



Department of

Justice

www.dojni.gov.uk

Building a fair, just and safer community

**CONSULTATION – REVIEW OF
CRIMINAL DAMAGE AND CRIMINAL
INJURIES COMPENSATION SCHEMES**

8 DECEMBER 2014

Comments are invited and should be made to the following address:–

**Compensation Services Branch
Project Team
6th Floor
Millennium House
17-25 Great Victoria Street
Belfast
BT2 7AQ
csreview@dojni.x.gsi.gov.uk**

CONTENTS

MINISTER'S FOREWORD

SECTION 1 - INTRODUCTION

SECTION 2 - BACKGROUND, PURPOSE & CONTEXT

- Summary of Proposals to Reform the Criminal Damage Legislation
- Summary of Proposals to Reform the Criminal Injuries Scheme

SECTION 3 - REVIEW OF CRIMINAL DAMAGE LEGISLATION

- Introduction
- Background
- Approach to the Review of Criminal Damage Legislation
- Case for Change
- Stakeholders Engagement
- Proposals for Change

SECTION 4 - REVIEW OF CRIMINAL INJURIES SCHEME

- Introduction
- Background
- Approach to the Review of Criminal Injuries Scheme
- Case for Change
- Stakeholder Engagement
- Proposals for Change

SECTION 5 - SAVINGS & REINVESTMENT

SECTION 6 - IMPACT ASSESSMENTS

ANNEXES

- ANNEX 1** – List of Key Stakeholders
- ANNEX 2** – Independent Review of the Riot (Damages) Act 1886
- ANNEX 3** – Summary of the Pool Re Scheme
- ANNEX 4** – Compensation Schemes in Other EU Countries
- ANNEX 5** – Minor Injuries to be Removed - Tariff Levels 1-5 (84 injuries)
- ANNEX 6** – Reduced Tariffs for Moderate Injuries - Tariff Levels 6-12 (227 Injuries)
- ANNEX 7** – Tariff Awards for Serious Injuries (Unchanged) – Tariff Levels 13-25 (135 Injuries)
- ANNEX 8** – Tariff Bands for Major Paralysis Changed to Reflect the Degree of Seriousness
- ANNEX 9** – Increase in the Percentage Reductions to Compensation Payments for Unspent Criminal Convictions
- ANNEX 10** – Consultation Response Pro Forma

MINISTER'S FOREWORD

I am seeking views on the future shape of the Criminal Damage and Criminal Injuries Schemes in Northern Ireland.

This consultation is launched following a robust review of the Schemes which I commissioned as part of the Victims and Witnesses Strategy 'Making a Difference to Victims and Witnesses of Crime' published in June 2013.

The purpose of the review was to examine the Criminal Damage and Criminal Injuries Schemes to establish whether they are **relevant** and **responsive** to the needs of victims. In addition, at a time when budgets are under pressure across all public services, it is important to ensure that expenditure under the Schemes is fully justified, and that limited resources are directed to those who need them most.

As a result of the review, I firmly believe that we continue to require statutory schemes to support victims of criminal damage and criminal injury. At the same time, I believe the financial resources available should be directed towards those victims who have been most seriously impacted by crime. It is equally clear to me that the existing schemes need updating to take account of the improved security and political backdrop against which the schemes now operate compared to the circumstances that were prevalent in our society when they were originally developed and introduced. We also need to recognise the cohesive range of services which have been developed and are now available to victims of violent crime. In addition, the insurance sector is now operating in this area, whereas previously its role was limited.

The proposals contained within the consultation document will result in the scope of both schemes being reduced. In the case of Criminal Damage, the proposals would leave Northern Ireland in a unique position, providing compensation because of the ongoing terrorist threat and risk of serious public disorder. Against that, I want to strike a balance between the extent of liability which should continue to be placed on the taxpayer for criminal damage, and an individual's own responsibility to insure their property against

criminal damage. In the case of Criminal Injuries, a number of proposals for change have been advanced which take into account local circumstances and reaffirm the fundamental purpose of the scheme as an expression of public sympathy. The proposals aim to target compensation 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.

I am committed to improving services to victims and so intend to reinvest a proportion of the savings which will be released from the proposed changes to the Criminal Injuries Scheme back into victim services. The full extent of the savings will take some time to realise and the services to benefit from reinvestment will be examined in that context.

In helping to formulate the proposals, my officials rightly sought the views and opinions of a number of victims' groups and representatives, as well as other stakeholders and interested parties. I am grateful for their input. We have also looked at practice elsewhere. I would encourage anyone with an opinion to respond to this important consultation document.

DAVID FORD MLA
Minister for Justice

RESPONDENT INFORMATION

Document formats

An electronic version of this consultation document is available to download from the Department's website at: <http://www.dojni.gov.uk/review-of-criminal-damage-and-criminal-injuries-schemes>

Printed copies and copies in other formats (including Braille, large print, computer disk, etc.) can be made available on request. If it would assist you to access the document in an alternative format or language other than English, please let us know and we will do our best to assist you.

Confidentiality and Publication of Responses

Responses to this consultation will be provided to the Assembly's Justice Committee. The Department will publish a summary of responses following the completion of the consultation process. Unless individual respondents specifically indicate that they wish their response to be treated in confidence, their name and the nature of their response may be included in any published summary of responses. Respondents should also be aware of the Department's obligations under the Freedom of Information Act, which may require that any responses not subject to specific exemptions in the Act may be disclosed to other parties on request.

Responding to the Consultation

Comments are invited on the specific issues highlighted or on any of the other issues contained in this paper. When you are responding to this document please state whether you are responding as an individual or representing the views of an organisation. A response form is provided at Annex 10.

Responses or requests for further information should be emailed to: csreview@dojni.x.gsi.gov.uk or posted to the following address:

**Compensation Services Branch
Project Team
6th Floor
Millennium House
17-25 Great Victoria Street
Belfast
BT2 7AQ**

Tel: 028 9054 1945

The closing date for responses is **Monday 16 March 2015**.

1. INTRODUCTION

1.1 The Department of Justice is consulting on a review of the legislation which underpins compensation paid to victims of **criminal damage** and compensation paid to victims of **criminal injury** in Northern Ireland.

1.2 This consultation document sets out the background to the existing Criminal Damage and Criminal Injury Compensation Schemes. It explains why reform is necessary and the rationale behind the proposals. The consultation is to seek views from all interested groups and individuals on the proposals to reform the existing Schemes. We would particularly like to receive comments from those who may have been a victim of criminal damage or a victim of a violent crime. It would be helpful if representative groups in responding could give an overview of the people, organisations and numbers that they represent when they respond.

All the responses received will be taken into account as the Department decides the best way forward following the end of the consultation period.

Structure of the Document

1.3 This consultation document has been written recognising that readers may have a particular interest in either the Criminal Damage Legislation or Criminal Injuries Compensation Scheme but not necessarily both. Section 2 provides an overview of the document. It sets out the background, purpose and context of the Review for both Schemes and concludes with summaries setting out the proposals to reform the Criminal Damage Legislation and the current Criminal Injuries Scheme. The document then deals with Criminal Damage and Criminal Injuries separately providing more detailed analysis of the current Schemes, setting out the case for change and recommending proposals to ensure that future provisions are fit for purpose, affordable and sustainable. Section 3 of the document focuses on Criminal Damage while

Section 4 deals with Criminal Injuries. A number of questions are asked in relation to specific proposals for change and these are identified within the relevant sections of the document and are repeated for ease of reference in the Response Pro Forma at Annex 10. While we are particularly interested in hearing your views on the specific issues raised we would also welcome any additional points you may wish to make.

The Current Compensation Schemes

1.4 The legislation which is the subject of this review is:

- a. Criminal Damage (Compensation) (Northern Ireland) Order 1977¹
- b. The Criminal Injuries Compensation (Northern Ireland) Order 2002²

The Criminal Injuries 2002 Order is enabling legislation which provides for the eligibility criteria, the detailed arrangements 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 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](#).

Operation of the Current Schemes

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

¹ [Criminal Damage \(Compensation\) \(Northern Ireland\) Order 1977](#)

² [The Criminal Injuries Compensation \(Northern Ireland\) Order 2002](#)

2. BACKGROUND, PURPOSE AND CONTEXT

2.1 The five-year Victim and Witness Strategy 'Making a Difference to Victims and Witnesses of Crime - Improving Access to Justice, Services and Support', contains a commitment to review the Criminal Injuries and Criminal Damage Compensation Schemes.³ The Strategy sets out improvements to victims' services in a number of areas, including through the development of Victim and Witness Charters and the roll out of a new Victim and Witness Care Unit. The Unit will provide victims with a single point of contact for most of their journey through the criminal justice system.

2.2 The Strategy focuses on developing new services and delivering existing support more effectively. The emphasis is very much on improving access to justice and targeting support to those most in need. The objective is to ensure that increasingly limited resources are put to best use.

2.3 The formulation of the Victim and Witnesses Strategy was substantially informed by the report of the Justice Committee's *Inquiry into the Criminal Justice Services Available to Victims and Witnesses of Crime*⁴. In considering the matter of compensation, the Justice Committee focussed on victims of violent crime and made the following recommendations relating to the Criminal Injury Compensation Scheme:

1. *a review of the legislation underpinning the compensation schemes should be undertaken to assess whether it is appropriate and adequate.*
2. *the issues highlighted in relation to operating procedures and processes should be addressed as part of the on-going review of how Compensation Services delivers its services.*

³ [Making a difference to victims and witnesses of crime - improving access to justice, services and support](#)

⁴ [Justice Committee Inquiry into the criminal justice services available to victims and witnesses of crime](#)

2.4 The Justice Minister accepted the recommendations made by the Justice Committee and reflected on them in the Victim and Witnesses Strategy through his commitment to carry out a review of the legislation underpinning the Criminal Injuries **and** Criminal Damage Compensation Schemes.

2.5 In addressing the Justice Committee's second recommendation, Compensation Services is in parallel to this review of legislation, developing a business case to inform a bid for funding to replace its existing case management systems. Should it be approved, this work will include a comprehensive review of the business operations, processes and communications. We are developing new methods of interacting with victims and their representatives; identifying improvements to customer services; designing new procedures to reduce the time taken to decide on claims as well as delivering efficiency savings in terms of operating costs.

Pre-Consultation and Stakeholder Engagement

Criminal Injuries

2.6. The information given in evidence to the Justice Committee's Inquiry provided the Department with some insight into the areas of concern relating to the current Criminal Injuries Scheme and its operations. Regular meetings with Victim Support NI and other stakeholders have also helped to identify areas where the provisions of the existing Schemes were perceived to be outdated, inconsistent and unjust and in some cases, causing confusion and concern.

2.7 Over recent months, to help develop reform proposals, a number of workshops and meetings have been held with key stakeholders to:

- gauge the appetite for change;

- determine which elements of the existing Schemes work well and areas where improvements could be made;
- understand the provisions of the current Schemes that are considered by claimants to be unjust, inconsistent and/or cause concern or confusion; and
- generate ideas by creating a forum for applicants and their representatives to input their first hand experiences of claiming compensation for criminal damage and/or for criminal injury.

2.8 Annex 1 provides a list of victims' representative groups and other stakeholders who were invited to contribute to the pre-consultation stage of the review. In total, 6 workshops and 23 meetings have been held with victims, victims' representatives and stakeholder groups.

2.9 As well as taking the views at local level and conscious of European obligations, we researched and benchmarked our Criminal Injuries and Criminal Damage 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). For Criminal Injuries compensation we were interested to determine the extent of provision made by Member States to comply with the European Convention on the Compensation of Victims of Violent Crimes (ETS 116 1983)⁵

2.10 We also consulted colleagues in the Ministry of Justice who had carried out a comprehensive review of the Criminal Injuries Compensation Scheme operating in England, Scotland and Wales (GB). The resultant Criminal Injuries Compensation Scheme 2012 came into operation in November 2012 and introduced significant changes to the eligibility criteria and compensation for loss of earnings. The GB Scheme is administered by the Criminal Injuries Compensation Authority (CICA) which is based in Glasgow and we are

⁵ [Compensation of Victims of Violent Crimes \(ETS 116 1983\)](#)

indebted to colleagues there, who provided information, advice and support to help us shape criminal injury proposals.

Criminal Damage

2.11 We consulted with Home Office officials and the Ministry of Justice and were also given details of the work and access to the report of Neil Kinghan with whom we held discussions. Neil Kinghan was commissioned by the Home Secretary, Theresa May, to conduct an independent review into compensation arrangements set out in the Riot (Damages) Act 1886 and to look at how they were implemented following the riots in England in 2011⁶. He also examined the definition of a riot; who should be liable; and the level of entitlement that should be afforded under the Act. Following delivery of his report to the Home Secretary, the Ministry of Justice is now tasked with bringing forward new legislation.

2.12 The Review also held meetings with the British Insurance Brokers Association and the Association of British Insurers who are particularly important stakeholders for the Criminal Damage legislation. Compensation paid to insurance companies accounted for 15% of the total criminal damage budget in 2012/13. We also consulted with the National Farmers' Union (NFU Mutual) to take their views on the agricultural provisions in the current legislation.

2.13 We took the views of the Law Society on behalf of the legal profession and of PSNI on the current legislation and on our proposals for change.

Purpose of the Review

2.14 The original Criminal Damage and Criminal Injuries Schemes were developed and introduced when Northern Ireland was in a serious and sustained terrorist campaign with serious public disorder a feature of the conflict. A very different environment exists today flowing from the political

⁶ [Independent Review of the Riot \(Damages\) Act 1886](#)

developments and the restoration of local political institutions. We believe that it is therefore an opportune time to review and reform both Schemes. So the purpose of review is to examine the legislation and Scheme and ensure they are not only **relevant** and **responsive** to the needs of today's victims but also for victims in the future. It is also important that the terms on which any new schemes operate are future-proofed so they remain **sustainable** and **affordable**.

2.15 In looking at our situation today and for the foreseeable future, our reform proposals must also acknowledge that while Northern Ireland is coming out of a period of conflict, regrettably there remains within our society a residual terrorist threat and a continuing risk of serious public disorder. In acknowledging these risks we can take some comfort from the 2012/13 Northern Ireland Crime Survey and the Crime Survey for England and Wales⁷ which reports that the risk of becoming a victim of crime remains lower in Northern Ireland (10.9%) than in England and Wales (18.7%).

Context of Review

2.16 To understand the context of our reform proposals it is important to consider the principles behind the Compensation Schemes.

Criminal Damage

2.17 The Criminal Damage 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 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.

2.18 As a result many in the insurance industry withdrew from the Northern Ireland insurance market completely or refused to provide cover for riot and

⁷ Crime Survey for England and Wales was formerly the British Crime Survey

terrorist related damage. The insurance industry argued that the premiums they would need to levy on customers would be too high for them to bear and that it would not be financially viable for the industry to cover such high risk. The Government therefore stepped in effectively to underwrite the insurance industry by introducing a legislative scheme funded by the taxpayer, **the purpose of which was to enable the victim to restore their property to its pre-incident condition.**

Criminal Injuries

2.19 The Criminal Injuries Scheme is also funded by the taxpayer. When first introduced, Government adopted similar principles to those governing compensation payments for claims arising out of the Law of Tort. As a result the State was regarded as the perpetrator of the crime and damages were awarded according to the victim's injury and personal circumstances. However, in 2002 the Government moved to 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.** In making a compensatory payment, the Government is no longer accepting responsibility for the criminal act which gave rise to the injury nor putting itself in the position of the perpetrator. Instead, the Scheme recognises that a gesture of a monetary award may help victims to recover and move on from the incident.

2.20 It was reported in evidence to the Justice Committee's Inquiry into Services Available to Victims and Witnesses of Crime that some victims receive a sense of 'closure' as a consequence of the compensation award. While we fully accept that view for some 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.

2.21 The Department of Justice recognises the central position of victims in the criminal justice process. Along with criminal justice organisations and our

voluntary sector partners, we are working to deliver a service that is responsive to victims' needs and secures for them as positive an experience of the criminal justice system as possible. The 'Making a Difference' Strategy seeks to improve access to justice services and support for victims and witnesses of crime. In addition, a range of victims services and support now exist or are being developed. These are much more accessible than when the statutory compensation schemes were initially established. Set against the backdrop of a range of victims' support services, Criminal Injuries compensation is now only one element of the services offered to victims.

Other Factors

2.22 However, there is another pressing factor which we believe must also be taken into account. The review is happening in a particularly difficult financial climate which is unlikely to change in the foreseeable future. So, as mentioned, any proposals need to be sustainable and affordable not just for now but for the future.

2.23 In formulating our reform proposals it is important to highlight and take into account a number of other factors, including:

- **Legislative Obligation** - ensuring proposals comply with our legal obligations, both domestic and European, and that we have shown due regard, through analysis and consultation, to the effects on those protected under **equality legislation**.
- **European Directives** - there is no European Directive which obligates Member States to compensate for criminal damage. Indeed outside the United Kingdom no other European Union country has a Criminal Damage Scheme and Northern Ireland is the only part of the United Kingdom to have a statutory Scheme. There is a Directive to compensate victims of violent crime but that has been interpreted differently by Member States.

- **Protection for the most seriously injured** - the need to **protect** criminal injury compensation payments for those victims most **seriously affected** by their injuries and where injuries are **long-term and life changing**.
- **Holistic response to victims - consideration of alternative provision** - our proposals must take into account the availability of other services and resources (e.g. insurance cover and State benefits) that a victim may be entitled to receive to meet the needs arising from the injury.
- **Disproportionate focus on minor injury** - the fact that **69% of awards** made in 2012/13 under the terms of the 2009 Criminal Injuries Scheme related to '**minor**' **injuries** attracting an award of less than £2,500.
- **Affordability - the existing Criminal Injuries Scheme in Northern Ireland is more generous** than GB and the most expensive in Europe by a considerable margin.
- **Sustainability - the Schemes must be sustainable** if they are to continue to offer timely compensation to victims in the long-term and provide a fair, realistic and affordable expectation.

Summary of the Proposals to Reform the Criminal Damage Compensation Scheme

The proposals to reform the Criminal Damage Legislation are detailed within Section 3 of the document at paragraphs 3.46 to 3.67. The proposals have been developed taking account of the contributions provided by stakeholders at pre-consultation meetings and the other factors influencing and informing change. 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 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 12 or more people.
4. Applicants with convictions for terrorist/conflict related offences committed before 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. Community Halls and agricultural properties would qualify for compensation in the same way as other properties.

6. 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.
7. The application process would be streamlined and the application threshold (currently £200) and statutory deduction (currently £200) would be retained at their current levels.
8. 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.
9. 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 Scheme

The proposals to reform the Criminal Injuries Scheme are detailed within Section 4 of the document at paragraphs 4.35 to 4.63. The proposals have been developed taking account of the contributions provided by stakeholders at pre-consultation workshops and meetings, and reflect local circumstances while reinforcing the fundamental principles of the Scheme as an expression of public sympathy. The proposals also have regard to the cohesive range of services now available and recognise that compensation is now only one element of the services offered to victims. In taking account of current issues around affordability and the need for a sustainable system for the future, the proposals also seek to focus limited resources on the most vulnerable victims of crime, those most seriously injured by violent crime and where the impacts of criminal injury are long-term and life changing. The proposed changes include:

1. The adoption of the tariff levels used in the GB 2012 Scheme:
 - The existing tariff levels for **minor injuries** (i.e. those at Tariff Levels 1 to 5 - £2,000 and below) would be **removed**.
 - Tariffs for injuries described as **moderate** (i.e. those at Tariff Levels 6 to 12 - £8,200 and below) would be **reduced**.
 - The existing tariff levels for injuries described as **serious or severe** (i.e. those at Tariff Levels 13 through to Level 25 £250,000) would be **protected** at their current rate.
 - **Realignment of Tariffs** would result with the number of tariff levels reducing from 25 to 23. However, compensation payable under the new Scheme would continue to range from Level 1 £1000 to Level 23 £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 the 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 whereby unspent criminal convictions 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 Scheme we would also plan to retain many elements of the existing Northern Ireland Scheme (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:

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

2. 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.
3. 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.
4. The timescales to request a 'Review' or lodge an 'Appeal' will be kept at 90 calendar days.

3. REVIEW OF CRIMINAL DAMAGE LEGISLATION

Introduction

3.1 The current legislation is the Criminal Damage (Compensation) (Northern Ireland) Order 1977⁸. This Order replaced the Criminal Injuries to Property (Compensation) Act (Northern Ireland) 1971 which had been in force since 1973.

3.2 The 1977 Order came into operation on 1 April 1978 and provides a right to claim compensation for loss suffered as a result of malicious or wanton damage to agricultural property and, in the case of other property, as a result of damage caused by an unlawful assembly of three or more persons or by a terrorist act. Although the Order was extended in 2009⁹ to include cover to properties exempt from rates and used for or made available for charitable purposes, this is the first time since 1977 that the legislation has been comprehensively reviewed.

3.3 The fundamental purpose is to **reinstate victims of criminal damage to the position that they were in immediately prior to the incident which gave rise to their claim**. Compensation is not payable for damage of £200 or less. If compensation is payable, a statutory deduction (currently £200) is made from the claim, but if more than one claim is made for the same property and by the same applicant in a 12 month period, the statutory deduction is made only once.

Background

3.4 The Criminal Damage Order provides compensation for damage resulting from terrorism. It also provides compensation for agricultural damage and loss. The Order was not intended to cover damage or loss

⁸ [Criminal Damage \(Compensation\) Northern Ireland Order 1977](#)

⁹ [The Criminal Damage \(Compensation\) \(Amendment\) \(Northern Ireland\) Order 2009](#)

caused by ordinary crime or vandalism¹⁰. During the passage of legislation through Westminster, MPs and Lords recognised that the frequency, extent and impact of conflict related criminal damage extended beyond the immediate loss to the victim, usually the owner/tenant of the premises, and into the wider community in terms of its socio-economic well being and resilience.

3.5 The scale of property damage in the 1970s and the sustained nature of the terrorist threat resulted in a decision taken by the insurance industry to exclude cover for terrorist related incidents for all property in Northern Ireland except for private dwellings. With no private insurance company willing to bear the risk, the Government was effectively placed as public insurer of first resort for all terrorist and civil disorder related incidents.

3.6 The legislation contains qualifying criteria for criminal damage compensation to be paid for agricultural buildings and property. These provisions re-enact fully those contained in the previous Criminal Injuries to Property (Compensation) Act (Northern Ireland) 1971. The early drafts of the 1977 Order excluded these provisions as it was considered that circumstances had significantly changed since their introduction and that the special provisions for agricultural property should no longer continue. However, it was argued at Committee Stage that the agricultural industry in Northern Ireland would need to be put on notice of the intention to repeal the *'special treatment in these terms'*. As a result the provisions were added back into the Order with the Minister delivering the notice of intention to repeal on 19 July 1977 in Parliament stated:

'I ask those concerned to take heed of the remarks I have just made and to note that we are giving just this kind of notice this time around'.

¹⁰ <http://hansard.millbanksystems.com/commons/1977/jul/19/northern-ireland-compensation-for>

2009 Amendment

3.7 In response to a surge of attacks on community halls the legislation was extended in 2009. The change allowed community halls that were rates exempt to claim compensation for criminal damage caused maliciously and valued above the statutory deduction (currently £200), without needing to prove that the damage was caused by three 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. The requirement for the amendment was initially envisaged as a temporary measure and for this reason the original draft included a ‘sunset clause’ so that it would lapse three years after its introduction unless the Minister of the day decided that the legislation was still required. In those circumstances, it was proposed that the Minister would have the power to extend the legislation for a further period or further successive periods, each not exceeding three years.

3.8 The majority of respondents to the consultation exercise expressed the view that the ‘sunset clause’ should be removed rather than being open to a review on a three year cycle. As a consequence the sunset clause was removed on the basis that the new provision would, in any event, be included in a future review of the Criminal Damage legislation.

