human Trafficking. These victims have often undergone a horrendous experience coming into our country, where they have been used as slave labour, denied medical treatment for injuries, denied payment for work done, isolated and mentally abused. Yet the majority of them will never qualify for compensation because either there was no crime of violence (despite the horrific conditions*

*and treatment of these people), they were denied medical treatment and so do not have medical evidence for their claim, or they did not report a specific incident where they were physically injured because they were held captive. It is our proposal that a new tariff be added to the Scheme for victims of Human Trafficking into Northern Ireland where the Home Office has confirmed that they are considered to have been trafficked. These should be treated in the same way as sexual offences for example, where the injury does not have to be proven, only that the offence took place. Where a victim of Human Trafficking can demonstrate that they were trafficked, through the Home Office letter of confirmation, they would then automatically be compensated against the Human Trafficking tariff.*

**(Victim Support NI)**

## **ANALYSIS OF RESPONSES**

Under Article 17 of the EU Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims Member States are required to ensure that victims of trafficking have access to existing schemes of compensation for victims of violent crimes of intent. The international obligation is for victims to have access to existing compensation schemes and as such the Northern Ireland arrangements are compliant with the Directive. Under the Northern Ireland arrangements victims of human trafficking are eligible for compensation if they have suffered a qualifying injury, and where they have met the requirements set out in the Northern Ireland Criminal Injuries Compensation Scheme. In other words, to qualify for compensation under this scheme, victims of human trafficking must have suffered either a physical or a disabling mental illness (confirmed by a psychiatric diagnosis). Compensation Services has published guidance for victims of human trafficking on how to apply for compensation under the Criminal Injuries Compensation Scheme. This guidance is available in a number of foreign languages and includes signposting to other specialists.

### **Access to services and training**

#### Response 1

*Inequalities regarding access to services, external and internal training for the workforce and families, as well as public awareness of Autism, are supported by the failure of past disability legislation to recognise Autism. The situation must be addressed as part of the required compliance with the Autism Act (NI) 2011.*

**(Autism NI)**

#### Response 2

*Disability Action would recommend that all personnel dealing with the scheme receive training on disability equality to encourage a more inclusive service.*

**(Disability Action)**

## **ANALYSIS OF RESPONSES**

The Department of Justice is committed to improving services for all those who come into contact with the criminal justice system and working in collaboration with our statutory and voluntary sector partners ensuring that additional support is available for those who need it. The Department's strategy for victims and witnesses, and the themes and actions contained within the strategy encompass the specific needs of anyone with a disability, such as autism, who comes into contact with the justice system as a victim or witness. The Department is also considering ways of ensuring that support is available for all those with autism or, indeed, any form of communication difficulty. A priority for the Department is to ensure access to justice for all, including those on the autism spectrum. The Department of Justice has been working collaboratively with organisations that have expertise in the autism field, to help achieve better outcomes for children and adults on the autism spectrum who engage with the criminal justice system. A cross-departmental autism strategy, which flowed from the Autism Act (Northern Ireland) 2011, has helped develop a better understanding of the justice sector's role in this respect. A number of actions flowed from this strategy which included: training for staff across the justice system; improved guidance for criminal justice practitioners; the publication of a new Victim Charter; and, significantly, the provision of registered intermediaries to support witnesses and defendants with communication difficulties.

The DOJ therefore recognises that the types of support required by victims will vary considerably and is committed to ensuring that each individual's needs are assessed as early as possible, and that these needs are kept under review as the person progresses in their journey through the criminal justice process. Compensation Services is developing a new case management system that will deliver improved services to victims. The issues highlighted through responses to the consultation will be considered as part of this work and will include the issue of training for frontline staff.

## **Same Household Cases**

### Response 1

*Same Household - Families - This criterion very much focuses on blaming the victim for staying rather than focusing on the reparative effect the compensation could have. We believe a mechanism could be put in place to ensure that the victim and not the perpetrator of the crime have access to the compensation. We also recommend that there needs to be consideration given as to why the victim is still living in the home in which the crime took place instead of automatically barring them from applying.*

*Same Household - Children - In relation to applications being made on behalf of a minor, the eligibility criteria focuses on ensuring that the person who committed the offence doesn't benefit from the award, rather than the taking the view that awarding the compensation would be in the child's best interest. We believe that appropriate safeguards could be put in place to ensure that the person who offended can't access the award, without denying the child what is in their best interest."*