Approach to the Review of the Criminal Damage Legislation

3.9 The existing Criminal Damage legislation has been examined in terms of its **relevance** and **responsiveness** to the diverse needs of victims of criminal damage in today’s society. We have considered the increasing pressures on **public finances** and taken into account the **availability of more appropriate services** e.g. private insurance. We have **compared our provisions** to those in other parts of the United Kingdom, the Republic of Ireland and other EU Nations and, in conjunction with stakeholders who attended our pre-consultation meetings and workshops, have advanced

proposals for change which we consider **valid, equitable, sustainable** and **affordable**.

3.10 The fundamental question at the heart of this Review is **to what 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? Or to put it another way, should some responsibility be returned to the individual citizen to insure their own property through the private sector insurance industry?

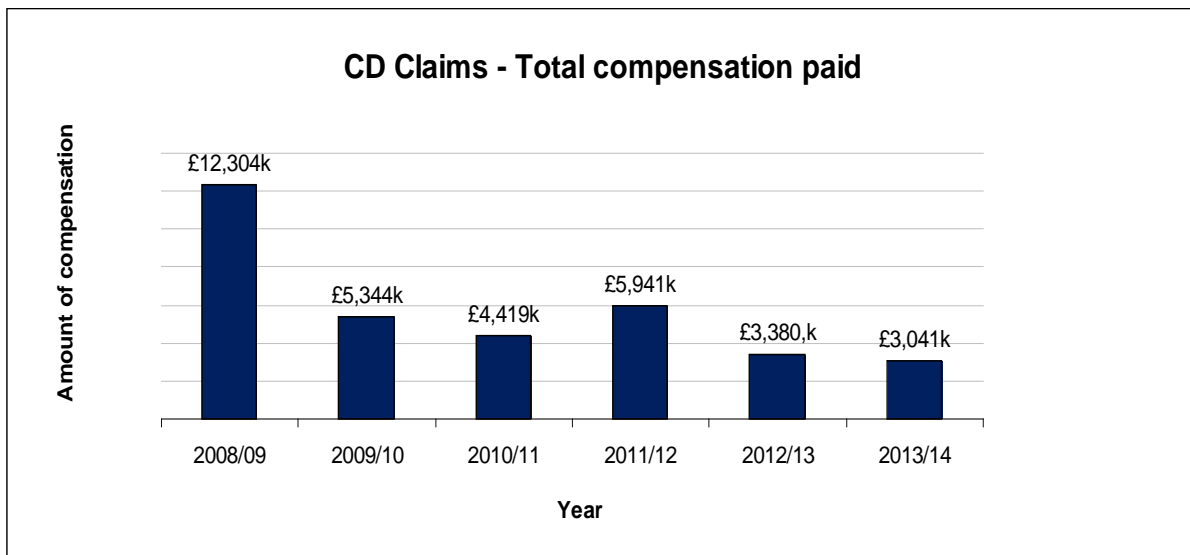
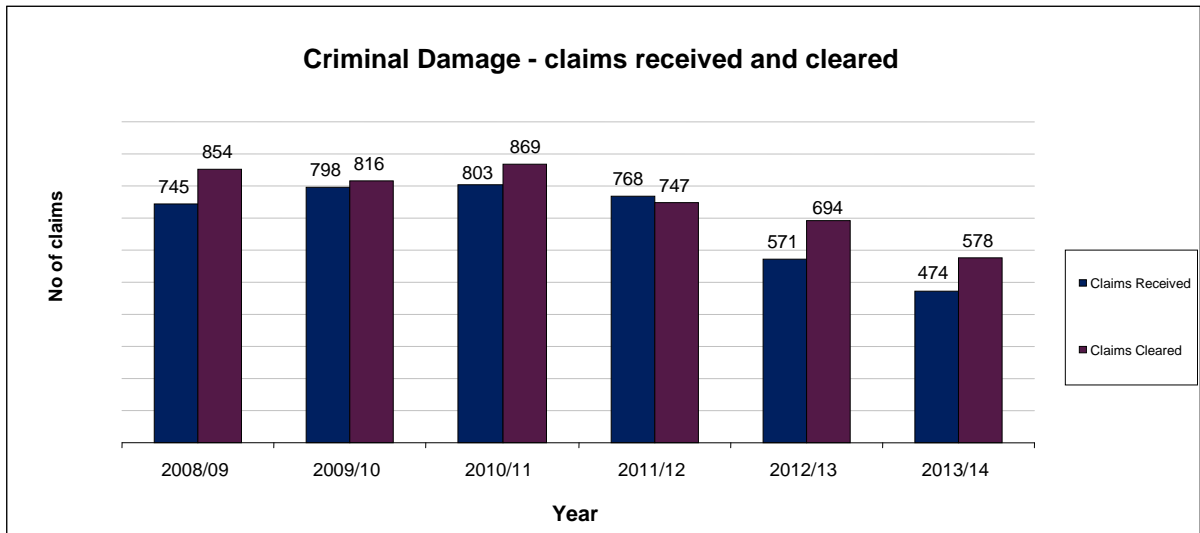
Case for Change

3.11 As stated at paragraph 2.18 the underlying intention of the Criminal Damage Scheme is to enable the victim to restore their property to its pre-incident condition. The Criminal Damage Compensation Legislation was never intended to act as an alternative to private property or household building and contents insurance cover.

3.12 When addressing the fundamental question about the future shape and focus of criminal damage compensation, the first matter to consider is in what circumstances, in a society that is normalising and moving away from violent conflict, should the taxpayer compensate their fellow citizens for damage to their property.

Changed Operating Environment

3.13 The worsening security situation, threats of serious public disturbances and terrorist related atrocities provided the backdrop and rationale for the introduction of the existing Criminal Damage (Compensation) (Northern Ireland) Order 1977. Thankfully, significant regular terrorist attacks and serious public disorder are no longer a feature of our daily life. The re-establishment of politics over violence and the restoration of political institutions have significantly changed the environment, as evidenced by the reduced number of criminal damage claims and the amount of compensation paid – see graphs below.

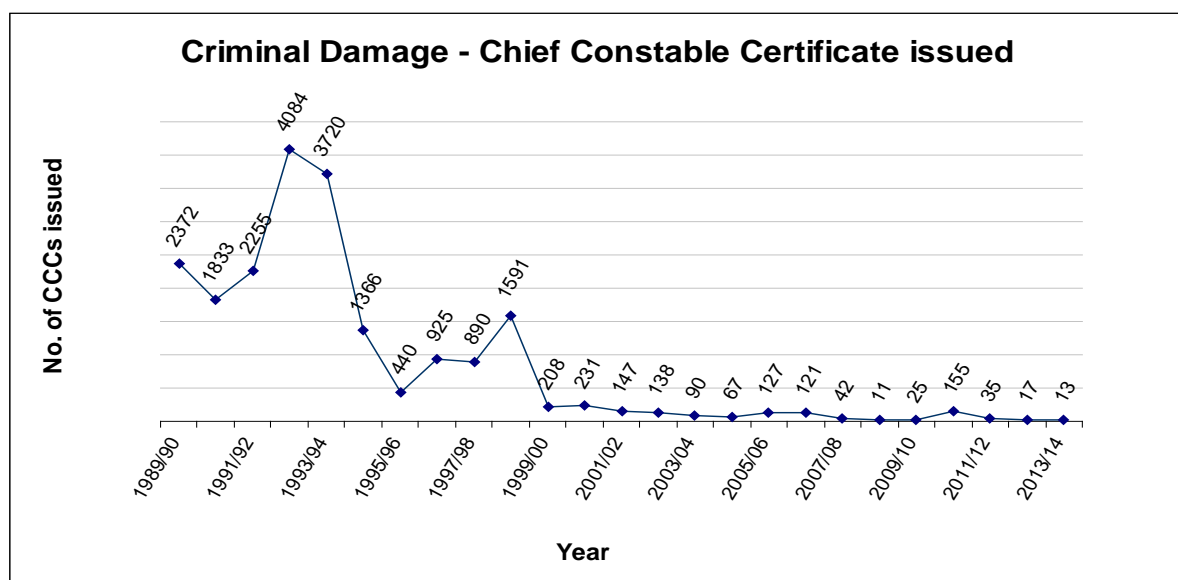


3.14 Using 2012/13 as a typical year, Compensation Services cleared 694 claims for criminal damage. Of those 403 (58%) were denied compensation and 291 (42%) were awarded compensation totalling approximately £5.8m¹¹. Of the total claims (694), 255 applicants had applied for a Chief Constable's Certificate (CCC), which is issued when the damage is terrorist related or caused by a person/persons acting on behalf of or in connection with an unlawful association. 185 Chief Constable's Certificates were refused and 70 were granted. Of those 70, 55 were paid compensation totalling £3.8m. In respect of the remaining 15, those applicants withdrew their claim. The figure of £3.8m represents almost 66% of the total £5.8m compensation paid for

¹¹ Payment may have included interims and stage payments made in previous financial years.

claims cleared in that year. The remaining £2m was paid for non terrorist related crime e.g. arson.

3.15 Further confirmation of the normalisation of our society delivering an improved operating environment is demonstrated by the reducing number of claims for which a Chief Constable's Certificate has been issued. The graph below illustrates that terrorism related claims have essentially flat lined over the last decade and that the last spike occurred in 1998/99, when some 224 criminal damage claims were received in the aftermath of the Omagh bomb which contributed to the total of 1591 claims received in that year. The graph shows from a peak in 1992/93 when 4084 Chief Constable Certificates were issued, the number has been reducing ever since and fell to a low of 13 in 2013/14.

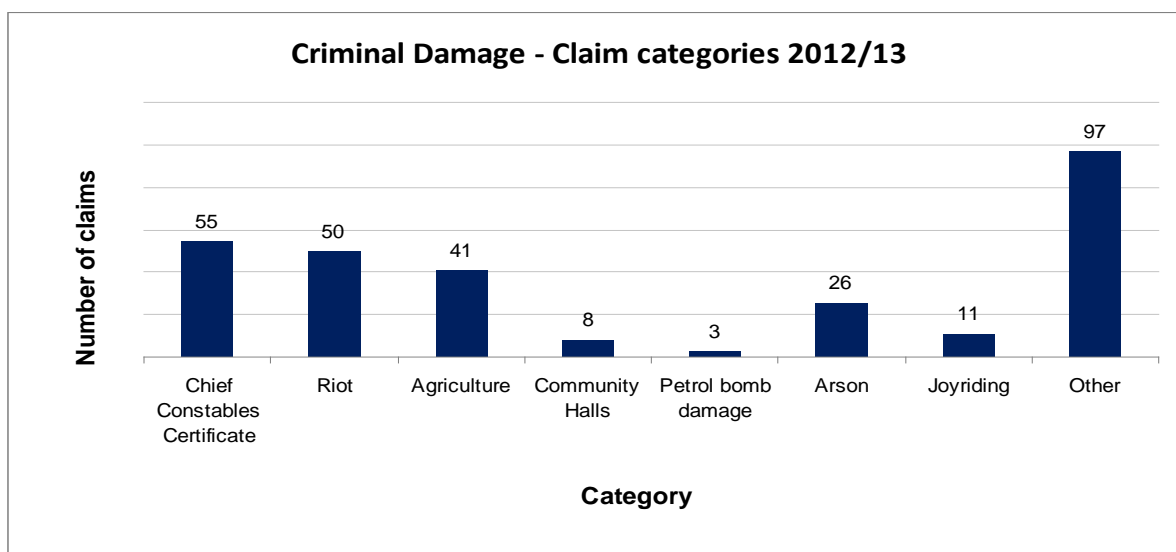


3.16 Faced with this compelling evidence of an improved security situation and the consequential reduction in claims, the time is now right to review the legislation to reflect the improved situation.

Ordinary Crime and Vandalism

3.17 While the Parliamentary intention of the 1977 Order was not to cover 'ordinary crime or vandalism', in recent years the development of case law

has brought the majority of claims into these categories as they met the broad criteria laid down in the 1977 Order.



3.18 Of the 694 claims cleared in 2012/13, 291 were paid compensation. The graph above shows the breakdown of claims paid in broad categories.

Examples of the type of damage for which compensation was paid for under the 'other' category include:

- 35 claims for private and commercial vehicles, windscreens, panel damage, vehicles being burnt out and contents of the vehicle;
- 39 claims in respect of private residential property windows and other structural features, fixtures, fittings and contents; and
- payment in respect of commercial properties including Northern Ireland Electricity (damage to electrical poles), Northern Ireland Railways (damage to trains) and for damage to other commercial properties (windows, counters, etc).

3.19 There is no reason why those forms of criminal damage which do not emanate from terrorist acts or from serious public disorder could not be covered by normal commercial and domestic insurance policies.

Financial Climate

3.20 The timing of this Review comes when public funding and budgets across all of our public services have never been more scrutinised or under such pressure. Many of our front line services are subject to reductions in funding. **Financial pressures** across the Department of Justice are well rehearsed in other places and, within this difficult climate, it is prudent and right that compensation awards should also be subjected to scrutiny. However, as we prioritise our funding, the Minister has emphasised his commitment to victims of crime by ensuring that resources continue to be directed to ***supporting those victims who have been most seriously impacted by crimes of violence.***

Terminology

3.21 This review provides an opportunity to modernise and redefine the language used for the purposes of a new Criminal Damage Compensation Scheme. An example of the language that could be modernised is where the legislation currently refers to criminal damage caused “unlawfully, maliciously or wantonly by three or more persons **unlawfully, riotously or tumultuously gathered together**”. A similar approach is being adopted in Great Britain as part of the review of the Riot (Damages) Act 1886 where similar ‘old style’ language is also used. This was a specific recommendation of the Kinghan Review.

Comparison with Other States

3.22 We have compared the existing Northern Ireland provisions with those in other parts of the United Kingdom, the Republic of Ireland and other EU countries and our findings are as follows:-

- a. No other European Union country has a Criminal Damage Scheme and, within the United Kingdom, Northern Ireland is the only region which goes further and provides, under legislation, cover for damage from both terrorist activity and serious public disorder.

- b. In Great Britain the Riot (Damages) Act 1886¹², 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 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 Scheme¹³ to assist the private insurance market 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.
- c. There is no provision in the Republic of Ireland for victims of any form of criminal damage including riot to claim from the State.

3.23 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. Only the United Kingdom has statutory provision for damage caused by a riot situation and special arrangements with the insurance industry in the event of a major terrorist incident. Within the United Kingdom, Northern Ireland is the only region which goes further and provides, under legislation, cover for damage from both terrorist activity and public disorder.

Agricultural provision

3.24 When the current Criminal Damage legislation was introduced to Parliament there was an acknowledgement that the provisions relating to agricultural properties should no longer continue. However, it was accepted in

¹² Annex 2 provides a summary of the Riot (Damages) Act 1886

¹³ Annex provides a summary of the Pool-Re Scheme

the debates at the time¹⁴ that the provisions to compensate the farming community should not be repealed without due notice having been served on the Northern Ireland agricultural community. Notice was “duly served” in the debating chamber of the House in July 1977 on the basis that, on the next occasion of a review, this provision within the Order would be repealed.

3.25 Tackling rural crime is a priority for both the Department of Justice and the Department of Agriculture and Rural Development and a range of dedicated initiatives are now in place to support this goal. These include Farm Watch and CCTV schemes and the provision of a discount for farmers purchasing tracker devices for fitting to machinery to combat theft. These initiatives are delivered by the Rural Crime Partnership which consists of representatives from the Department of Justice, the Department of Agriculture and Rural Development, the Police Service and NFU Mutual.

3.26 Commercial insurance cover is widely available and commonly used by the agricultural industry. This is evidenced by the fact that since 2009/10 Compensation Services has paid 69 agricultural claims and paid out £630,000. The majority of claims related to damage caused by attacks of arson and theft. Of the compensation awarded, 37% (£235,000) was made directly to insurance companies who had already paid under the terms of the claimants’ insurance policies.

Alternative Provision – Insurance

3.27 The extent and rigour of the legislation governing criminal damage compensation was heavily influenced by a decision taken by the insurance industry that it could not sustain the level of claims and payments made against local insurance policies and remain economically viable. They put the Government on notice that all insurance policies relating to property (other than private dwellings) in Northern Ireland would exclude cover for terrorist related incidents. To help ensure the sustainability of the Northern Ireland

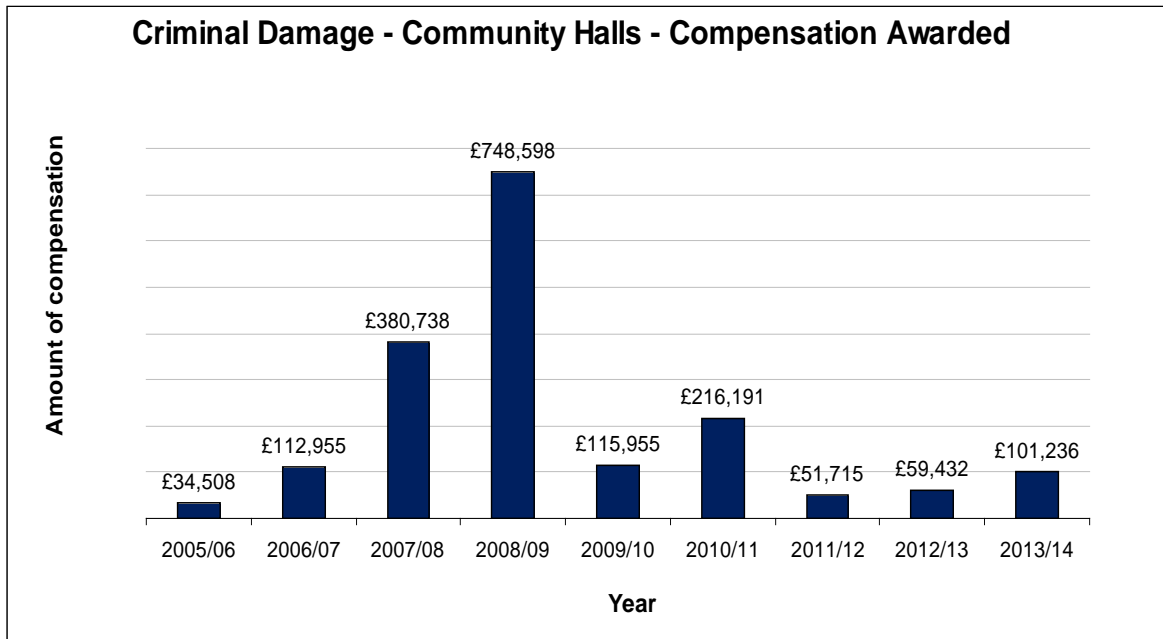
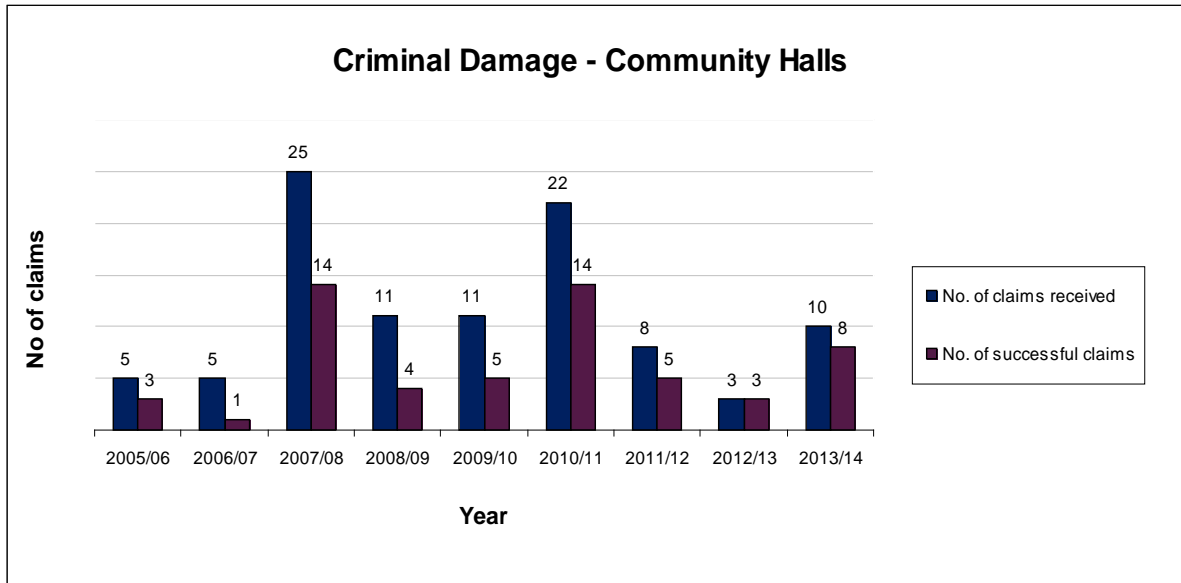
¹⁴<http://hansard.millbanksystems.com/commons/1977/jul/19/northern-ireland-compensation-for>

economy, the insurance industry and ultimately by association, the wider UK economy, Parliament passed into law the Criminal Damage (Compensation) (Northern Ireland) Order 1977.

3.28 The British Insurance Brokers Association (BIBA) and the Association of British Insurers (ABI) have confirmed that, in present circumstances, they view the risk of criminal damage occurring as a result of terrorist activity as being no greater in Northern Ireland than in any other part of the UK. Evidence that the insurance industry has recovered its position in Northern Ireland in terms of the criminal damage market is verified by the fact that in 2012/13 Compensation Services paid compensation to the tune of approximately £1m to insurance companies. It has become common practice for victims of crime to first look to their own insurers and to lodge a claim against their insurance policy. As part of the handling process, the insurer instructs their client to submit a parallel claim under the Criminal Damage Order. In most cases, the insurer pays out under the terms of the insurance policy and seeks reimbursement from the State-funded Criminal Damage Scheme. Under the terms of the existing Order the actions of the insurer are perfectly legitimate but the consequences are that the taxpayer is being used to underwrite the private sector insurance industry.

Community Halls

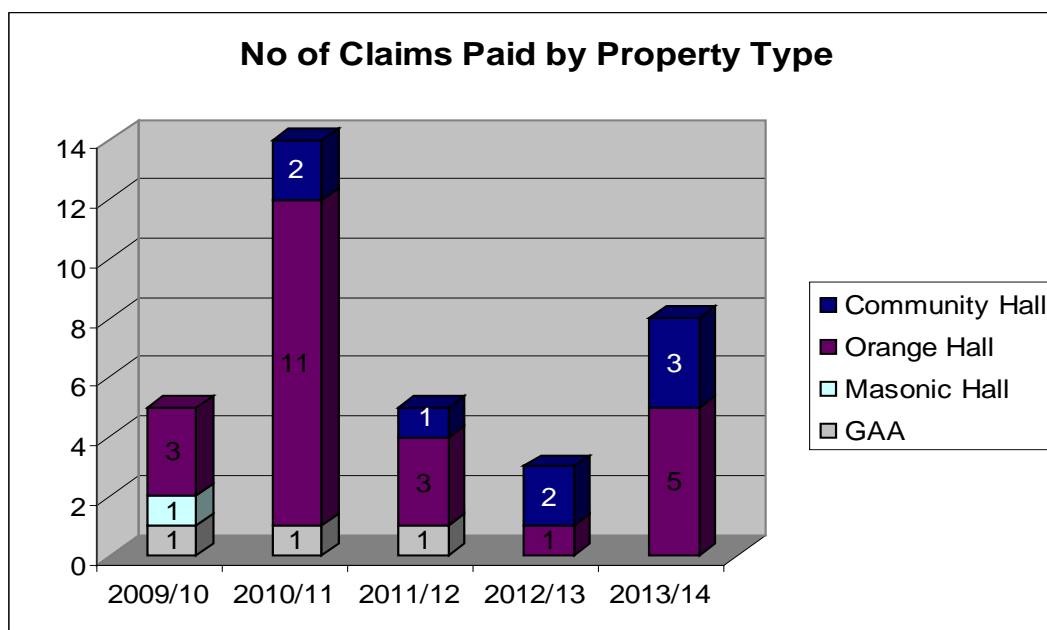
3.29 The graphs below illustrate the number of claims received in respect of damage caused to community halls and compensation paid since 2005/06 through to 2013/14. The first graph illustrates that in 2007/08 the number of claims rose significantly to 25. Of the 25 claims received, 14 were paid compensation under the terms of the original Order. Some of the denied claims were not eligible for compensation due to difficulty in obtaining evidence to prove that the damage was caused by three or more people, or that the PSNI was unable to certify that the damage was the result of terrorist activity or by someone acting on behalf of or in connection with an unlawful association. An upsurge of attacks, primarily on Orange Halls, led to the 2009 amendment.