**(NIACRO)**

### Response 2

*Given the ongoing nature of abuse cases and the increasing success in securing prosecution for historical abuse I would like to see the...claims be reconsidered (with particular attention paid to.....circumstances under which no compensation can be paid even if the offence has been tried and a conviction secured).*

**(Private Individual)**

### Response 3

*The "living with the offender" rule must be removed. In our experience of working with victims of sexual abuse, the abuse often happens within the home. It seems particularly unfair that a child who was sexually abused by their father, brother etc. in cases of historic abuse, is not entitled to an award of compensation.*

**(Victim Support NI)**

## **ANALYSIS OF RESPONSES**

We note that some of the responses related to the living with offender rule/same household sexual abuse. It is therefore important to understand the legislative position and to highlight that changes have been made which address some of the concerns raised.

For incidents that occurred **prior to 1 July 1988** Article 3(2)(b) of the Criminal Injuries (Compensation) (Northern Ireland) Order 1977 states that no compensation shall be paid if the victim was, at the time when the criminal injury was sustained, living with the offender as his wife or her husband or as a member of the same household as the offender.

This position was changed by the Criminal Injuries (Compensation) (Northern Ireland) Order 1988 for incidents that occurred **after 1 July 1988**. This included a provision for victims to apply for compensation in specific circumstances, e.g., **children** living in the same household as the offender.

The existing Tariff scheme maintains the principle that the person who caused the injury must not be in a position where he/she could benefit if an award of compensation was made to the victim. In practice this means that where the offender and the victim are adults and continue to live together, compensation will not be awarded. However, in the case of a child who is a victim of a criminal injury and to whom compensation is payable, the award will be placed in a Trust Fund for safekeeping until the child attains the age of 18. In this respect the payment of compensation is deemed to be in child's best interests.

### **Interim Payments**

#### Response 1

*The current process of administering claims can often be quite lengthy however many victims incur costs in the immediate aftermath of the crime. Whilst we understand that applications can be made for interim payments we would propose that under any new Scheme that the Compensation Services automatically offer interim payments in cases where delay is likely and eligibility has been determined.*

**(Victim Support NI)**

### **ANALYSIS OF RESPONSES**

We accept that the current administration of claims can on occasions take longer than we would like. In parallel to this review of the compensation schemes Compensation Services is developing a new case management system that will deliver improved services to victims and shorten the timescales to determine claims. While often we make interim payments to applicants, in the more complex cases and only when the eligibility criteria have been fully satisfied, we will consider further how to extend our practice to deliver some financial easement to more victims.

### **Consent in Law v Consent in Fact Cases**

#### Response 1

*Another issue which seems particularly unfair for victims is in the Consent in law v Consent in fact cases. If a victim is unable to consent in law due to his or her age, then how can they be seen as being able to consent in fact?*

**(Victim Support NI)**

### **ANALYSIS OF RESPONSES**

When assessing an application for compensation, Compensation Services consider the evidence presented and make a decision based on a balance of probabilities, whether a crime of violence has occurred. In the case of, e.g. a sexual assault, if the

evidence presented states that consent was not given then it is considered that a crime of violence has occurred. If however the evidence demonstrates that consent was given this is considered “consent in fact” and therefore we would not consider that a crime of violence has occurred.

### **Means Tested Benefits**

#### **Response 1**

*Means tested benefits continue to be impacted by an award of compensation above a certain amount. Victim Support NI believes that this is unfair and should be changed. Compensation should not be treated as capital given that it is awarded as an expression of public sympathy for pain and suffering caused.*

**(Victim Support NI)**

### **ANALYSIS OF RESPONSES**

Compensation Services are responsible for assessing claims for compensation made in accordance with the statutory schemes. The Department of Social Development (DSD) is responsible for the assessment of benefits and has responsibility for policy decisions in relation to how compensation payments affect means tested benefits.