3.30 The frequency of attacks in 2007/08 appears to be an exceptional year since in the following two years the number of claims made reduces by more than half and the next significant increase occurs in 2010/11 when claims increase to 22 (14 were awarded compensation). This may have been in response to a publicity campaign launched to promote the commencement of the amendment.

3.31 Since its introduction in April 2009, the total number of claims received under the 'community halls' provision is 54. Of the claims received, compensation has been paid in respect of 35 claims at a total cost of approximately £545,000.

3.32 The graph below provides a breakdown of the compensation paid and the type of community facility that was damaged since 2009/10.



3.33 As outlined at paragraph 3.7 the original draft of the 2009 amendment included a 'sunset clause' which would have allowed the amendment to lapse three years after its introduction unless the Minister of the day decided that the legislation was still required. Following consultation, the 'sunset clause' was removed from the legislation on the premise that it would be considered as part of a future review of the Criminal Damage legislation.

3.34 The number of claims awarded compensation under the community hall provision to date would indicate that there is no longer an acute need for the retention of this special provision. The British Insurance Brokers Association (BIBA) have advised that the majority of community halls (including at least 90% of Orange Halls) have private insurance policies but that not all the policies currently cover criminal damage, as Trustees may rely

on the publicly funded Compensation Scheme. BIBA have confirmed, however, that these policies could be extended to cover criminal damage and that the cost of this additional protection would add only marginally to the cost of existing premiums. This change in approach reflects the improving situation in Northern Ireland.

3.35 The community halls provision has been viewed by some as unfair to other community facilities and, in particular, calls have been made for the GAA facilities to be included within the provision. At the time of its introduction, Government accepted that the GAA and other cultural and heritage organisations provided valuable services and facilities to communities. However, they did not come within the definition of community halls which requires under law that they are classified as rates exempt.

3.36 Claims of criminal damage to GAA facilities must therefore be supported by evidence to prove that the damage was caused by three or more people, or by a Chief Constable's Certificate confirming that the damage was the result of terrorist activity. Since 2008/09 Compensation Services has received 8 claims in respect of damage to GAA facilities, 5 claims have been awarded compensation totalling approximately £456,000.

Criminal Convictions

3.37 The UK Government was concerned that the former Compensation Scheme was the subject of fraudulent claims and that compensation paid to fraudsters was being used to fund terrorist and paramilitary activity. As a result the conditions set out in the Order gave authority to withhold or reduce compensation where the applicant contributed to his loss by provocative or negligent behaviour or increased the chances of the loss being sustained. In addition, a key factor in the Government's response was to add a provision which placed a bar on the payment of compensation to any applicant who:

- a. *has been a member of an unlawful association at any time whatsoever, or is such a member; or*

b. has been engaged in the commission, preparation or instigation of acts of terrorism at any time whatsoever, or is so engaged.

3.38 The 'bar' imposed can be set aside by the Minister on the grounds that payment of compensation is in the public interest. It is clear that the circumstances in Northern Ireland have changed significantly since this 'bar' was imposed. In recognition of that change we propose that only those who fall foul of the conditions at a. and b. above for offences committed since the Good Friday/Belfast Agreement should be subject to this approach.

Stakeholders Engagement

3.39 We held meetings with a range of key stakeholders as part of the pre-consultation stage of the Review. The general consensus of stakeholder opinion was that now was the right time to review the 1977 Criminal Damage Order. Some contributors thought that a review was overdue considering the significantly improved security and political environment.

3.40 **British Insurance Brokers Association (BIBA) and the Association of British Insurers (ABI)** advised that the insurance market is expanding in Northern Ireland and now offers a full range of highly competitive domestic, commercial, agricultural and specialist policies. BIBA and ABI confirmed that they view the risk of criminal damage occurring as a result of terrorist activity as being no greater in Northern Ireland than in any other part of the United Kingdom. In addition, Northern Ireland policies no longer specifically exclude terrorist related damage. The ABI has confirmed that insurance cover for terrorist related damage is now available to purchase within Northern Ireland and that more individuals and businesses are taking responsibility for insuring their property against criminal damage including terrorist activity.

3.41 BIBA recognised our concern that under the existing Criminal Damage Scheme insurance companies can benefit at the expense of the taxpayer. We explained that the Insurance Company receives premiums from the policy

holder for criminal damage protection and in the event of such damage the insurance company may recoup its outlay from the publicly funded Criminal Damage Scheme.

3.42 In our discussion with the **National Farmers Union Mutual (NFU)** it was confirmed that due to the improved operating and security environment the insurance industry now has a more positive view of Northern Ireland. While in the past, insurers may have placed some reliance on the state funded Criminal Damage Scheme when considering the extent and level of insurance cover offered to their customers, this is no longer the case primarily due to the improved operating environment.

3.43 The **Northern Ireland Retailers Association** confirmed that their members are able to access, and to a large extent rely on, competitively priced insurance policies which include criminal damage.

3.44 The **GAA's** focus related to the 2009 community hall amendment to the Criminal Damage Order. The GAA remain of the view that, as currently constituted, Article 4A unfairly discriminates against their facilities. As a consequence, the priorities for the 2013-2016 Ulster GAA Presidential Term includes a strategic objective to have the provisions of the Criminal Damage Order extended to cover GAA community facilities. Should any future legislation retain the provision of Community Halls, the GAA want the cover extended so that their facilities are captured.

3.45 The **legal profession**, who represent victims of criminal damage through the application and appeal process, viewed the Review of the Scheme as timely and appropriate recognising the original intention of the Order and the improved operating environment since it was introduced. They acknowledged the potential for insurance companies to benefit under the current Scheme. The legal representatives suggested that the Criminal Damage legislation should be amended to ensure that any new publicly funded Compensation Scheme is a 'purse' of last resort. The representatives were also interested in the mechanics of a new Scheme and strongly

recommended that the right to appeal a decision to the County Court should be retained.

Proposals for Change

3.46 Having considered the views of our stakeholders and the reasons and evidence supporting change, the Review examined a series of options ranging from having no publicly funded Criminal Damage Compensation Scheme at all to the retention of the existing Scheme.

3.47 In considering options, we sought to achieve a solution which:

- reflects the change in the circumstances which led to the current Scheme;
- recognises the continuing existence of a residual terrorist threat;
- acknowledges the possibility of serious public disorder; and
- would be financially sustainable not just for now but also for the future.

In looking at the fundamental question set out at paragraph 3.10, it is proposed that Northern Ireland **continues to have a legislative framework under which the Northern Ireland Executive would fund a Criminal Damage Scheme. The Scheme should compensate victims whose property is damaged as a result of terrorism or serious public disorder.**

3.48 The following paragraphs explain the rationale behind the proposal and how we see the new Scheme working.

3.49 The proposal is that Northern Ireland should have a statutory Criminal Damage Compensation Scheme for the foreseeable future. We would continue to be the only country within the UK and EU to have such a statutory Compensation Scheme. The rationale for retention of a statutory Scheme is

that our society remains under a residual threat from dissident terrorist organisations. Similarly, 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.

Terrorist Attacks

3.50 The proposed 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. In this regard, the new Scheme would continue to rely on evidence provided by PSNI in the form of a Chief Constable's Certificate.

Serious Public Disorder

3.51 The new Scheme would also continue to compensate for criminal damage resulting from serious public disorder. The existing Order requires 'three or more persons unlawfully, riotously or tumultuously assembled together' to enable a successful claim. The 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. We might utilise the definition used in GB in the Public Order Act 1986 –

'Where 12 or more persons who are present together use or threaten unlawful violence for a common purpose and the conduct of them (taken together) is such as would cause a person of reasonable firmness present at the scene to fear for his personal safety, each of the persons using unlawful violence for the common purpose is guilty of riot'.

3.52 In the same way as terrorist related claims are supported by evidence provided by the police in the form of a Chief Constable's Certificate, damage caused by serious public disorder would also require a Chief Constable's Certificate. PSNI have agreed this proposed extension to their existing practices.

Individual Responsibility

3.53 The new Scheme would return responsibility to the individual citizen to insure their property against criminal damage that was not caused by terrorism or serious public disorder. This approach would place Northern Ireland on a par with citizens in Great Britain and other EU States who routinely insure their properties. However, in recognition of continuing threats of terrorism and the propensity for serious breaches of public order, Northern Ireland citizens would be in a more advantageous position than all of their EU counterparts since they could continue to rely on the state for compensation if the police conclude that the damage was caused by terrorist activity or by serious public disorder.

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 (b) 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?

Criminal Convictions

3.54 Given the significant changes within our operating environment and the wider power to withhold or reduce compensation where appropriate, the proposed new Scheme would mean that only those who fall foul of the conditions for offences committed since the Good Friday/Belfast Agreement should be subject to the bar as included in the existing Article 10(3).

3.55 The new Scheme would still 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 consider that this discretion provides a number of safeguards to ensure that compensation is made to genuine victims of criminal damage and that the public purse is protected.

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)?

Q4. Do you consider that safeguards, outlined at para 3.55 above are sufficient to ensure that compensation is made to genuine victims and that the public purse is adequately protected?

Q5. If you would wish to see further safeguards included, what are they?

Do you have any other comments on these proposals?

Community Halls

3.56 The proposed new Scheme would not replicate the special provision to cover rates exempt community halls which was introduced in 2009 as an amendment to the Criminal Damage Order in light of circumstances at that time. Under the terms of the new Scheme, all community halls would qualify for publicly funded compensation where the police evidence, by way of a Chief Constable's Certificate that the damage was caused by terrorist activity or as a result of serious public disorder. For other forms of criminal damage to community halls, the Trustees would need to rely on insurance. We are assured that this is readily available.

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?

Cap on Compensation

3.57 The current Scheme does not include a cap on the maximum amount of compensation payable for any individual claim. In recent years, the highest value claim paid was for approximately £2m as a result of a terrorist attack in Belfast in November 2006. The new Scheme proposes to introduce a cap of £2m on any claim to protect the extent of the State's financial exposure and on the basis that major businesses and retailers carry a range of insurance protection policies. In the event that the loss sustained is greater than £2m, the insurer would be responsible for the excess. The introduction of a cap on compensation is also being considered in Great Britain as part of the review of the Riot (Damages) Act 1886. The requirement for a cap is a lesson learned from claims emanating from the riots in cities across England in August 2011. In the immediate aftermath of the riots, Government announced that it would meet the costs of damage and that there was "no cap whatsoever" on claims. The value of those claims is now estimated to run into hundreds of millions of pounds. In particular, one claim from an arson attack on the warehouse of a leading electronic retailer is estimated to amount to circa £74 million.

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?

Agricultural Provision

3.58 It is proposed that the new Scheme would not continue to include the special agricultural provisions that are included within the 1977 Order on the grounds that the Notice of Intention to repeal this was given in Parliament in 1977. In addition, there are no current special or unique circumstances to argue for its retention. Under the terms of the new Scheme, all agricultural property would continue to qualify for publicly funded compensation where the police evidence, by way of a Chief Constable's Certificate, confirms that the damage was caused by terrorist activity or as a result of serious public

disorder. For other forms of criminal damage to agricultural property, the owners would need to rely on private insurance.

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?

Application Process and Timescales

3.59 The current legislation provides for a two-stage application process. The first stage is the submission of a Preliminary Notice (PN) of Intention to Apply for Compensation. The Preliminary Notice must be submitted within 10 days of the date of the incident giving rise to the claim; this is to allow for a timely investigation of the claim to take place. An extension to the 10 day period may be granted should the applicant make a written request within 6 months of the date of incident.

3.60 The second stage in the process is to submit an Application for Compensation (AF). The applicant has a further 4 months from the date of submission of the Preliminary Notice to lodge the Application for Compensation. This 4 month period may be extended by up to 12 months at the discretion of the Minister. There is no basis to accept an Application Form beyond the 12 month period and any such application would be out of time.

3.61 Claimants therefore have a maximum 6 month period to submit a Preliminary Notice and a further 12 months to lodge the Application for Compensation (18 months in total). It is proposed as part of the new Scheme that the arrangements for application should be streamlined to a one stage process and that applications should be submitted within 28 days from the date of incident. The 28 days timescale could be extended to 6 months in an application to the Minister. This change is considered balanced and

proportionate as it both streamlines the process and provides the applicant with sufficient time to provide information in support of the claim.

Q9. Do you agree with the proposal to streamline the application process and reduce timescales?

Do you have any other comments on this proposal?

Statutory Deduction

3.62 The current Scheme provides that criminal damage compensation is not payable for damage valued at £200 or less. Where a claim meets that threshold and if compensation is payable, 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 made only once. The proposed new Scheme would retain the application threshold of £200 and retain the statutory deduction at its current rate. In considering this element we have been conscious of the need to weigh up the cost of administering the Scheme with the impact of the loss sustained by individual private victims and small businesses.

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?

Appeal Process

3.63 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 6 weeks from the date of service of the Notice. If no appeal is lodged, then the Notice is final and binding in all respects. The 1977 Order specifically states that neither the court nor the Minister can authorise an extension of the 6 week appeal period. We are not aware of any difficulties caused by this condition and do not propose to make any change to the 6 week period. It

allows any person served with a Notice of Decision time to consider the matter and to seek advice, if appropriate, before deciding whether to lodge an appeal. Also it does not prejudice the efficient operation of the Scheme by being too lengthy. To this end, it strikes the appropriate balance and therefore it should be retained.

Q11. What are your views on our proposals to retain the right of appeal to the County Court and for a time limit of 6 weeks of service of the Notice of Decision/Determination?

Do you have any other comments on this proposal?

3.64 At present any person aggrieved by a Notice of Decision may lodge an appeal if appropriate. This extends the eligibility for appeal to parties that have not actually lodged a claim and consequently, is broad in its scope. Indeed the current format puts an onus on the Minister to serve a Notice on all parties likely to be affected by the decision. We would propose that in the new Scheme responsibility for service of a Notice should be limited to persons who have submitted an application for compensation. The right of appeal should also only be available to those who have lodged an application.

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?

Reimbursement of Legal Fees

3.65 The current legislation provides that, where compensation is payable, the Minister shall also pay the reasonable costs/expenses incurred in making out the claim. This includes legal fees, where a person has engaged legal representation. In appeal cases, Article 15(4) of the Order states that the County Court may award costs to or against any person in the proceedings. In practice, costs follow the event and therefore the successful party is entitled

to legal costs associated with the appeal. The relevant scales for the fees are set out in the County Court Rules. It is proposed that the new legislation would retain the right to legal fees including for an appeal and the fees set out in the County Court Rules would continue to apply.

Q13. Should legal costs continue to be paid in the event of a successful appeal?

Do you have any other comments on this proposal?

Repair or Reinstatement

3.66 Compensation is designed to restore the applicant to the position they were in before the damage. The current legislation authorises the Minister to place conditions on the payment of compensation for building damage. It enables payment to be restricted to the diminution of market value of the property until the applicant has taken steps to carry out reinstatement works to the building. This is a safeguarding measure to ensure an applicant is not paid the full reinstatement costs unless the work is actually undertaken. It is a provision to protect public funds so that compensation is paid for the purposes for which it is intended. There are no proposals to change this mechanism

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

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?

Recovery from Offenders and Recovery from the Applicant

3.67 The current legislation provides a right of redress against the persons convicted of causing the criminal damage. It enables an application to be made to court for an order 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 a claim for compensation¹⁵ pending and is likely to come into funds. This is a long standing provision and it is proposed that this will be taken forward into the new Scheme.

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

¹⁵ Reimbursement can be sought from those listed as offenders where compensation is payable to them in criminal damage and criminal injury cases. Reimbursement can also be sought in relation funds arising from compensation claims taken against NIPS DOJ, DRD and PSNI.

4. Review of the Criminal Injuries Scheme

Introduction

4.1 The fundamental principle of the Criminal Injuries Compensation Scheme is to recognise the circumstances of victims of violent crime who have sustained a physical or mental injury or who have been bereaved. The compensation payment, which is funded by the taxpayer, 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.

4.2 The current legislation, the Criminal Injuries Compensation (Northern Ireland) Order 2002 came into effect in May 2002. This replaced the Criminal Injuries (Compensation) (Northern Ireland) Order 1988 which was a court based scheme whereby damages were awarded by a County Court Judge on a case by case basis in which the State (taxpayer) was treated as the perpetrator of the crime. The 2002 Order is enabling legislation providing for the eligibility criteria, the detailed arrangements governing the payment of compensation as well as the amount of awards relating to the extent of injuries, to be set out in a “Scheme”. The first statutory Scheme (the Tariff Scheme) came into operation in Northern Ireland in May 2002, Criminal Injuries Compensation Scheme 2002, and was updated in 2009 by the Criminal Injuries Compensation Scheme 2009. The Tariff legislation changed the State’s (taxpayer’s) position from that of a perpetrator to one of concern for the victim of the crime.

4.3 Compensation payments are made using a tariff of injuries. The current Tariff Scheme is made up of 25 injury levels. Level 1 comprises the least serious injuries (e.g. sprained wrist or ankle) attracting an award of £1,000. The most serious injuries (e.g. major brain injury and major paralysis) at Level 25 attract an award of £250,000. Victims can also apply for other payments such as loss of earnings, funeral expenses and for special expenses that might include cost of care and home adaptations. The Scheme

also makes bereavement support payments and compensation to dependents in fatal cases.

4.4 There is also provision within the Scheme to withhold, reduce or withdraw an award on account of the applicant's actions, conduct and character. This includes deductions for unspent criminal convictions.

4.5 The Scheme has three components: First Decision, Review and Appeal. Compensation Services Branch within the Department of Justice operates the first two stages while the third stage, Appeal, is referred to the Criminal Injuries Compensation Appeals Panel for Northern Ireland which acts independently of Compensation Services.

Background

4.6 In 1998 Sir Kenneth Bloomfield carried out a comprehensive review of the fitness for purpose of the Criminal Injuries Compensation legislation. Government accepted in part his recommendations and introduced a tariff based system to replace the common law arrangements. The Bloomfield Report recognised that a tariff system would allow for speedier settlement of cases, avoid legal costs associated with the common law arrangements and provide victims with more certainty about the level of award they could expect to be paid. The Tariff Scheme was subsequently introduced in May 2002 by the Criminal Injuries Compensation (Northern Ireland) Order 2002.

4.7 The tariff system acknowledges that the victim has suffered as a result of a criminal act, however, the State does not accept the role of perpetrator and payment is made as an expression of public sympathy. The tariff system operates through set monetary awards (tariffs) against descriptors of personal injury, and a standard bereavement support payment.

4.8 The 2002 Scheme, though bringing Northern Ireland into line with the approach taken in Great Britain (GB), was not a simple replica of the Tariff Scheme in GB which had been in operation since 1995. Significantly, the

individual tariff award levels in the Northern Ireland Scheme were set substantially higher than those in Great Britain. This was to reflect the fact that average values of damages awarded by the Northern Ireland Courts under the common law arrangement were significantly higher than those awarded by Courts in Great Britain. In taking this approach, there was recognition, however, that levels of awards in GB and Northern Ireland should over time be the same in both jurisdictions. The 2002 Tariff Scheme was updated and amended by the 2009 NI Scheme. It made some progress towards narrowing the gap between the GB and Northern Ireland tariff award levels.

4.9 Although not a mirror image, our Scheme and the GB Scheme were similar in terms of structure and concept. However, in 2012 the UK Government introduced an amended Scheme which brought about some radical changes and differences. The driving force behind the new GB Scheme was to ensure it was part of a coherent and sustainable response by the State to those who had suffered injury due to a criminal act.

4.10 The Government accepted that victims of crime should be helped but acknowledged that a monetary award may not be the most appropriate response in every circumstance. The review which brought about the 2012 GB Scheme was commenced by the Labour Government and followed through by the current Conservative/Liberal Democrat Coalition. There was cross party acceptance of the principle that compensation was a part of a holistic response to supporting victims of crime and acknowledgment that limited resources should be focused on the most seriously injured. Legislation was passed giving effect to this approach. The package of reform was successfully introduced and some of the savings were redirected into services designed to support victims.

Approach to the Review of the Criminal Injuries Scheme in Northern Ireland

4.11 Keeping to the overarching principles and purpose of the Northern Ireland Scheme, we have examined the existing Criminal Injuries Scheme and its underpinning legislation in terms of **relevance** and **responsiveness** to the diverse needs of victims in today's society. We have taken into account recent developments in services available to victims of crime in Northern Ireland and have also considered the increasing pressures on **public finances**.

4.12 We have **compared our provisions** to those in other parts of the United Kingdom, the Republic of Ireland and other EU countries and we listened to the views and experiences of stakeholders who attended our pre-consultation meetings and workshops.

4.13 At the heart of this Review we have remained focused on the fundamental purpose of the Criminal Injuries Scheme 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, our proposals seek 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**.

Case for Change

4.14 In recognising that victims play a crucial role in the criminal justice process, the Minister for Justice is committed to the view that the **Northern Ireland Executive must continue to support and respond to the needs of victims of violent crime by providing a publicly funded compensation scheme for victims of serious criminal injury**.

4.15 Taking the Minister's commitment as our foundation, the Review examined the case for change informed by the following key principles and assumptions:

Fundamental Principles

- Compensation payments will continue to be made in recognition of, and as an expression of public sympathy for, the pain and suffering caused by the injury or the grief and sorrow of bereavement.

Legal Obligation

- Proposals to change the Scheme must comply with our legal obligations both in domestic and European law;

Targeting those most seriously injured

- Our focus must be directed towards those victims who are the most seriously injured by violent crime and where the impacts of the criminal injuries are long-term and life changing;

Holistic Response

- Victims of violent crime should receive suitable and timely support and our proposals are one part of that. It is important to recognise the importance of alternative support services and the opportunity for victims of serious crime to pursue compensation from other sources e.g. the offender and/or the insurance industry;

Ease of Access

- The tariff based system is an appropriate operating model and should be accessible and easy for victims to understand;

Affordable

- Although demand led, the system should enable costs to be controlled and predicted to ensure financial sustainability in the future. There should also be appropriate audit and governance arrangements; and

Improved Delivery

- The process should be efficient and transparent - operational improvements to the delivery of the Scheme, some of which were highlighted to the Justice Committee's Inquiry into Services Available to Victims and Witnesses, will be delivered by Compensation Services through investment in a new case management system (see paragraph 2.5).

Compensation in Context of European Union

4.16 We must ensure that any proposals to change the existing Scheme continues to meet our obligations under the European Convention on the Compensation of Victims of Violent Crimes (ETS 116 1983)¹⁶ and the more recent EU Directive 2004/80/EC¹⁷ relating to compensation to crime victims. The Directive obligates Member States 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.

4.17 The table below compares the amounts of criminal injury compensation paid per capita in Northern Ireland, Great Britain and the Republic of Ireland using the 2011 census figures. The following paragraphs provide details of the Schemes operating in GB and Ireland. Details of the Schemes administered in some other EU countries are contained at Annex 4.