**Q30. Do you agree that a proportion of any savings that may be realised from the changes to the Criminal Injuries Compensation Scheme should be reinvested to support other services for victims? Do you have any other comments on this proposal?**

A total of six respondents commented on this proposal and comments included:

#### **Response 1**

*Should the proposals go ahead despite our concerns, we believe that any savings made should be reinvested into support for other services for victims, to help them to get their lives back on track.*

**(Association of Personal Injury Lawyers)**

#### **Response 2**

*The BSA would endorse the proposal that any savings which are available from changes to the scheme should be considered for reinvestment to support other services for victims including counselling, day care and so forth.*

**(Belfast Solicitors' Association)**

#### **Response 3**

*A portion of the savings should be made available for counselling and advice services.*

**(Disability Action)**

Response 4

*We endorse the commitment to reinvest the savings of the scheme into services that are supporting victims, especially those who have experienced sexual and physical violence and serious physical life changing injuries/disabilities.*

*We would encourage a holistic assessment of the victims needs based on the impact of the violent crime and encourage in the inclusion of compensating with specialist supports as well as monetarily. Victims should not have to wait an unreasonable amount of time to be in receipt of services as this could hamper their overall potential for recovery, so we would encourage the timely implementation of identifying and initiating support services as part of the compensation award.*

**(NEXUS)**

Response 5

*Victim Support NI is strongly opposed to the removal of any of the tariff levels within the existing Scheme. However, any savings made should be redirected into support services for victims. As an organisation supporting all victims of crime we are aware of gaps in services such as delays in accessing counselling and Cognitive Behavioural Therapists, etc.*

**(Victim Support NI)**

Response 6

*We also welcome the proposal to re-invest savings to conduct research into a better way to capture the experiences of victims of domestic abuse and sexual crime.*

**(Women's Aid Federation)**

## **ANALYSIS OF RESPONSES – Q 30**

All respondents supported the proposal to reinvest a proportion of the savings made as a result of the implementation of a new Criminal Injuries Compensation Scheme to improve services to victims and in particular victims of the most serious crimes and those that have the greatest need.

We have taken on board all the suggestions provided by respondents as to how a reinvestment strategy could be used to improve other services to victims of crime. We will continue to work with our key partners from the voluntary sector as part of the multi-agency Victim and Witness Steering Group to develop a delivery plan.

## **Next steps for reform**

**6.0** The Minister intends to furnish this Report to the Justice Committee in December 2015 for comment with the intention of enabling draft legislation relating to Criminal Damage Compensation and a proposed new Criminal Injuries Scheme to be advanced in the next Assembly Mandate.



### Summary of the Proposals to Reform the Criminal Damage Compensation Scheme

The proposals to reform the Criminal Damage Legislation are detailed within Section 5.1 of the post consultation report. In summary, the proposals recommend that:

1. Northern Ireland should continue to have a legislative framework under which the Northern Ireland Executive would fund a Criminal Damage Compensation Scheme.
2. A new Scheme would continue to provide cover where the damage was caused as a result of terrorist related activity or by a person or persons acting on behalf of an unlawful association.
3. The new Scheme would also continue to compensate for criminal damage resulting from serious public disorder. A new definition would provide that the term serious public disorder involves disorder by six or more people.
4. Applicants with convictions for terrorist and NI conflict related offences which pre-date the Good Friday/Belfast Agreement would be eligible to apply for criminal damage compensation. The legislation would continue to allow other factors to be considered when assessing whether compensation should be paid, such as the applicant's conduct and behaviours to reduce or avoid the damage occurring. Those with terrorist convictions for offences committed since the Good Friday/Belfast Agreement would continue to be ineligible for criminal damage compensation.
5. The Community Halls provision would be retained and a damage value threshold of £25,000 would be introduced above which the Criminal Damage Compensation Scheme could be accessed for the excess amount.

6. Agricultural property provision retained and a damage value threshold of £25,000 would be introduced above which the Criminal Damage Compensation Scheme could be accessed for the excess amount.
7. The total amount of compensation payable for a claim made under the new Scheme would be capped at £2m to protect the extent of the State's financial exposure.
8. The application process would be streamlined and the application threshold (currently £200) and statutory deduction (currently £200) would be retained at their current levels.
9. The right of appeal to the County Court would be retained and legal costs would continue to be reimbursed in the event of a successful appeal.
10. The new Scheme would continue to seek to recover compensation from offenders who themselves become victims of crime and subsequently are seeking compensation.

### **Summary of the Proposals to Reform the Criminal Injuries Compensation Scheme**

The proposals to reform the Criminal Injuries Compensation Scheme are detailed within Section 5.2 of the post consultation report. The proposed changes included:

1. The adoption of the tariff levels used in the GB 2012 Scheme:
  - **Removal of minor injuries** - the existing tariff levels for minor injuries (i.e. those at Tariff Levels 1 to 5 - £2,000 and below) would be removed.
  - **Reduce tariffs for moderate injuries** - tariffs for injuries described as moderate (i.e. those at Tariff Levels 6 to 12 - £8,200 and below) would be reduced.