¹⁶ Compensation of Victims of Violent Crimes (ETS 116 1983)

¹⁷ EU Directive 2004/80/EC

Country	Compensation (£)	Population	Compensation per-capita (£)
Northern Ireland	10,086,506.91	1,810,863	5.57
Great Britain (England, Scotland, Wales)	243,028,811.52	61,370,912	3.96
Ireland	2,707,068.68	4,588,252	0.59

Great Britain (GB) Position

4.18 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 2012¹⁸ which came into effect in November 2012. 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 3 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 £87.55 per week) after the first 28 weeks of loss.

¹⁸ [Criminal Injuries Compensation Scheme 2012](#)

Republic of Ireland (ROI) Position

4.19 The Republic of Ireland provide 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 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 eg 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. Social Welfare payments, salary or wages received while on sick leave from work and any compensation paid by or on behalf of the perpetrator is also considered.

Applications should be made within 3 months of the incident; however, the Tribunal can waive this requirement in certain circumstances where the applicant can offer a reasonable explanation for the delay.

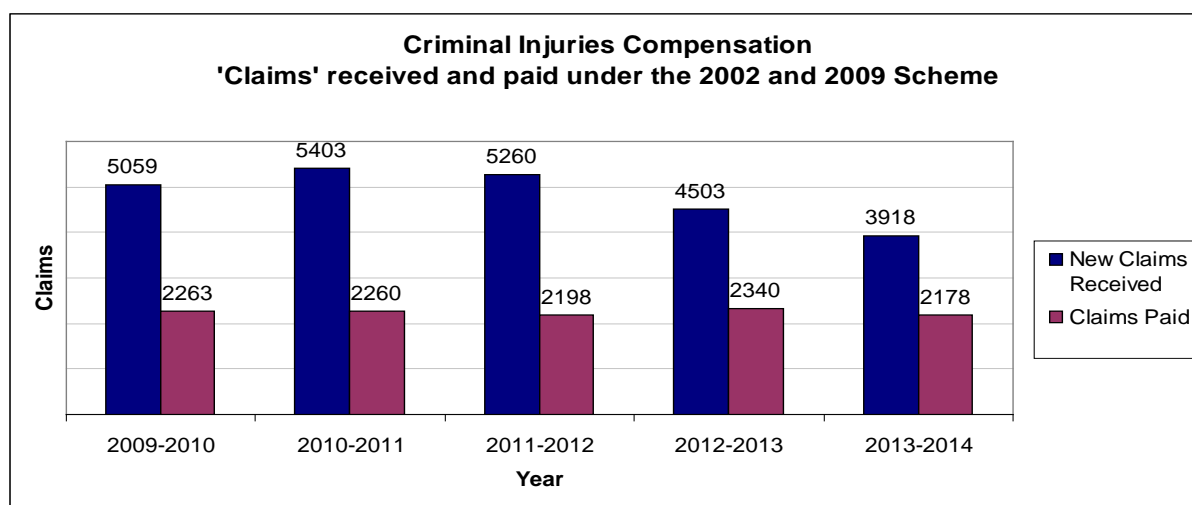
Northern Ireland

4.20 The Northern Ireland Scheme is the **most generous** of all EU States. While the scope and eligibility criteria of the Northern Ireland Scheme is similar to those for the GB Scheme, our Scheme remains significantly more

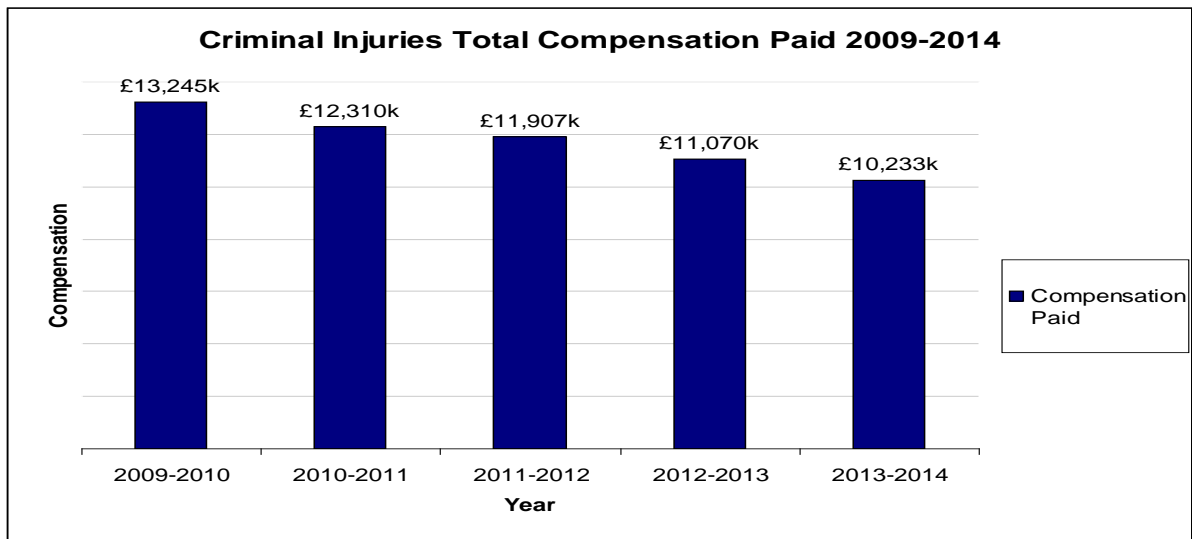
generous and the gap between the GB and Northern Ireland Scheme will continue to widen as a consequence of the changes introduced in GB in the 2012 Scheme.

Claim Trends and Costs

4.21 The graph below shows the number of criminal injury claims received here and those paid during the period 2009 to 2014.

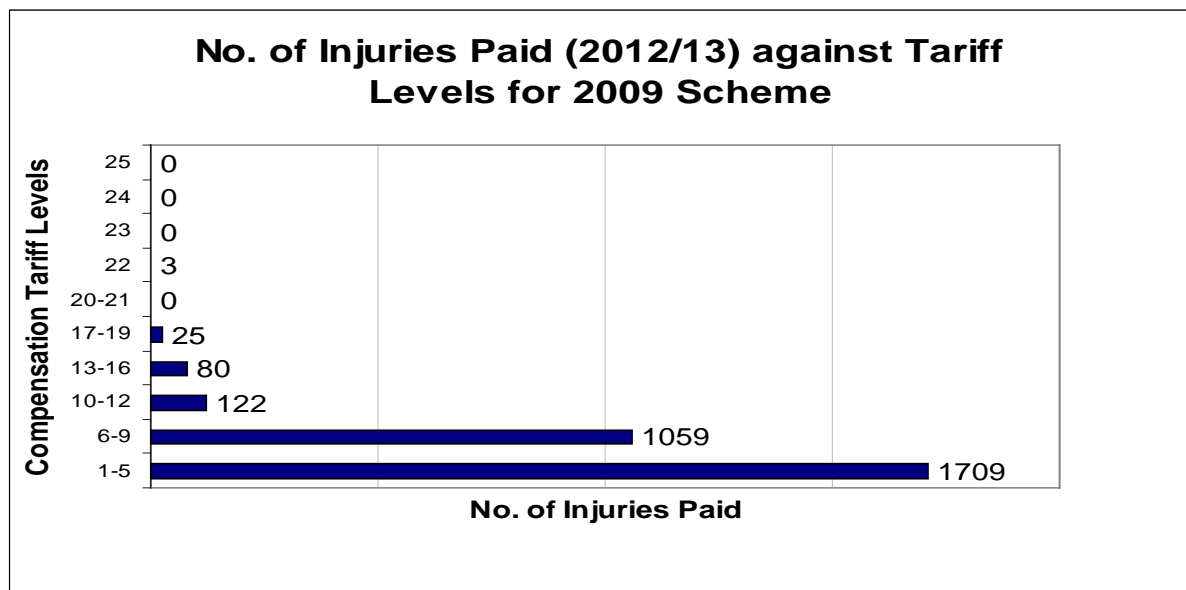


4.22 Since 2010/11, the volume of new claims received has reduced by some 28%. Statisticians from NISRA and PSNI cannot provide a conclusive reason for the steady reduction since then and have advised that there may be a danger in anticipating a continuing trend. The number of claims cleared per year has remained steady. The Department of Justice has sought to protect front line services from budgetary cuts; however, staffing levels have recently been reduced. The number of claims denied has remained consistent at around 60% per year throughout the period. The graph below shows the amount of compensation paid over the same time period 2009 to 2014.



4.23 Over the period, the total amount of compensation paid has reduced by approximately 23%. The average claim value has reduced by approx £1,141 due in part to lower tariff levels introduced by the 2009 Scheme. However, it must be noted that a high value claim (or one incident leading to a number of claims) in any year can impact significantly on the figures and therefore on average value analysis and projections.

4.24 As a working example, the graph below identifies the number of injuries compensated¹⁹ under the **2009 Scheme in 2012/13** against the tariff levels which range from Level 1 to level 25.



¹⁹ Includes 196 injuries related to sexual offences and physical abuse (levels 1-20)

4.25 In 2012/13, under the 2009 Scheme, compensation was paid to 1946 victims in respect of 2998 injuries. The compensation paid for injuries in respect of the 2009 Scheme was £7.5million.

- The highest tariff level awarded in the year was at level 22 (£82,000) and **3** injuries were paid at this level representing 0.1% of the total injuries compensated for in the year but 3% of the total amount of compensation paid in the year. These payments were made to victims who sustained moderate brain injury resulting in dependence on others, intellectual deficit, personality changes and reduced capability to work.
- **105** serious injuries were awarded within Tariff Levels 13-19 (£11,000-£33,000) representing 4% of the total injuries compensated for in the year. Compensation awarded totalled **£1,591,400** representing 21% of the total amount of compensation paid in year for the 2009 Scheme.
- **122** moderate injuries were awarded within Tariff Levels 10-12 (£5,000-£8,200) representing 4% of the total injuries compensation for in the year. Compensation awarded totalled **£736,300** representing 10% of the total amount of compensation paid in year for the 2009 Scheme.
- **1,059** moderate injuries were awarded within Tariff Levels 6-9 (£2,500-£4,400) representing 35% of the total injuries compensation for in the year. Compensation awarded totalled **£3,195,220** representing 42% of the total amount of compensation paid in year for the 2009 Scheme.
- **1,709** minor injuries were awarded within Tariff Levels 1-5 (£1,000-£2,000) representing 57% of the total injuries compensation for in the year. Compensation awarded totalled **£1,761,725** representing 23% of the total amount of compensation paid in year for the 2009 Scheme.

The analysis above includes the following injuries for sexual assaults and physical abuse:

- **196** injuries were awarded within Tariff Levels 1-18 (£1,000-£27,000) representing 6.5% of the total injuries compensation paid during the year. Compensation awarded totalled **£1,239,085** representing 16.5% of the total amount of compensation paid in year for the 2009 Scheme:

Tariff Level	No of Injuries	Compensation Paid
Levels 20-25	0	0
Levels 13-19	65	997,000
Levels 10-12	20	78,350
Levels 6-9	40	90,585
Levels 1-5	71	73,150
TOTAL	196	1,239,085

4.26 The majority of injuries for which compensation was paid in 2012/13 for the 2009 Scheme attracted awards at the lower end of the tariff levels, Levels 1-5 (£1,000 to £2,000). The average value of those claims was £1,200. The total amount of compensation paid for these levels of injuries was approx £1.7 million making up 23% of compensation paid against the 2009 Scheme. Injuries included within Tariff Levels 1-5 include:

- Minor scars
- Blurred vision (lasting 6 to 13 weeks)
- Fractured nose
- Chipped tooth/teeth
- Tinnitus (lasting 6 to 13 weeks)
- Temporary deafness
- Whiplash (not permanent)

Financial Affordability

4.27 The timing of this Review comes when public funding and budgets across all of our public services have never been more scrutinised nor under such pressure. Many of our front line services are subject to reductions in

funding. **Financial pressures** across the Department of Justice are well rehearsed in other places and as the Department faces difficult budgetary prioritisation decisions, it is prudent and right as part of the fundamental review of the Tariff Scheme that it should be subjected to scrutiny. However, as we prioritise our funding we recognise that the provision of compensation is of particular importance to those victims who are the most seriously affected by their injuries and where the impacts of the criminal injury are long-term and life changing. For this reason, **the Minister is committed to ensuring that the financial resources available for criminal injury compensation purposes are directed towards those victims who are the most seriously injured by violent crime and that the current value of awards for the most serious injuries are protected. This approach aligns with the need to ensure that limited financial resources for services for victims of crime generally are put to best use and have maximum impact.**

4.28 We have already highlighted that the Northern Ireland Scheme is the most generous throughout Europe. The new Scheme introduced to GB in 2012 was implemented by the Ministry of Justice against a backdrop of severe financial cuts to public expenditure, similar to those currently facing the Department of Justice. Their previous scheme was financially unsustainable and this fact was universally recognised and accepted. It can be argued that in our normalising society and at a time of acute financial pressures there is no justification for sustaining a scheme in Northern Ireland with eligibility criteria and tariff levels that are significantly different and more generous than other parts of the United Kingdom.

Services to Victims of Crime

4.29 Since the devolution of justice functions to the Northern Ireland Executive there have been a number of positive developments in terms of the range and quality of services provided to victims of crime. In June 2013 the Department published the five-year Victim and Witness Strategy '*Making a difference to victims and witnesses of crime – Improving access to justice, services and support*'. The Strategy aims to provide better quality services

which respond to the needs of victims and witnesses. Improvements and developments so far include:

- the development of a new Victim Charter which sets out victims' entitlements as they move through the criminal justice process and the standard of service they expect to receive;
- the roll out of a victim and witness care unit, providing victims and witnesses with a single point of contact from the point of the police investigation to the file transferring to the Public Prosecution Service;
- formalising the use of victim impact personal statements in court proceedings;
- the introduction of a pilot Registered Intermediaries Scheme which helps those with significant communication difficulties to give evidence to the police and at court;
- the development of restorative justice which can have a role in improving the victim's experience within the criminal justice system and helping them to gain closure; and
- introduction of the Offender Levy. The money collected from this is put into a dedicated Victims of Crime Fund that is used to provide services for victims and witnesses of crime. The Levy was introduced to take account of the public's desire for offenders to take more responsibility towards compensating those who have been affected by crime. It raises money to provide extra resources to support and help victims, promote local initiatives and deliver improved services to victims and witnesses of crime.

In light of this, as well as a range of practical and emotional support services that are available to victims of crime, the Criminal Injuries Compensation Scheme can be viewed as one part of a wider range of victims' support services.

Stakeholder Engagement

4.30 While reviewing the current Criminal Injuries Compensation Scheme, we engaged with victims groups to seek their views on the existing Scheme in terms of its scope, eligibility criteria, and operations and to elicit ideas and opinion on how the Scheme might be improved to better address the needs of victims.

4.31 Stakeholders were keen to acknowledge the Victims and Witnesses Strategy and the positive developments made in recent times in terms of the range of support services and the quality of services available to victims of violent crime. There was also an understanding of the financial challenges and an acceptance that limited resources must be targeted towards victims with serious and life changing injuries. Victim Support NI confirmed that the timing of the review was right and that it presented a good opportunity to restate and underscore that the purpose of the compensation is an expression of public sympathy and concern in recognition of the pain and suffering caused by the injury or grief and sorrow of bereavement. Stakeholders highlighted that victims, particularly those who are bereaved, can often misunderstand the purpose of the Compensation Scheme viewing it as the price society places on the life of their loved one or as the mechanism to fully compensate and reinstate the victim to his/her pre-incident condition.

4.32 There was widespread acceptance that the publicly funded scheme is intended to be one of last resort and where the opportunity exists for a victim to pursue compensation from another place, e.g. directly from the perpetrator or third party private insurance company, they should be expected to do so. Similarly, it was understood that victims are expected to take all reasonable steps to obtain any social security benefits that they may be entitled to and to avail of nursing and social care packages that may be offered to them.

4.33 Victim Support NI highlighted that many of the victims represented and supported by them submit claims at the lower end of the tariff levels and often in those cases the perpetrator is not made amenable for the crime or brought to court. In these circumstances Victim Support NI advised that for many

victims the award of compensation is considered as a recognition payment. It acknowledged the incident and allowed them 'closure' and helped them to move on with their lives. Obviously, of course, denial of a claim does not necessarily mean that the applicant was not a victim of crime, rather that there was insufficient evidence to support their application for compensation under the terms of the Scheme.

4.34 Many of the points raised by victims representatives were associated with operational issues e.g. timescales to process claims, the provision of police reports and medical evidence and reductions made to awards on account of unspent criminal convictions. Most of these issues are not related to the underlying legislation or to the detail of the Scheme and will be addressed through ongoing operational customer improvements and, subject to the business case being approved, by investment in a new case management system (see also paragraph 2.5).

Proposals for Change

4.35 The Review Team reflected on the views of stakeholders and the reasons and evidence supporting change. The Review considered a series of options including the retention of the current 2009 Scheme, adoption of the GB 2012 Scheme and accepting the position taken by the ROI which compensates only for loss of earnings and expenses. The evaluation of options was informed by an analysis of the 2998 Criminal Injuries paid under the 2009 Scheme in 2012/13.

4.36 Our deliberations have led us to make the following proposals for change. These take into account the Minister's fundamental principle of the scheme as an expression of public sympathy; local circumstances; the **cohesive range of victims' services** now available; that compensation is now only one element of the services offered to victims and taking account of current issues around **affordability** and the need for a **sustainable** system.

Tariff Levels

4.37 The proposed Scheme should **adopt the tariff levels introduced** in the GB 2012 Scheme.

- The existing tariff levels for **minor injuries** (i.e. those at Tariff Level 1 - £1000 to Tariff Level 5 - £2,000) would be removed. These can be viewed at Annex 5
- Tariffs for injuries described as **moderate** (i.e. those at Tariff Levels 6 - £2,500 to Tariff Level 12 - £8,200) would be reduced. The current and proposed reduced rates are detailed at Annex 6.
- The existing tariff levels for injuries described as **serious or severe** (i.e. those at Tariff Levels 13 through to Level 25 £250,000) would be **protected** at their current rate. Details are at Annex 7.
- **Realignment of Tariffs** would result in the number of levels reducing from 25 to 23, however, compensation payable under the new Scheme would continue to range from Level 1 £1000 to Level 23 £250,000.

Sexual and Physical Abuse

4.38 There is a particular area of injury which, having listened to comments from stakeholders, we think justifies a different approach. We appreciate that it is simpler not to have different arrangements for different categories and that other categories may feel they should have specific treatment too. We have concluded, however, notwithstanding the added administrative burden, that it is appropriate in sexual and physical abuse cases. That is because these are some of the most appalling cases in terms of the impact on the victim. We propose therefore to **protect categories of awards for sexual and physical abuse** of adults and children by retaining all existing injury tariffs for this category of injury.

4.39 The injuries range from less severe sexual offences (Tariff Level 1) to extremely severe injuries (Tariff Level 17). The tariffs for physical abuse of adults and children will also be retained to ensure that injuries sustained as a

result of e.g. domestic violence, are retained. Recent evidence shows that domestic violence accounts for approximately one-fifth of all recorded violent crime in Northern Ireland; it is also acknowledged that there is still a large amount of under-reporting of this type of incident.

4.40 Evidence suggests that victims of sexual assault suffer a wide range of long term effects that go beyond physical and psychological, including reduction in their quality of life, relationship problems and long lasting emotional distress. We think that this wider impact upon victims and the level of public concern about sexual offences make this a special category of injury and for these reasons we propose to retain all the current level of awards for sexual offences.

4.41 In respect of physical abuse we believe that the same approach should be taken. This is to cover in particular injuries sustained as a result of e.g. domestic violence. Recent evidence shows that domestic violence accounts for approximately one-fifth of all recorded violent crime in Northern Ireland and it is acknowledged that there is still a large amount of under-reporting of this type of crime.

Bereavement Support

4.42 We have taken into consideration the very particular position of those who lose a loved one as a result of a crime of violence. We believe that it is right, as an expression of public sympathy and concern, for these **bereavement payments to be protected at their current level.** We also propose that this principle should extend to protecting the level of award for loss of a foetus, whether as a result of sexual or violent crime.

Major Paralysis

4.43 The Tariff descriptors for **Major Paralysis would be modified** to reflect the degree of seriousness of hemiplegia, paraplegia and tetraplegia injuries. This proposal comes as a 'lesson learned' from the Ministry of

Justice's consultation exercise for its 2012 GB Scheme. The MOJ commissioned a panel of medical experts to examine Tariff Levels 21 -25 in terms of descriptors and award levels following a recommendation that the gap between the levels was too wide and could result in substantial over or under compensation. Details of the current descriptors and the proposed modifications for hemiplegia, paraplegia and tetraplegia injuries are detailed at **Annex 8**.

Other Injuries

4.44 It is also not intended to change or add any further descriptions to the tariff of injuries.

Rationale for Proposals

4.45 The changes outlined above protect the current value of awards for those victims most seriously injured. The proposals therefore 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. The proposals take into account that victims of less serious injury might be better supported by immediate practical and emotional support rather than by a relatively small sum of compensation often coming a year or more after the event. Support services may need to be enhanced or promoted but are more readily available/accessible than they were in 2002 when the Tariff system was introduced. In addition, the services provided to victims of crime continue to be kept under review and to be adapted as new issues emerge. The proposed changes would deliver equality to victims of criminal injury across the United Kingdom in terms of the value of tariff awards and could deliver savings, a proportion of which could be reinvested to provide and enhance services for victims.

Q17. Do you agree that the tariff levels should be altered, as outlined at para 4.37, to ensure that limited financial resources are targeted towards those most adversely affected by a violent crime?

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

Q19. Do you agree that the bereavement award should be protected from change?

Do you have any other comments on these proposals?

Special Expenses

4.46 The existing Scheme provides for the payment of special expenses to compensate victims who have incurred costs as a result of their injury. To be eligible the applicant must have lost earnings or earning capacity for more than 28 weeks as a direct result of his or her injury. Special expenses typically include home adaptations, equipment and care costs. It can include private health treatment where the Minister is satisfied that in the circumstances the private treatment and associated costs are reasonable. By their very nature Special Expenses are paid to those most seriously injured and as such we would propose that the new Scheme includes all the existing categories of special expenses with the **exclusion of private medical treatment and private nursing care**. We take the view that the Health Service provides a good standard of care to those in need. Should a person choose to purchase additional health care beyond that which is provided by the Health Service he or she is at liberty to do so at his or her own expense. This change emphasises the true purpose of the Scheme as an expression of public sympathy and concern and ensures that limited financial resources are used to best effect.

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?

Charges for Medical Reports

4.47 In 2012/13 Compensation Services spent £366,000 on the collection of medical evidence used to substantiate claims and inform the degree of injury and the appropriate level of tariff award. Typically, the initial evidence comes in the form of a report from a General Practitioner (GP) at a standard cost of £50.50. This evidence is almost always supported by a request for GP notes and records at a further cost of £50 and if appropriate hospital treatment notes and records which can cost up to and on occasions over £100, depending on the rate set by the individual hospital.

4.48 Depending upon the complexity or seriousness of the injury, consultancy reports may be required. On average these cost £175.00. In 2012/13 approximately £143,000 was spent on medical consultancy reports. Under the new Scheme we consider it reasonable to expect **applicants to contribute £50** towards the cost of providing the initial medical report since this evidence forms the basis of their compensation claim. We propose that Compensation Services would continue to obtain and pay for the medical evidence required but would deduct £50 from any award. If no award is made, the cost would not be recouped and the £50 will be considered as a Departmental loss. While consideration was given to having an upfront charge it is considered that this would disadvantage those with limited income and may prevent people from making a claim in the first instance.

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?

Q22. Do you agree with the proposal that Compensation Services would continue to source the medical report and would then deduct £50 from any award of compensation?

Criminal Convictions

4.49 Under the current Scheme Compensation Services may **withhold or reduce** an award on the basis of the applicant's character. This assessment is evidenced by an applicant's criminal record and excludes convictions which are spent under the Rehabilitation of Offenders (NI) Order 1978²⁰. Under the 2009 Scheme the impact of unspent criminal convictions **must** be reflected in the assessment of character. The reason behind this is that a person who has committed criminal offences has probably caused distress, loss and injury to other persons, and has certainly caused considerable expense to society through the justice process. In addition, the cost of supervising sentences, even when they have been non-custodial, is another charge on the taxpayer. Although the applicant may be a blameless victim in the incident in which they sustained an injury for which they are now seeking compensation, Parliament has provided in the Scheme that convictions which are not spent should be taken into account.

4.50 In practice Compensation Services has published a scale of penalty points which it uses when assessing individual cases. The scale is used as an **indicator** of the extent to which unspent convictions may count against an award. The points are linked to the sentence and the time that has passed since it was imposed to decide if a reduction (or refusal) of an award is appropriate and, if so, what the impact on the award should be. The conviction recorded in any individual case and the point attributed to it is assessed within the context of the particular circumstances of the claim and other related factors. The penalty point system which applies to the 2009 Scheme is at **Annex 9**.

²⁰[Rehabilitation of Offenders \(Northern Ireland\) Order 1978
http://www.legislation.gov.uk/nisi/1978/1908/article/8](http://www.legislation.gov.uk/nisi/1978/1908/article/8)

4.51 In 2012/13, we paid compensation in 1946 cases under the 2009 Scheme. In 90 cases an average 27% reduction was applied due to unspent criminal convictions.

4.52 For the new Scheme we propose to **retain and tighten the existing provisions** relating to an applicant's unspent criminal convictions by increasing the percentage reduction and making it clear to applicants that our starting point will be to make the deduction unless there are 'exceptional' reasons not to. We consider that this emphasises that the applicant must make out his/her own case detailing why the reduction should not be made. Compensation Services will continue to exercise discretion by weighing up the context of the particular circumstances of the claim and the arguments advanced by the applicant. We consider that stricter application of the system is warranted since the Scheme is a taxpayer-funded expression of public sympathy and it is reasonable that there should be robust criteria around who should receive a share of its limited funds. We consider that, in principle, full awards should only be made to those who have themselves complied with the law and not to those who have cost society as a result of their offending behaviour.

4.53 As with the Damage Scheme we have considered whether or not a revised approach should be taken for those who have terrorist related convictions for offences predating the Good Friday/ Belfast Agreement. We believe that it is appropriate to recognise that the circumstances in Northern Ireland have changed significantly. We would propose 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.

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?

Provisions of the Existing Scheme to be Retained

4.54 Wrapped around the proposals for change outlined above (paragraphs 4.35 to 4.51) we plan to retain many elements of the existing Scheme which will continue to place applicants to the Northern Ireland Scheme in a more advantageous position to applicants claiming from other EU States and in particular those claiming under the GB Scheme. The following paragraphs outline the key differences between the proposed Northern Ireland Scheme and the position in GB under its 2012 Scheme.

Cap on Maximum Compensation Payable

4.55 The Northern Ireland Scheme does not place a cap on the total amount of compensation payable and compensates 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 any other injury or injuries. GB imposes a cap of £500,000 (which may include components for an injury, loss of earnings and special expenses) and compensates for a maximum of 3 injuries on scale of 100%, 30% and 15%. While applying a cap to the Northern Ireland Scheme would provide some protection against budgetary pressures arising, we considered that its application could have a detrimental impact on those victims most in need and those who have suffered serious injuries which are likely to be long-term and life changing.

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?

Residency Test

4.56 The existing Northern Ireland Scheme is open to all victims who sustain a qualifying criminal injury in Northern Ireland. The GB Scheme includes a residency/nationality requirement whereby applicants must demonstrate that they were 'ordinarily resident' in the United Kingdom on the date of the incident or satisfy nationality requirements. We do not consider a need to include a residency/nationality requirement in a new Scheme here. Indeed we have concerns that to introduce this as a requirement could be discriminatory and could have a detrimental impact on victims of domestic violence, asylum seekers and victims of human trafficking. We also recognise that we are in a unique position in having a land border with the Republic of Ireland with free movement between the two countries.

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?

Loss of Earnings

4.57 A key difference between our proposed Scheme and the GB system is the mechanism for compensating victims who have lost earnings or earning capacity for more than 28 weeks. We propose 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 ability to earn post incident up to a maximum of the applicant's date of retirement or for the length of their estimated life expectancy. The maximum amount payable for loss of earnings is one and a half times the median²¹ gross weekly net earnings in Northern Ireland when the assessment is undertaken. 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. We acknowledge that this is a complex area of the claim

²¹ As per figures provided by Department of Enterprise Trade & Investment – currently £477 per week for a male in full time employment.

assessment both for Compensation Services and for the applicant and in many cases, in particular claims of high value, applicants choose to engage (at their own expense) legal and specialist accounting services.

4.58 The 2012 GB Scheme introduced a straightforward and administratively simple method to calculate loss of earnings using the current Statutory Sick Pay rate (£87.55 per week) without deductions for benefits, employment pensions and certain income from other sources. It 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 3 years immediately prior to the incident. The new GB system continues to adhere to the principle of payment after the first 28 weeks and therefore targets those most seriously impacted by criminal injury while reducing the total amount paid and contributing to the overall savings.

4.59 We considered using SSP as the approach to calculate loss of earnings for Northern Ireland; however, it was considered that the SSP approach could run against the principle of targeting resources towards those most adversely affected by crime. When we assessed the level of savings likely to be delivered by adopting the SSP rate to the claims paid in 2012/13 which had a loss of earnings component, the savings were modest in terms of the total amount of compensation awarded. We do, however, acknowledge that using SSP as the basis of calculating loss of earnings could achieve a higher degree of savings in terms of Compensation Services' operational costs since this approach would be much simpler and. It would also be faster to administer.

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?

Funeral Expenses for Fatal Cases

4.60 The existing Northern Ireland Scheme allows for the payment of 'reasonable' funeral expenses. In 2012/13 we made 10 payments for funeral expenses totalling £17,693. These payments were authorised on production of an invoice or receipt. The 2012 GB Scheme introduced a flat rate payment of £2,500 for funeral expenses with a £5,000 cap paid in exceptional circumstances. A benefit of adopting the absolute cap of £5,000 might be to provide financial safeguards particularly in relation to victims from outside Northern Ireland who suffer a fatal injury as their family can claim for repatriation costs. Although repatriation costs have been infrequent, with an increasing multicultural society and tourism developing in Northern Ireland there is a potential for such claims to become more common. We propose to **retain the existing provision to consider payment of 'reasonable' funeral costs but to introduce a maximum cap of £5,000 per claim**

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?

Timescale for Lodging an Appeal or Accepting an Award of Compensation

4.61 The existing Northern Ireland Scheme allows the applicant 90 calendar days to consider a decision made on their claim and to either notify Compensation Services of their intention to accept the offer of compensation or to lodge a Review Request or an Appeal. In GB the 2012 Scheme reduced this timescale from 90 days to 56 calendar days. We intend to **retain the timescale of 90 calendar days**. Consideration was given to reducing the number of days to help shorten the overall timescales for handling claims. However, we concluded that it was more important for victims to have a sufficient amount of time to consider the award particularly if they were still suffering from the effects of the injury.

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?

Other Provisions

4.62 We are not proposing any other changes to the eligibility criteria, provisions and conditions as set out in the existing Criminal Injuries Compensation Scheme 2009. It would therefore be our intention to replicate them in any new Scheme.

4.63 As there is no intention to move away from a tariff based scheme or to significantly alter its major components there will be no requirement to amend the 2002 Order. Changes will, however, be set out in a new Scheme which will be laid before the Assembly in draft and which will require approval by a resolution of the Assembly.

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?

5. Savings and Reinvestment

Introduction

5.1 The proposals to reform the Criminal Damage and Criminal Injuries Schemes advanced within this consultation document should be considered as part of the wider Victim and Witness Strategy which aims to deliver holistic and improved services to victims of crime in Northern Ireland. The Department of Justice, however, in common with the other public sector bodies, is facing increasingly stringent financial conditions with much reduced resources at our disposal. The proposals for change detailed here are designed to ensure that public money which is made available for the purposes of criminal damage and criminal injury compensation is properly directed towards those victims who are the most seriously impacted by violent crime and are deemed to be most in need. In addition, implementation of the reform proposals will result in savings that can be directed towards other key strategic areas for the Department, including improving services to victims of crime.

Realisation of Savings

5.2 There will be a number of steps to be taken before any changes can be implemented. If all goes according to plan, it is likely that they would be implemented in 2016/17. Savings would begin to be realised some 12-18 months following implementation on an incremental basis as claims made under the existing Criminal Damage legislation and Criminal Injuries Schemes work through the system to be replaced with claims made under the new provisions. The timescale to implement the new provisions is also dependent upon Compensation Services securing a new case management system to operate the new Schemes since the existing systems do not have the required capacity or capability.

Reinvestment in Services to Victims

5.3 The Department would be keen to reinvest a proportion of the savings, expected to be delivered as a result of the implementation of a new Criminal Injuries Compensation Scheme, into improved services to victims. The intention would be to place a particular focus on victims of the most serious crimes and those that are in greatest need. If other resources were available, some savings could also be used to improve or supplement the services that are provided to victims of crime more generally. Clearly, however, it will be some time before any savings are realised and before the full extent of savings is calculated.

5.4 One potential area in which resources could be redirected might include the future extension of the Registered Intermediaries schemes, which facilitate communication between vulnerable people (with significant communication deficits) and criminal justice system practitioners. This would be subject to a successful evaluation outcome from the pilot schemes at Crown Court. Another area where savings could be used would be to implement key findings from the qualitative research completed during the term of the five-year victim and witness strategy, aimed at ascertaining victims' experiences of the criminal justice system. Areas to be looked at over the duration of the Strategy include victims of murder, manslaughter and culpable road death, young victims of crime and those who have been subject to sexual or domestic violence.

5.5 While this provides a sense of some of the areas that could potentially benefit at this stage, it is not possible to specify precisely what proportion of savings could be made available for reinvestment in victims' services and the services that could be improved, extended or introduced.

5.6 Ultimately, decisions on the targeting of a proportion of savings will be dependent on the prevailing circumstances at the time that the savings

become available. The Department is committed to improving services to victims and will examine reinvestment options within that context.

Q30. Do you agree that a proportion of any savings that may be realised from the changes to the criminal injuries scheme should be reinvested to support other services for victims?

Do you have any other comments on this proposal?

6. IMPACT ASSESSMENTS

6.1 Section 75 of the Northern Ireland Act 1998 requires public authorities to have due regard to the need to promote equality of opportunity:

- between persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation;
- between men and women generally;
- between persons with a disability and persons without; and
- between persons with dependants and persons without.

6.2 It also includes a requirement to have regard to promoting good relations between persons of different religious belief, political opinion or racial group. Public authorities are also required to meet legislative obligations under the Disability Discrimination Order, particularly in the formation of public policy making.

6.3 The Department of Justice is fully committed to fulfilling its Section 75 obligations on the promotion of equality of opportunity, good relations and meeting legislative requirements in Northern Ireland.

6.4 The options set out in this policy consultation have been subjected to an Equality Impact Screening, as well as the Department's shared future proofing.

6.5 There have been no adverse equality impacts identified and initial pre-policy screening has not identified any other Section 75 impacts at this stage. However, we would welcome views from respondents who might identify any area in which they feel the approaches outlined in the document could have adverse equality impacts. The full equality screening form is available at: <http://www.dojni.gov.uk/review-of-criminal-damage-and-criminal-injuries-schemes>

6.6 The Department of Justice has completed separate Partial **Regulatory Impact Assessments** (RIA). These indicated that the proposals could have a minimal to moderate impact on some business sectors e.g. legal and other professional bodies may be impacted by a reduction in the volume of both damage and injury claims; Victim Support NI are likely to be similarly impacted by a reduction in the volume of criminal injury claims and the insurance industry may be both negatively impacted (by not recouping their outlay for damage which was previously covered by the criminal damage scheme) and positively impacted (through an increase in demand for insurance from those who may have previously relied on the criminal damage scheme). The RIAs advise that a full Regulatory Impact Assessment (RIA) may be required and the Department may publish an RIA after taking into account responses to the consultation process.

6.7 The full regulatory impact screening form is available at:
<http://www.dojni.gov.uk/review-of-criminal-damage-and-criminal-injuries-schemes>

6.8 The consultation exercise will provide the opportunity to set out any views that you may have in relation to the impact assessments outlined in this document, which can then be further considered prior to the proposals being finalised.

Invitation to comment

6.9 The closing date for receipt of responses is **Monday 16 March 2015**. We welcome responses in whatever format respondents find most suitable. Details on how to respond can be found at the start of this consultation document ("Responding to the Consultation", Page 6-7). Please note that it may not be possible to accept consultation responses after this date.

6.10 If you have any concerns about the way this consultation process has been handled, you may raise these with the Department's Consultation Co-ordinator at the following address:

Peter Grant
Equality Branch
Central Management Unit
Department of Justice
Castle Buildings
Stormont Estate
Belfast
BT4 3SG

Telephone: 028 9052 8138

Text phone: 028 9052 7668

Email: peter.grant@dojni.x.gsi.gov.uk

LIST OF KEY STAKEHOLDERS

Key Stakeholder
Action on Hearing Loss
Age NI
Ancient Order of Hibernians
Autism NI
Association of British Insurers
Bar Council of Northern Ireland
British Insurers Brokers Association
Cara-Friend
Childline
Children's Law Centre
Chinese Welfare Association
Coalition of Sexual Orientation
Commissioner for Older People NI
Commission for Victims and Survivors
Committee on the Administration of Justice
Community Relations Council
Criminal Injuries Compensation Appeals Panel NI (CICAPNI)
Cruse Bereavement Care Northern Ireland
Department of Agriculture and Rural Development
DOJ, Civil Justice Policy and Legislation Branch
DOJ, FSD – Directorate Accountant and Economist
DOJ, Compensation Services – Business Improvement Team
DOJ, Compensation Services – Senior Management Team
DOJ, Head of Human Trafficking
DOJ, Public Legal Services Support
Disability Action
Equality Commission for Northern Ireland
Ex Prisoner Working Group
Families Bereaved through Car Crime
Gaelic Athletic Association
Grand Masonic Lodge of Ireland
Home Office
Include Youth
Innocent Victims of Terrorism
Information Services Division
Justice Committee
Justice for Innocent Victims
Law Centre NI

Key Stakeholder

Law Society of NI

Leonard Cheshire Disability

Mencap

Men's Advisory Project

Migrant Helpline

Mindwise

Multi-Cultural Resource Centre

NSPCC

National Farmers Union Mutual

Nexus Institute NI

Northern Ireland Assembly

NI Association for Mental Health (NIAMH)

NI Attention Deficit and Hyperactivity Disorder

NI Commissioner for Children and Young People (NICCY)

NI Council for Ethnic Minorities (NICEM)

NI Council for Voluntary Action (NICVA)

NI Courts and Tribunals Service (NICTS)

NI Human Rights Commission (NIHRC)

NI Independent Retailers

NI Law Commission

NI Local Government Association (NILGA)

NI Policing Board

NI Public Service Alliance (NIPSA)

NI Youth Forum

Office of the Lord Chief Justice

Omagh Support and Self Help Group

Opportunity Youth

Orange Order

Police Service NI

Probation Board for NI

Members of the Public affected directly or indirectly

Public Prosecution Service (PPS)

Rainbow Project

Rape Crisis and Sexual Abuse Centre NI

Royal College of Speech and Language Therapists

Royal National Institute of Blind People

Samaritans

SAMM NI

Survivors for Justice

Ulster Farmers Union

Victim Support NI

Voice UK

WAVE

Key Stakeholder
Women's Aid Federation NI
Women's Support Network
Youth Justice Agency
Youthnet

INDEPENDENT REVIEW OF THE RIOT (DAMAGES) ACT 1886

Background

The Riot (Damages) Act 1886 was introduced following riots in Trafalgar Square in 1885, and while the essential structure of the Act has not changed over the years, the definition of a riot has been amended, most recently by the Public Order Act 1986. For the purposes of the latter Act, the crime of riot arises when “12 or more persons who are present together use or threaten unlawful violence for a common purpose”.

The Riot (Damages) Act provides that, in the event of a riot, the Police Authority for the area concerned shall pay compensation to any person whose house, shop or property is damaged or destroyed in the riot. Where a person has received payment from an insurer, the compensation is payable to the insurer. The Act also places strict liability on the police, holding them to account for their duty to maintain law and order. As a result, a claimant does not have to prove that the police were at fault in making a claim.

The riots in August 2011 in cities across England, with costs estimated to run into hundreds of millions of pounds, called into question the capacity of the Police, the Government, and the insurance industry to respond to the requirements of a law passed more than 120 years ago.

Independent Review

As a result, the Home Secretary commissioned Neil Kinghan to conduct an independent review of the Riot (Damages) Act 1886 Act and its administration. As part of his Review, he examined the definition of a riot, whether it should retain the principle of Police accountability, consideration of Government and private sector liability including the levels of entitlement that should be afforded under the Act, the effects of riots on small businesses and the impact on areas suffering from social and economic deprivation.

Neil Kinghan's report can be found at

<https://www.gov.uk/government/publications/riot-damages-act-independent-review>.

New Legislation

The MOJ launched a public consultation on proposals to reform and modernise the Riot (Damage) Act 1886. The Consultation's aim was to illicit feedback on the proposals aimed at achieving the following objectives:

- i. Produce a modernised piece of legislation to replace the Riot (Damages) Act and to clarify which losses individuals and businesses can claim for in the event of a riot;
- ii. Protect the most vulnerable in society from damage incurred in riots;
- iii. Discourage greater levels of under insurance;
- iv. Ensure arrangements are put in place to assess and resolve claims quickly; and
- v. Take account of the affordability of the Act on the public purse.

The consultation was completed in August 2014 and the Home Office are currently considering the responses.

The full consultation document is available from the Home Office website:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/316706/ReformRiotDamagesActConsult.pdf

or by email request to: RDAconsultation@homeoffice.gsi.gov.uk

SUMMARY OF THE POOL RE SCHEME

The Pool Re Scheme has been set up by the insurance industry in cooperation with the UK government so that insurers can continue to cover losses resulting from damage caused by acts of terrorism to commercial property in Great Britain.

Insurers that participate in the Scheme offer terrorism cover as part of the relevant commercial policies they issue when their policyholders request them to do so. Each insurer must pay losses up to a threshold, which is determined individually for that insurer. When losses exceed that threshold, the insurer can claim upon reserves accumulated by the insurance industry on a mutual basis within a separate company, Pool Reinsurance Company Limited (“Pool Re”). Should terrorism claims exceed these reserves, Pool Re can, in turn draw funds from government to enable it to meet its obligations in full, regardless of the scale of losses.

Further information regarding Pool Re can be found via their website (www.poolre.co.uk).

Instances when Pool Re was used

Date	Event	Losses incurred by Pool Re
April 1993	Bishopsgate, City of London	£262 million
February 1996	London Docklands	£108 million
June 1996	Manchester City Centre	£234 million
August 2001	Ealing, West London	£5 million
July 2005	London bombings (7/7)	£11 million

COMPENSATION SCHEMES IN OTHER EU COUNTRIES

France

The system has two tiers, applications are assigned depending on the nature of the injury/offence and compensation is based on financial loss.

Tier 1 - Serious personal injury includes death; permanent or total incapacity to work for more than one month; sexual offences and offences on minors.

The victim can apply for the full amount of loss.

Tier 2 - Minor personal injury includes total incapacity to work for less than one month compensation is means tested and subject to maximum amounts. The overall maximum compensation is €3,795. No compensation is payable if insurance is in place.

Applications are decided at a Tribunal and there is a right of appeal.

Normally applications must be made within 3 years of the date of the offence.

Note: Figure correct as at 2005

Spain

There are 2 systems operating in Spain –

1. the “ordinary” system; and
2. the “special” system which covers victims of terrorism.

Under the “ordinary” system compensation is based on loss of earnings and if the applicant has personal insurance no compensation is paid. For those eligible the amount payable is based on a rate twice the minimum wage for a time period ranging from 18-140 months depending on the severity of disability. In the event of a death compensation paid to dependents equates to 130 monthly payments of the minimum wage.

The system may also assist with payment for psychological treatment as a result of the injury for the victim and their families up to a limit of €3,000. Applications to the system must be made within one year of the incident. Under the “Special” Scheme compensation is paid for the physical and psychological damage caused by terrorist offences. Payment is based on the following tables of awards -.

- Death: €232.78
- Outstanding disability: €390,657.87.
- Absolute permanent disability €96,161.94.
- Total permanent disability: €48,080.97.
- Partial permanent disability €36,060.73.

***Note:** Values updated following amendment to Additional Provision 41 of Act 2/2004 (27/12/04)*

Netherlands

The Netherlands provide compensation where injury is sustained as a result of a deliberately committed violent offence, as a result of which a victim suffered death or serious physical injury and/or mental distress. The Scheme has a cap for a maximum award of €21,000. Compensation awards are limited to expenses and loss of earnings.

***Note:** Compensation amount correct at time of last major update April 2008*

Sweden

Compensation may be paid for –

- The cost of health care, medicines or damaged clothing.
- Loss of earnings.
- Pain and suffering.
- Disfigurement and loss of amenity.

If a crime victim dies of their injuries, his relatives are entitled to compensation for any psychological damage caused by the news of their death. Compensation may also be payable in respect of funeral expenses. Crimes against the person may also confer entitlement to compensation for violation. No Compensation is payable where the victim has insurance. The costs of legal assistance are not normally reimbursed.

The system is administered by the Crime Victim Compensation and Support Authority and applications must be made within 3 years of the offence or of the termination of legal proceedings.

Finland

The Finnish system advises that personal injury compensation is paid for –

- Medical costs and other costs arising from the injury.
- Pain and suffering.
- Invalidity and other permanent handicap as well as permanent cosmetic damage.
- Mental suffering.
- Loss of income or diminished maintenance.
- Clothes, eye glasses and other everyday items damaged in connection with personal injury.

The minimum amount compensated is €34, while the maximum compensation for personal injury is €51,000.

If the crime has resulted in a death, compensation is provided for–

- Reasonable funeral expenses.
- The loss of maintenance to a person entitled to maintenance or child support.
- The mental suffering caused by the death to a person especially close to the deceased.

The maximum compensation payable in a fatal case is €3,700.

No compensation is payable if the victim has private insurance cover.

Applications must be made within 10 years of the offence.