- **Realignment of tariffs** would result in the number of tariff levels increasing from 25 to 26. However, compensation payable under the new Scheme would continue to range from £1000 to £250,000.
2. Awards for sexual and physical abuse of adults and children would be protected at existing tariff levels.
  3. Bereavement support payments would be protected at existing levels.
  4. Tariff descriptors for major paralysis would be modified to reflect the degree of seriousness of hemiplegia, paraplegia and tetraplegia.
  5. All categories of 'special expenses' would be retained except for private medical treatment and private nursing care.
  6. Applicants would be required to contribute £50 towards the cost of initial medical reports to evidence their claim. The contribution would not take the form of an upfront payment but will be deducted from any award of compensation. Where an award is not made the cost will be regarded as a loss to the Department.
  7. The new Scheme will retain the provision to reduce or withhold an award on the basis of the applicant's character and will tighten the application of existing provisions for unspent criminal convictions which are taken into account when making an assessment of character.
  8. The Scheme would continue to reimburse 'reasonable' funeral expenses up to a maximum of £5,000 per claim.

Wrapped around the proposals to change the Criminal Injuries Compensation Scheme we would also plan to **retain many elements of the existing NI Scheme**. These are sympathetic to victims of violent crime in Northern Ireland and will continue to place applicants to the NI Scheme in an advantageous position

compared to applicants claiming from other EU States and, in particular, those claiming under the Great Britain Scheme. The key elements of the existing Scheme which we propose to retain include:

9. No cap on the total amount of compensation payable.

10. Compensation for multiple injuries on a scale of 100% of the tariff level for the most serious injury, 30% of the tariff level for the second injury, 15% for the third and 10% for any other injury.

11. Compensation for loss of earnings based on a comparison of actual and potential earnings pre-incident with actual earnings and/or ability to earn post incident up to the applicant's date of retirement or for the length of their estimated life expectancy. We will continue to take into account the applicant's entitlement to social security benefits, pension, insurance payments and any other compensation payments made in respect of the injury.

12. The timescales to request a 'Review' or lodge an 'Appeal' will be kept at 90 calendar days.

## Review of Criminal Injuries Scheme and Criminal Damage Legislation

### Stakeholder Engagement

SCHEME	ORGANISATION / INDIVIDUAL	COMMUNICATION METHOD	DATE
Criminal Injuries	Victim Support NI	Meeting	16/05/2013
Criminal Injuries	Statutory Organisations, Community and Voluntary Sectors	Pre-consultation Workshop	04/06/2013 <i>(cancelled due to low uptake)</i>
Criminal Injuries	Statutory Organisations, Community and Voluntary Sectors	Pre-consultation Workshop	11/06/2013 <i>(cancelled due to low uptake)</i>
Criminal Injuries	Victim Support NI	Meeting	21/06/2013
Criminal Injuries	Victims' Groups	Pre-consultation workshop	29/07/2013
Criminal Injuries	Victim Support NI	Meeting	16/08/2013
Criminal Damage	Law Society, DSO, Bar Library	Pre-consultation Workshop	27/09/2013
Criminal Injuries	NI Courts and Tribunals Service	Pre-consultation Meeting	07/10/2013
Criminal Injuries and Criminal Damage	Statutory Organisations	Pre-consultation Meeting	09/10/2013 <i>(cancelled due to low uptake)</i>
Criminal Damage	British Insurance Brokers Association	Meeting	22/11/2013
Criminal Damage	Home Office	Conference Call	28/11/2013
Criminal Damage	Association of British Insurers	Meeting	28/11/2013
Criminal Injuries	Ministry of Justice, Home Office, Policy Division	Email/Telephone	From 02/12/2013 onwards
Criminal Injuries	Criminal Injuries Compensation Authority (CICA) in GB	Meetings/Emails	From 03/12/2013 onwards