Note: *Figures reviewed in 2003.*

**PROPOSAL: TO REMOVE MINOR INJURIES – TARIFF LEVELS 1-5
(84 INJURIES)**

Body Part	Body Area	Injury	Tariff
Ankle	LOWER LIMBS	Ankle Sprained – one ankle – disabling for at least 6 to 13 weeks	1,000
Back	TORSO	Back Strained – disabling – for 6 to 13 weeks	1,000
Ear	HEAD & NECK	Ear Deafness – temporary partial deafness – lasting 6 to 13 weeks	1,000
Ear	HEAD & NECK	Ear Fractured mastoid	1,000
Ear	HEAD & NECK	Ear Tinnitus (ringing noise in ear(s)) – lasting 6 to 13 weeks	1,000
Eye	HEAD & NECK	Eye Blurred or double vision – temporary – lasting 6 to 13 weeks	1,000
Face	HEAD & NECK	Face Clicking jaw – temporary – lasting 6 to 13 weeks	1,000
Finger and Thumb	UPPER LIMBS	Finger and Thumb Fracture/dislocation of: – one finger other than index finger – one hand – substantial recovery	1,000
Knee	LOWER LIMBS	Knee Patella (knee cap) – dislocated – one knee – substantial recovery	1,000
Medically recognised illness/condition - not mental illness	GENERAL	Medically recognised illness/condition - not mental illness Moderately disabling disorder where the symptoms and disability persist for more than 6 weeks from the incident/date of onset – lasting 6 to 13 weeks	1,000
Minor injuries: multiple	GENERAL	Minor injuries: multiple Minor injuries: multiple	1,000
Neck	HEAD & NECK	Neck Fractured hyoid (bone in windpipe)	1,000
Neck	HEAD & NECK	Neck Strained neck or whiplash injury – disabling – for 6 to 13 weeks	1,000
Nose	HEAD & NECK	Nose Deviated nasal septum – no operation	1,000
Nose	HEAD & NECK	Nose Fracture of nasal bones – undisplaced	1,000
Penetrating injury not otherwise compensated	TORSO	Penetrating injury not otherwise compensated – symptoms persisting for at least a week	1,000
Rib	TORSO	Rib Fractured (or bruised where significant pain lasts more than 6 weeks) – one rib	1,000
Tendon and/or Ligament and/or Cartilage	UPPER LIMBS	Tendon and/or Ligament and/or Cartilage Minor damage – one arm – substantial recovery	1,000
Tendon and/or Ligament and/or Cartilage	LOWER LIMBS	Tendon and/or Ligament and/or Cartilage Minor damage – one leg – substantial recovery	1,000
Toe	LOWER LIMBS	Toe Fractured – two or more toes – one foot – substantial recovery	1,000
Toe	LOWER LIMBS	Toe Loss of: – one toe (other than great toe)	1,000
Wrist	UPPER LIMBS	Wrist Sprained – one wrist – disabling for 6 to 13 weeks	1,000
Finger and Thumb	UPPER LIMBS	Finger and Thumb Fracture/dislocation of: – two or more fingers other than index finger – one hand – substantial recovery	1,250

Body Part	Body Area	Injury	Tariff
Scarring	LOWER LIMBS	Scarring Minor disfigurement	1,250
Scarring	TORSO	Scarring Minor disfigurement	1,250
Scarring	UPPER LIMBS	Scarring Minor disfigurement	1,250
Brain Damage	HEAD & NECK	Brain Damage Minor head injury Brain injury, if any, minimal. Concussion/impairment of balance/headaches – lasting 6 to 28 weeks	1,500
Burns	LOWER LIMBS	Burns Minor	1,500
Burns	TORSO	Burns Minor	1,500
Burns	UPPER LIMBS	Burns Minor	1,500
Burns	HEAD & NECK	Burns Neck – minor disfigurement	1,500
Ear	HEAD & NECK	Ear Deafness – temporary partial deafness – lasting more than 13 weeks	1,500
Ear	HEAD & NECK	Ear Vestibular damage (causing giddiness) – lasting 6 to 28 weeks	1,500
Eye	HEAD & NECK	Eye Hyphaema requiring operation – one eye	1,500
Face	HEAD & NECK	Face Clicking jaw – temporary – lasting more than 13 weeks	1,500
Face	HEAD & NECK	Face Numbness/loss of feeling – temporary lasting more than 13 weeks - recovery expected	1,500
Nose	HEAD & NECK	Nose Fracture of nasal bones – undisplaced	1,500
Peripheral sensory nerve damage	GENERAL	Peripheral sensory nerve damage – lasting more than 13 weeks – substantial recovery expected	1,500
Peripheral sensory nerve damage	GENERAL	Peripheral sensory nerve damage – permanent disability – minor loss	1,500
Rib	TORSO	Rib Fractured (or bruised where significant pain lasts more than 6 weeks) – two or more	1,500
Scarring	HEAD & NECK	Scarring Face – minor disfigurement	1,500
Scarring	HEAD & NECK	Scarring Head – minor visible disfigurement	1,500
Scarring	HEAD & NECK	Scarring Neck – minor disfigurement	1,500
Toe	LOWER LIMBS	Toe Fractured – two or more toes – both feet – substantial recovery	1,500
Ear	HEAD & NECK	Ear Perforated ear drum – one ear	1,750
Eye	HEAD & NECK	Eye Blurred or double vision – temporary – lasting more than 13 weeks - recovery expected	1,750
Finger and Thumb	UPPER LIMBS	Finger and Thumb Fracture/dislocation of: – index finger – one hand – substantial recovery	1,750
Finger and Thumb	UPPER LIMBS	Finger and Thumb Fracture/dislocation of: – one finger other than index finger – both hands – substantial recovery	1,750
Genitalia	TORSO	Genitalia Injury requiring medical treatment – no significant permanent damage	1,750
Shoulder	UPPER LIMBS	Shoulder Dislocated – one shoulder – substantial recovery	1,750
Abdomen	TORSO	Abdomen Injury requiring laparoscopy – including no repair or repair of one organ	2,000
Ankle	LOWER LIMBS	Ankle Sprained – both ankles – disabling for at least 6 to 13 weeks	2,000
Brain Damage	HEAD &	Brain Damage Epilepsy – post-traumatic epileptic	2,000

Body Part	Body Area	Injury	Tariff
	NECK	fits - substantial recovery	
Burns	HEAD & NECK	Burns Face – minor disfigurement	2,000
Burns	HEAD & NECK	Burns Head – minor visible disfigurement	2,000
Clavicle (collar bone)	TORSO	Clavicle (collar bone) Dislocated acromioclavicular joint	2,000
Clavicle (collar bone)	TORSO	Clavicle (collar bone) Fractured – one clavicle – substantial recovery	2,000
Eye	HEAD & NECK	Eye Corneal abrasions	2,000
Face	HEAD & NECK	Face Dislocated jaw – substantial recovery	2,000
Face	HEAD & NECK	Face Fractured ethmoid – no operation	2,000
Face	HEAD & NECK	Face Fractured zygoma (malar/cheek bone) – no operation – substantial recovery	2,000
Finger and Thumb	UPPER LIMBS	Finger and Thumb Fracture/dislocation of: – one finger other than index finger – one hand – continuing significant disability	2,000
Finger and Thumb	UPPER LIMBS	Finger and Thumb Fracture/dislocation of: – thumb – one hand – substantial recovery	2,000
Hand	UPPER LIMBS	Hand Fractured hand – one hand – substantial recovery	2,000
Knee	LOWER LIMBS	Knee Arthroscopy (investigative surgery / repair to knee) – no fracture	2,000
Medically recognised illness/condition - not mental illness	GENERAL	Medically recognised illness/condition - not mental illness Moderately disabling disorder where the symptoms and disability persist for more than 6 weeks from the incident/date of onset – lasting up to 28 weeks	2,000
Medically recognised illness/condition - not mental illness	GENERAL	Medically recognised illness/condition - not mental illness Seriously disabling disorder where the symptoms and disability persist for more than 6 weeks from the incident/date of onset – lasting 6 to 13 weeks	2,000
Nose	HEAD & NECK	Nose Deviated nasal septum – requiring septoplasty	2,000
Nose	HEAD & NECK	Nose Fracture of nasal bones – displaced – requiring manipulation	2,000
Nose	HEAD & NECK	Nose Fracture of nasal bones – displaced – requiring rhinoplasty	2,000
Nose	HEAD & NECK	Nose Fracture of nasal bones – displaced – requiring turbinectomy	2,000
Peripheral motor nerve damage not otherwise compensated for	GENERAL	Peripheral motor nerve damage not otherwise compensated for - lasting more than 13 weeks – substantial recovery expected	2,000
Shoulder	UPPER LIMBS	Shoulder Arthroscopy – where the shoulder is not dislocated, frozen or otherwise provided for	2,000
Shoulder	UPPER LIMBS	Shoulder Frozen – one shoulder – substantial recovery	2,000
Teeth	HEAD & NECK	Teeth Damage to: – tooth/teeth requiring root-canal treatment	2,000
Teeth	HEAD & NECK	Teeth Fractured/chipped tooth/teeth requiring treatment	2,000
Teeth	HEAD & NECK	Teeth Loss of: – tooth/teeth other than front – one tooth	2,000
Teeth	HEAD & NECK	Teeth Slackening of teeth requiring dental treatment	2,000

Body Part	Body Area	Injury	Tariff
Tendon and/or Ligament and/or Cartilage	UPPER LIMBS	Tendon and/or Ligament and/or Cartilage Minor damage – both arms – substantial recovery	2,000
Tendon and/or Ligament and/or Cartilage	LOWER LIMBS	Tendon and/or Ligament and/or Cartilage Minor damage – both legs – substantial recovery	2,000
Tendon and/or Ligament and/or Cartilage	UPPER LIMBS	Tendon and/or Ligament and/or Cartilage Moderate damage – one arm – substantial recovery	2,000
Tendon and/or Ligament and/or Cartilage	LOWER LIMBS	Tendon and/or Ligament and/or Cartilage Moderate damage – one leg – substantial recovery	2,000
Tongue	HEAD & NECK	Tongue Impaired speech – slight	2,000
Wrist	UPPER LIMBS	Wrist Sprained – both wrists – disabling for 6 to 13 weeks	2,000

REDUCED TARIFFS FOR MODERATE INJURIES TARIFF LEVELS 6-12 (227 INJURIES)

Body Part	Body Area	Injury	Existing Tariff	Proposed Reduced Tariff
Ankle	LOWER LIMBS	Ankle Sprained – one ankle – disabling for more than 13 weeks	2,500	1,000
Back	TORSO	Back Fracture of vertebra – one vertebra – substantial recovery	2,500	1,000
Back	TORSO	Back Strained – disabling – for more than 13 weeks	2,500	1,000
Coccyx (tail bone)	TORSO	Coccyx (tail bone) Fractured	2,500	1,000
Ear	HEAD & NECK	Ear Perforated ear drum – both ears	2,500	1,000
Eye	HEAD & NECK	Eye Glaucoma	2,500	1,000
Eye	HEAD & NECK	Eye Hyphaema requiring operation – both eyes	2,500	1,000
Eye	HEAD & NECK	Eye Partial loss of vision when corrected by glasses or contact lenses or other means eg laser surgery better than 6/12	2,500	1,000
Eye	HEAD & NECK	Eye Permanent loss of visual field – slight	2,500	1,000
Eye	HEAD & NECK	Eye Retina – damage not involving detachment – one eye	2,500	1,000
Eye	HEAD & NECK	Eye Significant penetrating injury – one eye	2,500	1,000
Eye	HEAD & NECK	Eye Traumatic angle recession	2,500	1,000
Face	HEAD & NECK	Face Fractured zygoma (malar/cheek bone) – operation required – substantial recovery	2,500	1,000
Fibula (slender bone from knee to ankle)	LOWER LIMBS	Fibula (slender bone from knee to ankle) Fractured – one leg – substantial recovery	2,500	1,000
Finger and Thumb	UPPER LIMBS	Finger and Thumb Fracture/dislocation of: – two or more fingers other than index finger – one hand – continuing significant disability	2,500	1,000
Finger and Thumb	UPPER LIMBS	Finger and Thumb Partial loss of: – finger other than thumb or index finger	2,500	1,000
Foot	LOWER LIMBS	Foot Fractured metatarsal bones – one foot – substantial recovery	2,500	1,000
Knee	LOWER LIMBS	Knee Patella (knee cap) – dislocated – both knees – substantial recovery	2,500	1,000
Knee	LOWER LIMBS	Knee Patella (knee cap) – fractured – one knee – substantial recovery	2,500	1,000
Mental illness	GENERAL	Mental illness Disabling mental illness, confirmed by psychiatric diagnosis: – lasting up to 28 weeks	2,500	1,000

Body Part	Body Area	Injury	Existing Tariff	Proposed Reduced Tariff
Neck	HEAD & NECK	Neck Strained neck or whiplash injury – disabling – for more than 13 weeks	2,500	1,000
Peripheral motor nerve damage not otherwise compensated for	GENERAL	Peripheral motor nerve damage not otherwise compensated for – permanent disability – minor (eg paralysis or equivalent functional loss of finger/toe)	2,500	1,000
Scapula (shoulder blade)	TORSO	Scapula (shoulder blade) Fractured – one scapula – substantial recovery	2,500	1,000
Scarring	LOWER LIMBS	Scarring Significant disfigurement	2,500	1,000
Scarring	TORSO	Scarring Significant disfigurement	2,500	1,000
Scarring	UPPER LIMBS	Scarring Significant disfigurement	2,500	1,000
Skull	HEAD & NECK	Skull Fracture – simple – no operation	2,500	1,000
Sternum (breast bone)	TORSO	Sternum (breast bone) Fractured – substantial recovery	2,500	1,000
Teeth	HEAD & NECK	Teeth Damage to: – front tooth/teeth requiring crown(s)	2,500	1,000
Teeth	HEAD & NECK	Teeth Loss of: – crowns	2,500	1,000
Tendon and/or Ligament and/or Cartilage	UPPER LIMBS	Tendon and/or Ligament and/or Cartilage Minor damage – one arm – continuing significant disability	2,500	1,000
Toe	LOWER LIMBS	Toe Fractured – great toe – one foot – substantial recovery	2,500	1,000
Toe	LOWER LIMBS	Toe Fractured – two or more toes – one foot – continuing significant disability	2,500	1,000
Toe	LOWER LIMBS	Toe Partial loss of: – great toe	2,500	1,000
Wrist	UPPER LIMBS	Wrist Sprained – one wrist – disabling for more than 13 weeks	2,500	1,000
Brain Damage	HEAD & NECK	Brain Damage Minor head injury Brain injury, if any, minimal. Concussion/impairment of balance/headaches – lasting over 28 weeks	3,300	1,500
Ear	HEAD & NECK	Ear Tinnitus (ringing noise in ear(s)) – lasting more than 13 weeks	3,300	1,500
Ear	HEAD & NECK	Ear Vestibular damage (causing giddiness) – lasting over 28 weeks - recovery expected	3,300	1,500
Elbow	UPPER LIMBS	Elbow Dislocated/fractured – one elbow – substantial recovery	3,300	1,500
Eye	HEAD & NECK	Eye Blow out or other fracture of orbital bone cavity containing eyeball – no operation	3,300	1,500
Eye	HEAD & NECK	Eye Cataracts – one eye – requiring operation	3,300	1,500
Eye	HEAD & NECK	Eye Residual central floater(s) affecting vision	3,300	1,500
Face	HEAD & NECK	Face Fractured mandible and/or maxilla (jaw bones) – no operation – substantial recovery	3,300	1,800
Face	HEAD & NECK	Face Numbness/loss of feeling – permanent – moderate eg cheek, forehead	3,300	1,500

Body Part	Body Area	Injury	Existing Tariff	Proposed Reduced Tariff
Fibula (slender bone from knee to ankle)	LOWER LIMBS	Fibula (slender bone from knee to ankle) Fractured – both legs – substantial recovery	3,300	1,500
Finger and Thumb	UPPER LIMBS	Finger and Thumb Fracture/dislocation of: – two or more fingers other than index finger – both hands – substantial recovery	3,300	1,500
Foot	LOWER LIMBS	Foot Fractured metatarsal bones – both feet – substantial recovery	3,300	1,500
Foot	LOWER LIMBS	Foot Fractured tarsal bones – one foot – substantial recovery	3,300	1,500
Heel	LOWER LIMBS	Heel Fractured heel bone – one foot – substantial recovery	3,300	1,500
Humerus (upper arm bone)	UPPER LIMBS	Humerus (upper arm bone) Fractured – one arm – substantial recovery	3,300	1,500
Lung	TORSO	Lung Punctured – one lung	3,300	1,500
Medically recognised illness/condition - not mental illness	GENERAL	Medically recognised illness/condition - not mental illness Moderately disabling disorder where the symptoms and disability persist for more than 6 weeks from the incident/date of onset – lasting over 28 weeks – not permanent	3,300	1,500
Peripheral sensory nerve damage	GENERAL	Peripheral sensory nerve damage – permanent disability – significant loss (eg loss of sensation in large area of leg)	3,300	1,500
Radius (a forearm bone)	UPPER LIMBS	Radius (a forearm bone) Fractured – one arm – substantial recovery	3,300	1,500
Scarring	HEAD & NECK	Scarring Head – significant disfigurement	3,300	1,500
Scarring	HEAD & NECK	Scarring Neck – significant disfigurement	3,300	1,500
Shoulder	UPPER LIMBS	Shoulder Frozen – both shoulders – substantial recovery	3,300	1,500
Teeth	HEAD & NECK	Teeth Loss of: – front tooth/teeth (incisor or canine) – one front tooth	3,300	1,500
Teeth	HEAD & NECK	Teeth Loss of: – tooth/teeth other than front – two or more teeth	3,300	1,500
Tendon and/or Ligament and/or Cartilage	LOWER LIMBS	Tendon and/or Ligament and/or Cartilage Minor damage – one leg – continuing significant disability	3,300	1,500
Tendon and/or Ligament and/or Cartilage	LOWER LIMBS	Tendon and/or Ligament and/or Cartilage Severe damage – one leg – substantial recovery	3,300	1,500
Tendon and/or Ligament and/or Cartilage	UPPER LIMBS	Tendon and/or Ligament and/or Cartilage Severely damaged – one arm – substantial recovery	3,300	1,500
Ulna (a forearm bone)	UPPER LIMBS	Ulna (a forearm bone) Fractured – one arm – substantial recovery	3,300	1,500
Abdomen	TORSO	Abdomen Injury requiring laparotomy – including no repair or repair of one organ	3,800	1,800
Ankle	LOWER LIMBS	Ankle Sprained – both ankles – disabling for more than 13 weeks	3,800	1,800
Ear	HEAD & NECK	Ear Deafness – partial deafness (remaining hearing socially useful, with hearing aid if necessary) – one ear	3,800	1,800

Body Part	Body Area	Injury	Existing Tariff	Proposed Reduced Tariff
Face	HEAD & NECK	Face Fractured mandible and/or maxilla (jaw bones) – operation required – substantial recovery	3,800	1,800
Femur (thigh bone)	LOWER LIMBS	Femur (thigh bone) Fractured – one leg – substantial recovery	3,800	1,800
Fibula (slender bone from knee to ankle)	LOWER LIMBS	Fibula (slender bone from knee to ankle) Fractured – one leg – continuing significant disability	3,800	1,800
Finger and Thumb	UPPER LIMBS	Finger and Thumb Fracture/dislocation of: – index finger – one hand – continuing significant disability	3,800	1,800
Foot	LOWER LIMBS	Foot Fractured metatarsal bones – one foot – continuing significant disability	3,800	1,800
Hand	UPPER LIMBS	Hand Fractured hand – both hands – substantial recovery	3,800	1,800
Hernia	TORSO	Hernia – hernia	3,800	1,800
Knee	LOWER LIMBS	Knee Patella (knee cap) – removal of: – one knee	3,800	1,800
Lung	TORSO	Lung Collapsed – one lung	3,800	1,800
Shoulder	UPPER LIMBS	Shoulder Dislocated – both shoulders – substantial recovery	3,800	1,800
Teeth	HEAD & NECK	Teeth Fractured tooth/teeth requiring apicectomy (surgery to gum to reach root - root resection)	3,800	1,800
Tibia (shin bone)	LOWER LIMBS	Tibia (shin bone) Fractured – one leg – substantial recovery	3,800	1,800
Toe	LOWER LIMBS	Toe Fractured – great toe – both feet – substantial recovery	3,800	1,800
Wrist	UPPER LIMBS	Wrist Sprained – both wrists – disabling for more than 13 weeks	3,800	1,800
Ankle	LOWER LIMBS	Ankle Fractured or Dislocated – one ankle – substantial recovery	4,400	2,400
Back	TORSO	Back Fracture of vertebra – more than one vertebra – substantial recovery	4,400	2,400
Burns	HEAD & NECK	Burns Head – moderate	4,400	2,400
Burns	LOWER LIMBS	Burns Moderate	4,400	2,400
Burns	TORSO	Burns Moderate	4,400	2,400
Burns	UPPER LIMBS	Burns Moderate	4,400	2,400
Burns	HEAD & NECK	Burns Neck – moderate	4,400	2,400
Clavicle (collar bone)	TORSO	Clavicle (collar bone) Fractured – one clavicle – continuing significant disability	4,400	2,400
Clavicle (collar bone)	TORSO	Clavicle (collar bone) Fractured – two clavicles – substantial recovery	4,400	2,400
Ear	HEAD & NECK	Ear Loss of ear – partial loss of ear(s)	4,400	2,400
Eye	HEAD & NECK	Eye Blow out or other fracture of orbital bone cavity containing eyeball – requiring operation	4,400	2,400
Eye	HEAD & NECK	Eye Blurred or double vision – permanent – slight	4,400	2,400
Face	HEAD & NECK	Face Fractured ethmoid – operation required	4,400	2,400

Body Part	Body Area	Injury	Existing Tariff	Proposed Reduced Tariff
Face	HEAD & NECK	Face Fractured zygoma (malar/cheek bone) – no operation – continuing significant disability	4,400	2,400
Face	HEAD & NECK	Face Numbness/loss of feeling – permanent – severe eg lip interfering with function	4,400	2,400
Finger and Thumb	UPPER LIMBS	Finger and Thumb Fracture/dislocation of: – index finger – both hands – substantial recovery	4,400	2,400
Finger and Thumb	UPPER LIMBS	Finger and Thumb Fracture/dislocation of: – one finger other than index finger – both hands – continuing significant disability	4,400	2,400
Finger and Thumb	UPPER LIMBS	Finger and Thumb Fracture/dislocation of: – thumb – one hand – continuing significant disability	4,400	2,400
Finger and Thumb	UPPER LIMBS	Finger and Thumb Partial loss of: – thumb or index finger	4,400	2,400
Hip	LOWER LIMBS	Hip Fractured/Dislocated – one hip – substantial recovery	4,400	2,400
Knee	LOWER LIMBS	Knee Patella (knee cap) – fractured – both knees – substantial recovery	4,400	2,400
Medically recognised illness/condition - not mental illness	GENERAL	Medically recognised illness/condition - not mental illness Seriously disabling disorder where the symptoms and disability persist for more than 6 weeks from the incident/date of onset – lasting up to 28 weeks	4,400	2,400
Mental illness	GENERAL	Mental illness Disabling mental illness, confirmed by psychiatric diagnosis: – lasting over 28 weeks to 2 years	4,400	2,400
Nose	HEAD & NECK	Nose Partial loss of nose (at least 10%)	4,400	2,400
Pelvis	TORSO	Pelvis Fractured – substantial recovery	4,400	2,400
Scapula (shoulder blade)	TORSO	Scapula (shoulder blade) – both scapulas – substantial recovery	4,400	2,400
Scapula (shoulder blade)	TORSO	Scapula (shoulder blade) Fractured – one scapula – continuing significant disability	4,400	2,400
Scarring	HEAD & NECK	Scarring Face – significant disfigurement	4,400	2,400
Skull	HEAD & NECK	Skull Fracture – depressed – no operation	4,400	2,400
Teeth	HEAD & NECK	Teeth Loss of: – front tooth/teeth (incisor or canine) – two or three front teeth	4,400	2,400
Tendon and/or Ligament and/or Cartilage	UPPER LIMBS	Tendon and/or Ligament and/or Cartilage Minor damage – both arms – continuing significant disability	4,400	2,400
Tendon and/or Ligament and/or Cartilage	UPPER LIMBS	Tendon and/or Ligament and/or Cartilage Moderate damage – both arms – substantial recovery	4,400	2,400
Tendon and/or Ligament and/or Cartilage	LOWER LIMBS	Tendon and/or Ligament and/or Cartilage Moderate damage – both legs – substantial recovery	4,400	2,400
Tendon and/or Ligament and/or Cartilage	UPPER LIMBS	Tendon and/or Ligament and/or Cartilage Moderate damage – one arm – continuing significant disability	4,400	2,400
Toe	LOWER LIMBS	Toe Fractured – two or more toes – both feet – continuing significant disability	4,400	2,400

Body Part	Body Area	Injury	Existing Tariff	Proposed Reduced Tariff
Toe	LOWER LIMBS	Toe Loss of: – two or more toes	4,400	2,400
Wrist	UPPER LIMBS	Wrist Fractured - colles type or equivalent fracture/displacement of distal radius – one wrist – substantial recovery	4,400	2,400
Wrist	UPPER LIMBS	Wrist Fractured/dislocated – including scaphoid fracture – one wrist – substantial recovery	4,400	2,400
Abdomen	TORSO	Abdomen Injury requiring laparotomy/laparoscopy – including repair of two organs	5,500	3,500
Abdomen	TORSO	Abdomen Laparotomy with colostomy and/or ileostomy and/or ureterostomy lasting more than 14 weeks but not permanent	5,500	3,500
Back	TORSO	Back Fracture of vertebra – one vertebra – continuing significant disability	5,500	3,500
Back	TORSO	Back Prolapsed intervertebral disc(s) – seriously disabling – not permanent	5,500	3,500
Back	TORSO	Back Strained – seriously disabling – not permanent	5,500	3,500
Burns	HEAD & NECK	Burns Face – moderate	5,500	3,500
Eye	HEAD & NECK	Eye Dislocation of lens – one eye	5,500	3,500
Eye	HEAD & NECK	Eye Permanent loss of visual field – moderate	5,500	3,500
Eye	HEAD & NECK	Eye Retina – damage not involving detachment – both eyes	5,500	3,500
Eye	HEAD & NECK	Eye Retina – detached – one eye	5,500	3,500
Face	HEAD & NECK	Face Clicking jaw – permanent	5,500	3,500
Face	HEAD & NECK	Face Dislocated jaw – continuing significant disability	5,500	3,500
Face	HEAD & NECK	Face Fractured mandible and/or maxilla (jaw bones) – no operation – continuing significant disability	5,500	3,500
Face	HEAD & NECK	Face Fractured zygoma (malar/cheek bone) – operation required – continuing significant disability	5,500	3,500
Femur (thigh bone)	LOWER LIMBS	Femur (thigh bone) Fractured – both legs – substantial recovery	5,500	3,500
Fibula (slender bone from knee to ankle)	LOWER LIMBS	Fibula (slender bone from knee to ankle) Fractured – both legs – continuing significant disability	5,500	3,500
Finger and Thumb	UPPER LIMBS	Finger and Thumb Fracture/dislocation of: – thumb – both hands – substantial recovery	5,500	3,500
Finger and Thumb	UPPER LIMBS	Finger and Thumb Loss of: – finger other than index finger	5,500	3,500
Finger and Thumb	UPPER LIMBS	Finger and Thumb Partial loss of: – two or more fingers other than index finger or thumb	5,500	3,500
Foot	LOWER LIMBS	Foot Fractured metatarsal bones – both feet – continuing significant disability	5,500	3,500
Foot	LOWER LIMBS	Foot Fractured tarsal bones – both feet – substantial recovery	5,500	3,500
Genitalia	TORSO	Genitalia Injury requiring medical treatment – permanent damage – moderate	5,500	3,500

Body Part	Body Area	Injury	Existing Tariff	Proposed Reduced Tariff
Hand	UPPER LIMBS	Hand Fractured hand – one hand – continuing significant disability	5,500	3,500
Heel	LOWER LIMBS	Heel Fractured heel bone – both feet – substantial recovery	5,500	3,500
Hernia	TORSO	Hernia – hernias	5,500	3,500
Humerus (upper arm bone)	UPPER LIMBS	Humerus (upper arm bone) Fractured – one arm – continuing significant disability	5,500	3,500
Knee	LOWER LIMBS	Knee Patella (knee cap) – dislocated – one knee – continuing significant disability	5,500	3,500
Knee	LOWER LIMBS	Knee Patella (knee cap) – fractured – one knee – continuing significant disability	5,500	3,500
Knee	LOWER LIMBS	Knee Patella (knee cap) – removal of: – both knees	5,500	3,500
Neck	HEAD & NECK	Neck Strained neck or whiplash injury – seriously disabling – not permanent	5,500	3,500
Nose	HEAD & NECK	Nose Loss of smell/taste – partial loss of smell and/or taste	5,500	3,500
Radius (a forearm bone)	UPPER LIMBS	Radius (a forearm bone) Fractured – one arm – continuing significant disability	5,500	3,500
Scarring	HEAD & NECK	Scarring Head – serious disfigurement	5,500	3,500
Scarring	LOWER LIMBS	Scarring Serious disfigurement	5,500	3,500
Scarring	TORSO	Scarring Serious disfigurement	5,500	3,500
Scarring	UPPER LIMBS	Scarring Serious disfigurement	5,500	3,500
Shoulder	UPPER LIMBS	Shoulder Dislocated – one shoulder – continuing significant disability	5,500	3,500
Shoulder	UPPER LIMBS	Shoulder Frozen – one shoulder – continuing significant disability	5,500	3,500
Skull	HEAD & NECK	Skull Fracture – simple – requiring operation	5,500	3,500
Sternum (breast bone)	TORSO	Sternum (breast bone) Fractured – continuing significant disability	5,500	3,500
Teeth	HEAD & NECK	Teeth Loss of: – front tooth/teeth (incisor or canine) – four or more front teeth	5,500	3,500
Tendon and/or Ligament and/or Cartilage	LOWER LIMBS	Tendon and/or Ligament and/or Cartilage Minor damage – both legs – continuing significant disability	5,500	3,500
Tendon and/or Ligament and/or Cartilage	LOWER LIMBS	Tendon and/or Ligament and/or Cartilage Moderate damage – one leg – continuing significant disability	5,500	3,500
Tendon and/or Ligament and/or Cartilage	UPPER LIMBS	Tendon and/or Ligament and/or Cartilage Severely damaged – one arm – continuing significant disability	5,500	3,500
Tibia (shin bone)	LOWER LIMBS	Tibia (shin bone) Fractured – both legs – substantial recovery	5,500	3,500
Toe	LOWER LIMBS	Toe Partial loss of: – both great toes	5,500	3,500
Tongue	HEAD & NECK	Tongue Impaired speech – moderate	5,500	3,500

Body Part	Body Area	Injury	Existing Tariff	Proposed Reduced Tariff
Ulna (a forearm bone)	UPPER LIMBS	Ulna (a forearm bone) Fractured – one arm – continuing significant disability	5,500	3,500
Clavicle (collar bone)	TORSO	Clavicle (collar bone) Fractured – two clavicles – continuing significant disability	6,600	4,600
Eye	HEAD & NECK	Eye Partial loss of vision when corrected by glasses or contact lenses or other means eg laser surgery – 6/12	6,600	4,600
Eye	HEAD & NECK	Eye Significant penetrating injury – both eyes	6,600	4,600
Femur (thigh bone)	LOWER LIMBS	Femur (thigh bone) Fractured – one leg – continuing significant disability	6,600	4,600
Finger and Thumb	UPPER LIMBS	Finger and Thumb Fracture/dislocation of: – index finger – both hands – continuing significant disability	6,600	4,600
Finger and Thumb	UPPER LIMBS	Finger and Thumb Fracture/dislocation of: – two or more fingers other than index finger – both hands – continuing significant disability	6,600	4,600
Lung	TORSO	Lung Punctured – both lungs	6,600	4,600
Scapula (shoulder blade)	TORSO	Scapula (shoulder blade) – both scapulas – continuing significant disability	6,600	4,600
Scarring	HEAD & NECK	Scarring Neck – serious disfigurement	6,600	4,600
Skull	HEAD & NECK	Skull Fracture – depressed – requiring operation	6,600	4,600
Tendon and/or Ligament and/or Cartilage	LOWER LIMBS	Tendon and/or Ligament and/or Cartilage Severe damage – both legs – substantial recovery	6,600	4,600
Tendon and/or Ligament and/or Cartilage	UPPER LIMBS	Tendon and/or Ligament and/or Cartilage Severely damaged – both arms – substantial recovery	6,600	4,600
Tibia (shin bone)	LOWER LIMBS	Tibia (shin bone) Fractured – one leg – continuing significant disability	6,600	4,600
Abdomen	TORSO	Abdomen Injury requiring laparotomy/laparoscopy – including repair of three or more organs	8,200	6,200
Ankle	LOWER LIMBS	Ankle Fractured or Dislocated – both ankles – substantial recovery	8,200	6,200
Back	TORSO	Back Fracture of vertebra – more than one vertebra – continuing significant disability	8,200	6,200
Back	TORSO	Back Prolapsed intervertebral disc(s) – seriously disabling – permanent	8,200	6,200
Brain Damage	HEAD & NECK	Brain Damage Epilepsy – well controlled on medication	8,200	6,200
Brain Damage	HEAD & NECK	Brain Damage Minor brain damage Good recovery, able to socialise and return to work but persisting problems with concentration, memory, disinhibition of mood affecting lifestyle, leisure activities, future work prospects – slight and short lived (6 months)	8,200	6,200
Brain Damage	HEAD & NECK	Brain Damage Minor head injury Brain injury, if any, minimal. Concussion/impairment of balance/headaches – permanent	8,200	6,200
Chest	TORSO	Chest Injury requiring thoracotomy	8,200	6,200
Ear	HEAD & NECK	Ear Deafness – partial deafness (remaining hearing socially useful, with hearing aid if necessary) – both ears	8,200	6,200

Body Part	Body Area	Injury	Existing Tariff	Proposed Reduced Tariff
Ear	HEAD & NECK	Ear Tinnitus (ringing noise in ear(s)) – permanent – other than very severe	8,200	6,200
Ear	HEAD & NECK	Ear Vestibular damage (causing giddiness) – permanent	8,200	6,200
Elbow	UPPER LIMBS	Elbow Dislocated/fractured – both elbows – substantial recovery	8,200	6,200
Elbow	UPPER LIMBS	Elbow Dislocated/fractured – one elbow – continuing significant disability	8,200	6,200
Eye	HEAD & NECK	Eye Blurred or double vision – permanent – moderate	8,200	6,200
Eye	HEAD & NECK	Eye Cataracts – both eyes – requiring operation	8,200	6,200
Eye	HEAD & NECK	Eye Cataracts – one eye – permanent/inoperable	8,200	6,200
Eye	HEAD & NECK	Eye Partial loss of vision when corrected by glasses or contact lenses or other means eg laser surgery – 6/18	8,200	6,200
Face	HEAD & NECK	Face Fractured mandible and/or maxilla (jaw bones) – operation required – continuing significant disability	8,200	6,200
Finger and Thumb	UPPER LIMBS	Finger and Thumb Fracture/dislocation of: – thumb – both hands – continuing significant disability	8,200	6,200
Finger and Thumb	UPPER LIMBS	Finger and Thumb Loss of: – index finger	8,200	6,200
Finger and Thumb	UPPER LIMBS	Finger and Thumb Partial loss of: – thumb and index finger - one hand	8,200	6,200
Finger and Thumb	UPPER LIMBS	Finger and Thumb Partial loss of: – thumb or index finger - both hands	8,200	6,200
Foot	LOWER LIMBS	Foot Fractured tarsal bones – one foot – continuing significant disability	8,200	6,200
Hand	UPPER LIMBS	Hand Fractured hand – both hands – continuing significant disability	8,200	6,200
Hand	UPPER LIMBS	Hand Permanently & seriously impaired grip – one hand	8,200	6,200
Heel	LOWER LIMBS	Heel Fractured heel bone – one foot – continuing significant disability	8,200	6,200
Hip	LOWER LIMBS	Hip Fractured/Dislocated – both hips – substantial recovery	8,200	6,200
Humerus (upper arm bone)	UPPER LIMBS	Humerus (upper arm bone) Fractured – both arms – substantial recovery	8,200	6,200
Knee	LOWER LIMBS	Knee Patella (knee cap) – dislocated – both knees – continuing significant disability	8,200	6,200
Knee	LOWER LIMBS	Knee Patella (knee cap) – fractured – both knees – continuing significant disability	8,200	6,200
Lung	TORSO	Lung Collapsed – both lungs	8,200	6,200
Medically recognised illness/condition - not mental illness	GENERAL	Medically recognised illness/condition - not mental illness Moderately disabling disorder where the symptoms and disability persist for more than 6 weeks from the incident/date of onset – lasting over 28 weeks – permanent	8,200	6,200

Body Part	Body Area	Injury	Existing Tariff	Proposed Reduced Tariff
Medically recognised illness/condition - not mental illness	GENERAL	Medically recognised illness/condition - not mental illness Seriously disabling disorder where the symptoms and disability persist for more than 6 weeks from the incident/date of onset – lasting over 28 weeks – not permanent	8,200	6,200
Mental illness	GENERAL	Mental illness Disabling mental illness, confirmed by psychiatric diagnosis: – lasting 2 years to 5 years	8,200	6,200
Peripheral motor nerve damage not otherwise compensated for	GENERAL	Peripheral motor nerve damage not otherwise compensated for – permanent disability – significant (eg paralysis or equivalent loss of handgrip/foot movement)	8,200	6,200
Peripheral sensory nerve damage	GENERAL	Peripheral sensory nerve damage – permanent disability – serious loss (eg loss of sensation of hand)	8,200	6,200
Radius (a forearm bone)	UPPER LIMBS	Radius (a forearm bone) Fractured – both arms – substantial recovery	8,200	6,200
Shoulder	UPPER LIMBS	Shoulder Dislocated – both shoulders – continuing significant disability	8,200	6,200
Shoulder	UPPER LIMBS	Shoulder Frozen – both shoulders – continuing significant disability	8,200	6,200
Tendon and/or Ligament and/or Cartilage	UPPER LIMBS	Tendon and/or Ligament and/or Cartilage Moderate damage – both arms – continuing significant disability	8,200	6,200
Tendon and/or Ligament and/or Cartilage	LOWER LIMBS	Tendon and/or Ligament and/or Cartilage Severe damage – one leg – continuing significant disability	8,200	6,200
Toe	LOWER LIMBS	Toe Fractured – great toe – one foot – continuing significant disability	8,200	6,200
Toe	LOWER LIMBS	Toe Loss of: – great toe	8,200	6,200
Ulna (a forearm bone)	UPPER LIMBS	Ulna (a forearm bone) Fractured – both arms – substantial recovery	8,200	6,200
Wrist	UPPER LIMBS	Wrist Fractured - colles type or equivalent fracture/displacement of distal radius – both wrists – substantial recovery	8,200	6,200
Wrist	UPPER LIMBS	Wrist Fractured - colles type or equivalent fracture/displacement of distal radius – one wrist – continuing significant disability	8,200	6,200
Wrist	UPPER LIMBS	Wrist Fractured/dislocated – including scaphoid fracture – both wrists – substantial recovery	8,200	6,200
Wrist	UPPER LIMBS	Wrist Fractured/dislocated – including scaphoid fracture – one wrist – continuing significant disability	8,200	6,200

TARIFF AWARDS FOR SERIOUS INJURIES (UNCHANGED)
TARIFF LEVELS 13-25 (135 INJURIES)

Body Part	Body Area	Injury	Tariff
Fatal injury	GENERAL	GENERAL Fatal injury One qualifying claimant	11,000
Sexual offence where victim is any age (if not already compensated as a child)	GENERAL	GENERAL Sexual offence where victim is any age (if not already compensated as a child) Non-consensual penile penetration of the vagina and/or anus and/or mouth – by one attacker	11,000
Sexual offence where victim is a child or an adult who is incapable of giving consent	GENERAL	GENERAL Sexual offence where victim is a child (under age of 18 at time or commencement of offence) or an adult who by reason of mental incapacity is incapable of giving consent -Non-consensual penile penetration of the vagina and/or anus and/or mouth – one incident	11,000
Sexual offence, additional awards where the following are directly attributable to a sexual offence	GENERAL	GENERAL Sexual offences - additional awards where the following are directly attributable to a sexual offence (whether victim is an adult or a child) - not subject to the multiple injuries formula and may be paid in addition to other awards Sexually transmitted disease other than HIV/Hepatitis B/Hepatitis C – permanent disability	11,000
Scarring	HEAD & NECK	HEAD & NECK Scarring Face – serious disfigurement	11,000
Ear	HEAD & NECK	HEAD & NECK Ear Loss of ear – loss of ear	11,000
Face	HEAD & NECK	HEAD & NECK Face Multiple fractures to face (e.g. Le Fort fractures types 2 & 3)	11,000
Neck	HEAD & NECK	HEAD & NECK Neck Strained neck or whiplash injury – seriously disabling – permanent	11,000
Nose	HEAD & NECK	HEAD & NECK Nose Loss of smell/taste – total – loss of smell or taste	11,000
Tongue	HEAD & NECK	HEAD & NECK Tongue Impaired speech – serious	11,000
Burns	UPPER LIMBS	UPPER LIMBS Burns Severe	11,000
Elbow	UPPER LIMBS	UPPER LIMBS Elbow Dislocated/fractured – both elbows – continuing significant disability	11,000
Finger and Thumb	UPPER LIMBS	UPPER LIMBS Finger and Thumb Loss of: – two or more fingers	11,000
Humerus (upper arm bone)	UPPER LIMBS	UPPER LIMBS Humerus (upper arm bone) Fractured – both arms – continuing significant disability	11,000
Radius (a forearm bone)	UPPER LIMBS	UPPER LIMBS Radius (a forearm bone) Fractured – both arms – continuing significant disability	11,000
Tendon and/or Ligament and/or Cartilage	UPPER LIMBS	UPPER LIMBS Tendon and/or Ligament and/or Cartilage Severely damaged – both arms – continuing significant disability	11,000
Ulna (a forearm bone)	UPPER LIMBS	UPPER LIMBS Ulna (a forearm bone) Fractured – both arms – continuing significant disability	11,000
Wrist	UPPER LIMBS	UPPER LIMBS Wrist Fractured - colles type or equivalent fracture/displacement of distal radius – both wrists – continuing significant disability	11,000
Wrist	UPPER LIMBS	UPPER LIMBS Wrist Fractured/dislocated – including scaphoid fracture – both wrists – continuing significant disability	11,000
Burns	TORSO	TORSO Burns Severe	11,000

Body Part	Body Area	Injury	Tariff
Back	TORSO	TORSO Back Ruptured intervertebral disc(s) - requiring surgical removal	11,000
Back	TORSO	TORSO Back Strained – seriously disabling – permanent	11,000
Genitalia	TORSO	TORSO Genitalia Injury requiring medical treatment – permanent damage – severe	11,000
Kidney	TORSO	TORSO Kidney Loss of kidney	11,000
Lung	TORSO	TORSO Lung Permanent and disabling damage to lungs from smoke or chemical inhalation	11,000
Pelvis	TORSO	TORSO Pelvis Fractured – continuing significant disability	11,000
Spleen	TORSO	TORSO Spleen Loss of spleen	11,000
Burns	LOWER LIMBS	LOWER LIMBS Burns Severe	11,000
Ankle	LOWER LIMBS	LOWER LIMBS Ankle Fractured or Dislocated – one ankle – continuing significant disability	11,000
Femur (thigh bone)	LOWER LIMBS	LOWER LIMBS Femur (thigh bone) Fractured – both legs – continuing significant disability	11,000
Hip	LOWER LIMBS	LOWER LIMBS Hip Fractured/Dislocated – one hip – continuing significant disability	11,000
Tendon and/or Ligament and/or Cartilage	LOWER LIMBS	LOWER LIMBS Tendon and/or Ligament and/or Cartilage Moderate damage – both legs – continuing significant disability	11,000
Tibia (shin bone)	LOWER LIMBS	LOWER LIMBS Tibia (shin bone) Fractured – both legs – continuing significant disability	11,000
Mental illness	GENERAL	GENERAL Mental illness Disabling mental illness, confirmed by psychiatric diagnosis: – lasting over 5 years but not permanent	13,500
Physical abuse of children	GENERAL	GENERAL Physical abuse of children Severe abuse – persistent pattern of repetitive violence resulting in: – severe multiple injuries	13,500
Sexual offence where victim is any age (if not already compensated as a child)	GENERAL	GENERAL Sexual offence where victim is any age (if not already compensated as a child) Non-consensual penile penetration of the vagina and/or anus and/or mouth – by two or more attackers	13,500
Sexual offence where victim is a child or an adult who is incapable of giving consent	GENERAL	GENERAL Sexual offence where victim is a child (under age of 18 at time or commencement of offence) or an adult who by reason of mental incapacity is incapable of giving consent - Non-consensual penile penetration of the vagina and/or anus and/or mouth – one incident involving two or more attackers	13,500
Brain Damage	HEAD & NECK	HEAD & NECK Brain Damage Epilepsy – partially controlled on medication	13,500
Eye	HEAD & NECK	HEAD & NECK Eye Blurred or double vision – permanent – serious	13,500
Eye	HEAD & NECK	HEAD & NECK Eye Dislocation of lens – both eyes	13,500
Eye	HEAD & NECK	HEAD & NECK Eye Partial loss of vision when corrected by glasses or contact lenses or other means eg laser surgery – 6/24	13,500
Eye	HEAD & NECK	HEAD & NECK Eye Retina – detached – both eyes	13,500
Abdomen	TORSO	TORSO Abdomen Laparotomy with permanent colostomy and/or ileostomy and/or ureterostomy	13,500
Foot	LOWER LIMBS	LOWER LIMBS Foot Fractured tarsal bones – both feet – continuing significant disability	13,500
Heel	LOWER LIMBS	LOWER LIMBS Heel Fractured heel bone – both feet – continuing significant disability	13,500
Toe	LOWER LIMBS	LOWER LIMBS Toe Fractured – great toe – both feet	13,500

Body Part	Body Area	Injury	Tariff
		– continuing significant disability	
Toe	LOWER LIMBS	LOWER LIMBS Toe Loss of: – both great toes	13,500
Sexual offence where victim is any age (if not already compensated as a child)	GENERAL	GENERAL Sexual offence where victim is any age (if not already compensated as a child) Non-consensual penile penetration of the vagina and/or anus and/or mouth – pattern of repetitive incidents (whether by one or more attackers) over a period – up to 3 years	16,500
Sexual offence where victim is a child or an adult who is incapable of giving consent	GENERAL	GENERAL Sexual offence where victim is a child (under age of 18 at time or commencement of offence) or an adult who by reason of mental incapacity is incapable of giving consent - Non-consensual penile penetration of the vagina and/or anus and/or mouth – repeated incidents over a period – up to 3 years	16,500
Burns	HEAD & NECK	HEAD & NECK Burns Head – severe	16,500
Burns	HEAD & NECK	HEAD & NECK Burns Neck – severe	16,500
Brain Damage	HEAD & NECK	HEAD & NECK Brain Damage Minor brain damage Good recovery, able to socialise and return to work but persisting problems with concentration, memory, disinhibition of mood affecting lifestyle, leisure activities, future work prospects - moderate and medium term (2 years)	16,500
Ear	HEAD & NECK	HEAD & NECK Ear Deafness – total deafness – one ear	16,500
Ear	HEAD & NECK	HEAD & NECK Ear Tinnitus (ringing noise in ear(s)) – permanent – very severe	16,500
Eye	HEAD & NECK	HEAD & NECK Eye Partial loss of vision when corrected by glasses or contact lenses or other means eg laser surgery – 6/36	16,500
Nose	HEAD & NECK	HEAD & NECK Nose Loss of smell/taste – total – loss of smell and taste	16,500
Finger and Thumb	UPPER LIMBS	UPPER LIMBS Finger and Thumb Loss of: – both index fingers	16,500
Finger and Thumb	UPPER LIMBS	UPPER LIMBS Finger and Thumb Loss of: – thumb	16,500
Finger and Thumb	UPPER LIMBS	UPPER LIMBS Finger and Thumb Partial loss of: – thumb and index finger - both hands	16,500
Hand	UPPER LIMBS	UPPER LIMBS Hand Permanently & seriously impaired grip – both hands	16,500
Chest	TORSO	TORSO Chest Injury requiring thoracotomy with removal/extensive repair of organ or organs	16,500
Pancreas	TORSO	TORSO Pancreas Loss of pancreas	16,500
Ankle	LOWER LIMBS	LOWER LIMBS Ankle Fractured or Dislocated – both ankles – continuing significant disability	16,500
Hip	LOWER LIMBS	LOWER LIMBS Hip Fractured/Dislocated – both hips – continuing significant disability	16,500
Tendon and/or Ligament and/or Cartilage	LOWER LIMBS	LOWER LIMBS Tendon and/or Ligament and/or Cartilage Severe damage – both legs – continuing significant disability	16,500
Mental illness	GENERAL	GENERAL Mental illness Permanent mental illness, confirmed by psychiatric prognosis – moderately disabling	19,000
Ear	HEAD & NECK	HEAD & NECK Ear Loss of ear – loss of both ears	19,000
Eye	HEAD & NECK	HEAD & NECK Eye Cataracts – both eyes – permanent/inoperable	19,000
Eye	HEAD & NECK	HEAD & NECK Eye Partial loss of vision when corrected by glasses or contact lenses or other means eg laser surgery – 6/60	19,000
Tongue	HEAD & NECK	HEAD & NECK Tongue Impaired speech – severe	19,000