<b>SCHEME</b>	<b>ORGANISATION / INDIVIDUAL</b>	<b>COMMUNICATION METHOD</b>	<b>DATE</b>
Criminal Damage	Northern Ireland Independent Retail Trade Association	Pre-consultation Meeting	05/12/2013
Criminal Damage	NFU Mutual	Pre-consultation Meeting	19/12/2013
Criminal Damage	Police Service NI	Meeting	13/01/2014
Criminal Injuries	Procedural Criminal Law, European Commission	Email via CICA	20/01/2014
Criminal Injuries	Victim Support NI	Meeting	04/02/2014
Criminal Damage/Criminal Injuries	Legal Representatives Stakeholder Reference Group	Pre-consultation Meeting	06/02/2014
Criminal Injuries	Victims' Groups	Stakeholder Reference Group	11/02/2014
Criminal Damage	GAA	Meeting	24/02/2014
Criminal Injuries	Procedural Criminal Law, European Commission	Email	09/03/2015
Criminal Damage/Criminal Injuries	Departmental Solicitors Office	Meeting	10/03/2014
Criminal Damage	Professor Desmond Greer	Meeting	18/03/2014
Criminal Damage/Criminal Injuries	Equality Officer, Prison Service	Meeting	26/03/2014
Criminal Damage/Criminal Injuries	Equality Commission	Meeting	31/03/2014
Criminal Damage	DARD	Meeting	08/04/2014
Criminal Damage/Criminal Injuries	Ex-Prisoners Groups	Ex-Prisoners Working Group Meeting chaired by HOCS	27/05/2014
Criminal Damage	Police Service NI	Meeting	30/05/2014
Criminal Injuries	Victim Support NI	Focus Group	16/06/2014

SCHEME	ORGANISATION / INDIVIDUAL	COMMUNICATION METHOD	DATE
Criminal Damage	British Insurance Brokers Association	Meeting	03/09/2014
Criminal Damage	Police Service NI	Meeting	17/09/2014
Criminal Damage	Association of British Insurers	Meeting	24/09/2014
Criminal Damage	PSNI Rural Crime Prevention/NFU Mutual	Site Meeting	20/11/2014
Criminal Injuries and Criminal Damage	Community, Business and Voluntary Sectors, Private Individuals, Statutory Organisation and Political Parties	Responses to Public Consultation	From 08/12/2014 to 16/03/2015
Criminal Injuries	Victim Support NI	Meeting	09/12/2014
Criminal Injuries	CICAPNI and NICTS	Meeting	20/01/2015
Criminal Damage	Northern Ireland Independent Retail Trade Association	Meeting	29/01/2015
Criminal Injuries	Victims' Groups	Consultation Workshops	<b>Belfast 04/02/2015</b> <i>Newry 03/02/2015 (cancelled to due low uptake)</i> <i>L/Derry 09/02/2015 (cancelled to due low uptake)</i>
Criminal Damage	Orange Order/Oval James Ltd, Insurance Broker	Meeting	23/02/2015
Criminal Damage	GAA	Meeting	24/02/2015
Criminal Damage	NFU Mutual	Meeting	05/03/2015
Criminal Damage	Think Risk Limited	Meeting	21/05/2015
Criminal Damage	AJ Gallagher Insurance	Meeting	27/05/2015
Criminal Damage	BIBA	Telephone Conference	03/06/2015
Criminal Damage	Ecclesiastical Insurance	Telephone Conference	10/06/2015
Criminal Damage	Royal Sun Alliance	Meeting	15/06/2015
Criminal Damage	PSNI	Meeting	10/08/2015

<b>SCHEME</b>	<b>ORGANISATION / INDIVIDUAL</b>	<b>COMMUNICATION METHOD</b>	<b>DATE</b>
Criminal Damage	DFP Rating Policy Division	Meeting	11/08/2015
Criminal Injuries	Victim Support NI	Meeting	02/09/2015
Criminal Injuries/Criminal Damage	Various	Letters/Emails	Various



**Review of Criminal Injuries and Criminal Damage Legislation –**

**Register of Responders**

- 1 Autism NI
- 2 Gerald & Bridget McLaughlin
- 3 Disability Action
- 4 Grand Orange Lodge of Ireland
- 5 Association of Personal Injury Lawyers
- 6 The Policing Board for Northern Ireland
- 7 Migrant Help
- 8 Disability Action
- 9 Belfast Solicitors' Association
- 10 NIACRO
- 11 Women's Aid Federation
- 12 Adrienne McCrea
- 13 NEXUS
- 14 Gregory Campbell MP MLA
- 15 Victim Support NI
- 16 Democratic Unionist Party
- 17 Ulster Unionist Party
- 18 National Farmers Union Mutual Insurance
- 19 GAA
- 20 Ulster Farmers' Union
- 21 Anonymous