Body Part	Body Area	Injury	Tariff
Infection with HIV/Hepatitis B/Hepatitis C	GENERAL	GENERAL Infection with HIV/Hepatitis B/Hepatitis C Infection with HIV/Hepatitis B/Hepatitis C	22,000
Medically recognised illness/condition – not mental illness	GENERAL	GENERAL Medically recognised illness/condition – not mental illness Seriously disabling disorder where the symptoms and disability persist for more than 6 weeks from the incident/date of onset – lasting over 28 weeks – permanent	22,000
Sexual offence where victim is any age (if not already compensated as a child)	GENERAL	GENERAL Sexual offence where victim is any age (if not already compensated as a child) Sexual assault – resulting in serious internal bodily injuries	22,000
Sexual offence where victim is any age (if not already compensated as a child)	GENERAL	GENERAL Sexual offence where victim is any age (if not already compensated as a child) Non-consensual penile penetration of the vagina and/or anus and/or mouth – resulting in serious internal bodily injuries	22,000
Sexual offence where victim is any age (if not already compensated as a child)	GENERAL	GENERAL Sexual offence where victim is any age (if not already compensated as a child) Non-consensual penile penetration of the vagina and/or anus and/or mouth – resulting in permanently disabling mental illness confirmed by psychiatric prognosis – moderate mental illness	22,000
Sexual offence where victim is any age (if not already compensated as a child)	GENERAL	GENERAL Sexual offence where victim is any age (if not already compensated as a child) Non-consensual penile penetration of the vagina and/or anus and/or mouth – pattern of repetitive incidents (whether by one or more attackers) over a period – exceeding 3 years	22,000
Sexual offence where victim is a child or an adult who is incapable of giving consent	GENERAL	GENERAL Sexual offence where victim is a child (under age of 18 at time or commencement of offence) or an adult who by reason of mental incapacity is incapable of giving consent – pattern of repetitive, frequent incidents – resulting in serious internal bodily injuries	22,000
Sexual offence where victim is a child or an adult who is incapable of giving consent	GENERAL	GENERAL Sexual offence where victim is a child (under age of 18 at time or commencement of offence) or an adult who by reason of mental incapacity is incapable of giving consent – pattern of repetitive, frequent incidents – resulting in permanently disabling mental illness confirmed by psychiatric prognosis - moderate mental illness	22,000
Sexual offence where victim is a child or an adult who is incapable of giving consent	GENERAL	GENERAL Sexual offence where victim is a child (under age of 18 at time or commencement of offence) or an adult who by reason of mental incapacity is incapable of giving consent - Non-consensual penile penetration of the vagina and/or anus and/or mouth – exceeding 3 years	22,000
Sexual offence where victim is a child or an adult who is incapable of giving consent	GENERAL	GENERAL Sexual offence where victim is a child (under age of 18 at time or commencement of offence) or an adult who by reason of mental incapacity is incapable of giving consent - Non-consensual penile penetration of the vagina and/or anus and/or mouth – resulting in serious internal bodily injuries	22,000
Sexual offence where victim is a child or an adult	GENERAL	GENERAL Sexual offence where victim is a child (under age of 18 at time or commencement of offence) or an adult who by reason of mental	22,000

Body Part	Body Area	Injury	Tariff
who is incapable of giving consent		incapacity is incapable of giving consent - Non-consensual penile penetration of the vagina and/or anus and/or mouth – resulting in permanently disabling mental illness confirmed by psychiatric prognosis - moderate mental illness	
Sexual offence, additional awards where the following are directly attributable to a sexual offence	GENERAL	GENERAL Sexual offences - additional awards where the following are directly attributable to a sexual offence (whether victim is an adult or a child) - not subject to the multiple injuries formula and may be paid in addition to other awards Infection with HIV/Hepatitis B/Hepatitis C	22,000
Brain Damage	HEAD & NECK	HEAD & NECK Brain Damage Minor brain damage Good recovery, able to socialise and return to work but persisting problems with concentration, memory, disinhibition of mood affecting lifestyle, leisure activities, future work prospects - significant and long lasting (more than 2 years)	22,000
Eye	HEAD & NECK	HEAD & NECK Eye Loss of sight – one eye	22,000
Mental illness	GENERAL	GENERAL Mental illness Permanent mental illness, confirmed by psychiatric prognosis – seriously disabling	27,000
Sexual offence where victim is any age (if not already compensated as a child)	GENERAL	GENERAL Sexual offence where victim is any age (if not already compensated as a child) Sexual assault - resulting in permanently disabling mental illness confirmed by psychiatric prognosis	27,000
Sexual offence where victim is any age (if not already compensated as a child)	GENERAL	GENERAL Sexual offence where victim is any age (if not already compensated as a child) Non-consensual penile penetration of the vagina and/or anus and/or mouth – resulting in permanently disabling mental illness confirmed by psychiatric prognosis - severe mental illness	27,000
Sexual offence where victim is a child or an adult who is incapable of giving consent	GENERAL	GENERAL Sexual offence where victim is a child (under age of 18 at time or commencement of offence) or an adult who by reason of mental incapacity is incapable of giving consent – pattern of repetitive, frequent incidents – resulting in permanently disabling mental illness confirmed by psychiatric prognosis - severe mental illness	27,000
Sexual offence where victim is a child or an adult who is incapable of giving consent	GENERAL	GENERAL Sexual offence where victim is a child (under age of 18 at time or commencement of offence) or an adult who by reason of mental incapacity is incapable of giving consent - Non-consensual penile penetration of the vagina and/or anus and/or mouth - resulting in permanently disabling mental illness confirmed by a psychiatric prognosis - severe mental illness	27,000
Burns	HEAD & NECK	HEAD & NECK Burns Face – severe	27,000
Brain Damage	HEAD & NECK	HEAD & NECK Brain Damage Moderate brain damage Some dependence on others, intellectual deficit, personality change, ability to work reduced, some effect on the senses – slight	27,000
Eye	HEAD & NECK	HEAD & NECK Eye Loss of eye – one eye	27,000
Arm	UPPER LIMBS	UPPER LIMBS Arm Paralysis of or equivalent loss of function of: – one non-dominant arm	27,000
Leg	LOWER LIMBS	LOWER LIMBS Leg Paralysis of leg (see also major paralysis (paraplegia))	27,000
Burns	GENERAL	GENERAL Burns Affecting multiple areas of body covering over 25% of skin area, with significant	33,000

Body Part	Body Area	Injury	Tariff
		scarring	
Sexual offence where victim is any age (if not already compensated as a child)	GENERAL	GENERAL Sexual offence where victim is any age (if not already compensated as a child) Non-consensual penile penetration of the vagina and/or anus and/or mouth – resulting in serious internal bodily injury with permanent disabling mental illness confirmed by psychiatric prognosis - moderate mental illness	33,000
Sexual offence where victim is a child or an adult who is incapable of giving consent	GENERAL	GENERAL Sexual offence where victim is a child (under age of 18 at time or commencement of offence) or an adult who by reason of mental incapacity is incapable of giving consent - Non-consensual penile penetration of the vagina and/or anus and/or mouth – resulting in serious internal bodily injury with permanent disabling mental illness confirmed by psychiatric prognosis - moderate mental illness	33,000
Ear	HEAD & NECK	HEAD & NECK Ear Deafness – total deafness - in only hearing ear	33,000
Eye	HEAD & NECK	HEAD & NECK Eye Loss of sight – one eye, where the sight in the uninjured eye cannot be corrected to better than 6/36	33,000
Tongue	HEAD & NECK	HEAD & NECK Tongue Loss of speech - permanent	33,000
Arm	UPPER LIMBS	UPPER LIMBS Arm Loss of: – one non-dominant arm	33,000
Hand	UPPER LIMBS	UPPER LIMBS Hand Loss of, or equivalent loss of function of: – one non-dominant hand	33,000
Leg	LOWER LIMBS	LOWER LIMBS Leg Loss of: – one leg – below knee	33,000
Arm	UPPER LIMBS	UPPER LIMBS Arm Paralysis of or equivalent loss of function of: – one dominant arm	40,000
Sexual offence where victim is any age (if not already compensated as a child)	GENERAL	GENERAL Sexual offence where victim is any age (if not already compensated as a child) Non-consensual penile penetration of the vagina and/or anus and/or mouth – resulting in serious internal bodily injury with permanent disabling mental illness confirmed by psychiatric prognosis - severe mental illness	44,000
Sexual offence where victim is a child or an adult who is incapable of giving consent	GENERAL	GENERAL Sexual offence where victim is a child (under age of 18 at time or commencement of offence) or an adult who by reason of mental incapacity is incapable of giving consent - Non-consensual penile penetration of the vagina and/or anus and/or mouth - severe mental illness	44,000
Brain Damage	HEAD & NECK	HEAD & NECK Brain Damage Epilepsy – uncontrolled despite medication	44,000
Eye	HEAD & NECK	HEAD & NECK Eye Permanent loss of visual field – serious	44,000
Tongue	HEAD & NECK	HEAD & NECK Tongue Loss of tongue	44,000
Leg	LOWER LIMBS	LOWER LIMBS Leg Loss of: – one leg – above knee	44,000
Major paralysis	GENERAL	GENERAL Major paralysis Hemiplegia (paralysis of one side of the body)	55,000
Brain Damage	HEAD & NECK	HEAD & NECK Brain Damage Moderate brain damage Some dependence on others, intellectual deficit, personality change, ability to work reduced, some effect on the senses – moderate	55,000
Eye	HEAD & NECK	HEAD & NECK Eye substantial loss of vision (both eyes) at least 6/36 in each eye or worse	55,000
Arm	UPPER LIMBS	UPPER LIMBS Arm Loss of: – one dominant arm	55,000
Finger and Thumb	UPPER LIMBS	UPPER LIMBS Finger and Thumb Loss of: – both	55,000

Body Part	Body Area	Injury	Tariff
		thumbs	
Hand	UPPER LIMBS	UPPER LIMBS Hand Loss of, or equivalent loss of function of: – one dominant hand	55,000
Genitalia	TORSO	TORSO Genitalia Loss of fertility	55,000
Kidney	TORSO	TORSO Kidney Serious and permanent damage to or loss of both or only functioning kidney	55,000
Brain Damage	HEAD & NECK	HEAD & NECK Brain Damage Moderate brain damage Some dependence on others, intellectual deficit, personality change, ability to work reduced, some effect on the senses – significant	82,000
Eye	HEAD & NECK	HEAD & NECK Eye Loss of sight – one eye, where the uninjured eye is already totally blind	82,000
Arm	UPPER LIMBS	UPPER LIMBS Arm Loss of: – one arm where there is no remaining arm/hand with any useful function	82,000
Arm	UPPER LIMBS	UPPER LIMBS Arm Paralysis of or equivalent loss of function of: – total loss of function of one arm where there is no remaining arm/hand with any useful function	82,000
Arm	UPPER LIMBS	UPPER LIMBS Arm Paralysis of or equivalent loss of function of: – both arms	82,000
Hand	UPPER LIMBS	UPPER LIMBS Hand Loss of, or equivalent loss of function of: – loss of, or total loss of function of one hand where there is no remaining hand/arm with any useful function	82,000
Leg	LOWER LIMBS	LOWER LIMBS Leg Loss of: – loss of, or total loss of function of one leg where there is no remaining leg with useful function	82,000
Brain Damage	HEAD & NECK	HEAD & NECK Brain Damage Moderately severe brain damage Serious disablement of physical or mental faculties requiring substantial dependence on professional or other care, with marked impairment of intellect and personality, abnormal behaviour and poor communication.	110,000
Eye	HEAD & NECK	HEAD & NECK Eye Loss of eye – both eyes	110,000
Eye	HEAD & NECK	HEAD & NECK Eye Loss of sight – both eyes	110,000
Arm	UPPER LIMBS	UPPER LIMBS Arm Loss of: – both arms	110,000
Hand	UPPER LIMBS	UPPER LIMBS Hand Loss of, or equivalent loss of function of: – both hands	110,000
Leg	LOWER LIMBS	LOWER LIMBS Leg Loss of: – both legs, whether below or above knee	110,000
Major paralysis	GENERAL	GENERAL Major paralysis Paraplegia (paralysis of the lower limbs)	175,000
Brain Damage	HEAD & NECK	HEAD & NECK Brain Damage Very serious brain injury Severe physical limitation, significant effect on the senses with little insight and/or significant reduction in life expectancy. Little or no response to the environment, little or no language function, double incontinence and need for full-time/all day and some night nursing care.	175,000
Major paralysis	GENERAL	GENERAL Major paralysis Quadriplegia/tetraplegia (paralysis of all four limbs)	250,000
Brain Damage	HEAD & NECK	HEAD & NECK Brain Damage Very serious brain injury No useful physical movement, significant effect on the senses and with some degree of insight. Little or no meaningful response to the environment, little or no language function, double incontinence and need for full-time nursing care.	250,000

TARIFF BANDS FOR MAJOR PARALYSIS CHANGED TO REFLECT THE DEGREE OF SERIOUSNESS

It is proposed that the tariff bands for Major Paralysis are modified to reflect the degree of seriousness of hemiplegia, paraplegia and tetraplegia injuries. Currently, hemiplegia (paralysis of one side of the body), paraplegia (paralysis of the lower limbs), and quadriplegia/tetraplegia (paralysis of all four limbs) are separate payable injuries.

EXISTING TARIFF AWARDS			PROPOSED NEW TARIFF AWARDS		
Major Paralysis	Level	Current Tariff	Major Paralysis	Level	Proposed New Tariff
			Hemiplegia - Mild	18	27,000
			Hemiplegia - Moderate	21	55,000
Hemiplegia	21	55,000	Hemiplegia - Severe	23	110,000
			Paraplegia - Minimal	18	27,000
			Paraplegia – Moderate but substantially incomplete	23	110,000
Paraplegia	24	175,000	Paraplegia – Substantially incomplete	24	175,000
			Quadriplegia/Tetraplegia – substantially incomplete injury to both upper and lower limb levels	20	44,000
			Quadriplegia/Tetraplegia – substantially incomplete to upper limb level but complete to lower limb level	24	175,000
Quadriplegia/ Tetraplegia	25	250,000	Quadriplegia/Tetraplegia – substantially complete to both upper and lower limb levels	25	250,000

This proposal is based on the First Tier Tribunal's argument that the bands for Major Paralysis should be revised as the steps between bands 21-25 were

too great and could result in substantial over or under compensation awards. The First Tier Tribunal is the judicial body which decides on appeals regarding decisions under GB's Criminal Injuries Compensation Scheme of 2012. The Tribunal suggested that intermediate levels be introduced to cover 'partial' paraplegia and 'partial' tetraplegia and convened an ad-hoc panel of medical experts to advise on the merits of including these new tariff bands, descriptors and amounts. The Ministry Of Justice in GB accepted the recommendations and modified the tariff and tariff bands for Major Paralysis to reflect the degree of seriousness.

INCREASE THE PERCENTAGE REDUCTIONS TO COMPENSATION PAYMENTS FOR UNSPENT CRIMINAL CONVICTIONS

The 2009 Criminal Injuries Scheme provides that an award may be withheld or reduced on account of a victim's character as shown by his/her criminal convictions (excluding convictions which are spent under the terms of the Rehabilitation of Offenders (NI) Order 1978). Paragraph 15 (2) of the 2009 Scheme confirms that the impact of unspent criminal convictions **MUST** be reflected in the assessment of character under paragraph 14(1) (e) of the 2009 Scheme. This is because a person who has committed criminal offences has probably caused distress and loss and injury to other persons, and has certainly caused considerable expense to society by reason of court appearances and the cost of supervising sentences, even when they have been non-custodial, and the victims may themselves have sought compensation, which is another charge on society. Even though a victim may be blameless in the incident in which the injury was sustained, Parliament has provided in the Scheme that convictions which are not spent under the **Rehabilitation of Offenders (NI) Order 1978** should be taken into account.

The scale of penalty points is an indicator of the extent to which any unspent convictions may count against an award. These points, which are based on the type and/or length of sentence imposed by the courts together with the time between the date of the sentence and receipt of the claim, are a guide to the gravity of a criminal record in relation to a claim. Any sentence imposed after the claim has been received will also be taken into account.

The scale of penalty points is not binding at any stage whether on decisions made by Compensation Services or a determination made by the Criminal Injuries Compensation Appeals Panel for Northern Ireland (CICAPNI). It is intended to provide a readily understood guide to the significance of the claimant's criminal record. The convictions recorded in any individual case

and the points attributable to them will be assessed within the context of the particular circumstances of the claim and other related factors. For example, a points total which indicates a reduction or refusal of an award may be mitigated where the injury resulted from the applicant's assistance to the police in upholding the law or from genuinely helping someone under attack. Or there may be evidence of rehabilitation not otherwise indicated by the points system which may be taken into account. Conversely, a low points score is no guarantee that an award will be made where, for example, the record contains offences of violence or sexual offences, or certain drug related offences.

Overview of Existing Penalty Points

Sentence of the Court	Period between date of sentence and receipt of application by Compensation Services	Current NI Scheme Penalty Points
1. Imprisonment for more than 30 months	a. Period of sentence or less b. More than period of sentence but less than sentence + 5 years c. More than sentence + 5 years but less than sentence + 10 years d. More than sentence + 10 years	10 9 7 5
2. Imprisonment for more than 6 months but not more than 30 months	a. Period of sentence or less b. More than period of sentence but less than sentence + 5 years c. More than sentence + 5 years but less than sentence + 10 years d. More than sentence + 10 years	10 7 5 2
3. Imprisonment for 6 months or less	a. Period of sentence or less b. More than period of sentence but less than sentence + 2 years c. More than sentence + 2 years	10 5 2
4. Fine Community Service Order ² Probation or Supervision Order Combination Order Attendance Centre Order Bind Over Conditional Discharge Compensation Order	a. Less than 2 years b. 2 years or more	2 1
5. Absolute Discharge Admonishment	a. Less than 6 months b. 6 months or more	1 0
6. Fine over £250	a. Less than 2 years from date of sentence b. More than 2 years but less than 3 years from date of sentence c. More than 3 years from date of sentence	(included in 4. above)
7. Fine of £250 or less OR Conditional discharge	a. Up to 2 years from date of sentence b. Over 2 years from date of sentence	(included in 4. above)
8. Compensation Order	If not paid in full at date of application.	(included 4. above)
9. Conditional caution	a. Up to 3 months from date of disposal b. More than 3 months from date of disposal	(included in 4. above)

Sentences imposed after the date of receipt of the application are treated as if they had occurred on the day before the application.

Explanatory Notes for 2009 Scheme

1. Imprisonment, whether suspended or not, means the sentence imposed by the court, not the time spent in prison.
2. Imprisonment includes a sentence of detention in a young offenders' institution or borstal/borstal training or other 'custodial' sentence.
3. Sentences 'spent' under the Rehabilitation of Offenders (NI) Order 1978 do not attract penalty points.
4. Other sentences will be placed into one of the above 5 categories by Compensation Services according to their comparative seriousness as measured by the rehabilitation period(s) they attract under the Rehabilitation of Offenders (NI) Order 1978.

PROPOSAL: TO INCREASE THE PERCENTAGE REDUCTIONS TO COMPENSATION PAYMENTS FOR UNSPENT CRIMINAL CONVICTIONS

The table below outlines the proposed **increase in reductions to compensation payments for unspent criminal convictions**:

Percentage reduction to compensation awards for unspent criminal convictions			
Penalty Points	2009 Scheme Total percentage reduction	Proposed increase	Proposed Total percentage reduction
1	10%	-	10%
2	10%	10%	20%
3	25%	5%	30%
4	25%	15%	40%
5	25%	25%	50%
6	50%	10%	60%
7	50%	20%	70%
8	75%	5%	80%
9	75%	15%	90%
10 or more	100%	-	100%

**CONSULTATION RESPONSE PROFORMA
REVIEW OF CRIMINAL DAMAGE LEGISLATION AND CRIMINAL
INJURIES SCHEMES**

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 (b) serious public disorder?

Do you have any other comments on this proposal?

Q2. Do you agree with the proposal to define the term serious public disorder as requiring 12 or more people?

Do you have any other comments on this proposal?

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)?

Do you have any other comments on this proposal?

Q4. Do you consider that safeguards, outlined at para 3.55 are sufficient to ensure that compensation is made to genuine victims and that the public purse is adequately protected?

Do you have any other comments on this proposal?

Q5. If you would wish to see further safeguards included, what are they?

Do you have any other comments on this proposal?

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?

Q7. Do you agree with the proposal to introduce a cap of £2m on the amount of compensation paid from public funds per case?

Do you have any other comments on this proposal?

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?

Q9. Do you agree with the proposal to streamline the application process and reduce timescales?

Do you have any other comments on this proposal?

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?

Q11. What are your views on our proposals to retain the right of appeal to the County Court and for a time limit of 6 weeks of service of the Notice of Decision/Determination?

Do you have any other comments on this proposal?

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?

Q13. Should legal costs continue to be paid in the event of a successful appeal?

Do you have any other comments on this proposal?

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

Do you have any other comments on this proposal?

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?

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

Q17. Do you agree that the tariff levels should be altered, as outlined at para 4.37, to ensure that limited financial resources are targeted towards those most adversely affected by a violent crime?
Do you have any other comments on this proposal?

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

Do you have any other comments on this proposal?

Q19. Do you agree that the bereavement award should be protected from change?

Do you have any other comments on this proposal?

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?

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?

Do you have any other comments on this proposal?

Q22. Do you agree with the proposal that Compensation Services would continue to source the medical report and would then deduct £50 from any award of compensation?

Do you have any other comments on this proposal?

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?

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?

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?

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?

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?

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?

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?

Q30. Do you agree that a proportion of any savings that may be realised from the changes to the criminal injuries scheme should be reinvested to support other services for victims?

Do you have any other comments on this proposal?

Name: _____

Organisation: _____

Address: _____

Telephone No: _____

Email: _____@_____

Date: _____

Please return your completed questionnaire or other response to:

Consultation on the Review of Compensation Legislation
Project Support Office
Compensation Services
Department of Justice

6th Floor, Millennium House
17-25 Great Victoria Street
BELFAST BT2 7AQ

Telephone: 028 9054 1945

Fax: 028 9024 6956

E-mail: csreview@dojni.x.gsi.gov.uk

Comments should be returned by **Monday 16 March 2015**.