

A photograph of a desk setup. On the right, a silver laptop is open. In the center, a document with a line graph is spread out. To the left of the document, there is a black smartphone and a dark pen. The background is a blurred office environment with windows.

A Guide to the

Recovery of benefits, lump sum payments and health services charges

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Contents

About this Guide	4	Issue of the Certificate	19
Terms and Abbreviations	5	Increases in Certificates	19
Overview	7	Having the Certificate renewed	19
The Compensation Recovery Scheme	8	Requests for details of benefits paid prior to the date of accident, injury or disease	19
Scheme Overview	9	Telling us when a claim has settled	20
Recovery	10	Penalty for default	20
The relevant period	10	Reviews	22
Exempt payments	11	Lump Sum payments	22
DfC right to inspect records	13	Complex Cases	23
The CRS Benefit Recovery Process	14	Offsetting	23
Telling us about a claim	15	Offsetting: an example.....	23
Help us to help you	15	Lump sum payments recoverable under the 1997 Act	24
Completing form CRS1	15	Example of offsetting for lump sum payments and benefit recovery	24
(SSP) employer liability cases only	16	Notes	25
Guidance for injured person’s representative	16	Interim payments	25
Certificates	17	Multiple compensators	26
Obtaining a Certificate	18	Structured Settlements	26
Urgent requests for Certificates of Recoverable Benefits	18	Payments into court (England, Wales and NI)	26
The Certificate	18	Insurer’s liability.....	27
Powers to Estimate	18	Clinical negligence	27
		Goodwill payments	27

Property damage only claims	27	General Information	49
Requests and notifications not appropriate to CRS.....	27	Data Protection	50
Health Services (HS) Charges	28	Customer Service	51
HS Overview.....	30	Electronic Communications	52
The relevant period	31	Contact Details	54
HS Charges Tariff	31		
Exempt Payments	32		
Ambulance Charges	33		
The CRS HS Recovery Process	34		
Telling us about a HS Claim	35		
HS Certificates.....	36		
Settled HS Cases (including Contributory Negligence)	37		
Contributory Negligence	37		
HS Reviews	39		
Increases in Certificates	39		
Requests and notifications not appropriate to CRS.....	40		
Complex Cases	41		
Appeals	43		
Recovery of Benefit Appeals	44		
HS Charges Appeals	46		

About this Guide

This guide details how the Compensation Recovery, Lump Sum Payments and Health Services (HS) Charges schemes operate in Northern Ireland and aims to ensure that all recoveries are paid promptly and accurately by helping compensators and representatives to understand the scheme's procedures.

Terms and Abbreviations

Certificate of HS Charges	Issued by CRS and tells the compensator whether HS treatment was with or without admission to hospital, the number of days, ambulance charges and the amount to be repaid.
Certificate	Issued by CRS and tells the compensator which recoverable benefits and/or lump sum payments have been paid (or are likely to be paid) and the total amount to be repaid.
Compensation payment	Any payment made by way of compensation for an accident, injury or a disease (whether in money or in money's worth).
Compensator	The person, company or agent paying compensation
CRS	Compensation Recovery Scheme
DfC	Department for Communities
DWP	Department for Work and Pensions (in GB)
Exempt payment	A payment specifically exempt from recovery
Health Services Hospital	A health services hospital within the meaning of the Health and Personal Social Services Act (NI) 2001 and the Recovery of Health Services Charges (NI) Order 2006.
HS	Health Services (In GB the term “National Health Services” (NHS) applies.)
HS Treatment	Any treatment (including examination of the traffic casualty) other than that described in section 23 (6) of the Health and Personal Social Services Act (NI) 2001 and Article 3(7) of the Recovery of Health Services Charges (NI) Order 2006.

HS Trust	Health and Social Care Trust in NI
Injured person	The person claiming compensation
NIAS	Northern Ireland Ambulance Service
Recoverable benefits	Social security benefits (and Statutory Sick Pay paid before 6 April 1994) listed in Schedule 2 of the Social Security (Recovery of Benefits) (NI) Order 1997 and paid in the relevant period.
Recoverable lump sum payment	Payments made under the Pneumoconiosis, (Workers' Compensation) (Northern Ireland) Order 1979, the Mesothelioma, Act (Northern Ireland) 2008 or an ex-statutory payment that was paid because the person did not qualify for a payment under the 1979 Act.
Relevant period	The period in respect of which benefits and HS charges may be recovered.
RTA	Road Traffic Accident
Settlement date	The date on which the compensation payment is made in accordance with the Health and Personal Social Services Act (NI) 2001 and the Recovery of Health Services Charges (NI) Order 2006.
SSP	Statutory Sick Pay
TAS	The Appeals Service
The Order	The Social Security (Recovery of Benefits) (NI) Order 1997. In GB the corresponding provisions may be found in The Social Security (Recovery of Benefits) Act 1997.
The HS Order	The Recovery of Health Services Charges (NI) Order 2006 – In GB the Health and Social Care (Compensation Scheme Health and Standards) Act 2003.

Overview

The Compensation Recovery Scheme in Northern Ireland (CRS) is part of Debt Management within the Department for Communities (DfC).

CRS administer the Compensation Recovery, Lump Sum Payments and Health Services (HS) Charges schemes in Northern Ireland.

CRS operates primarily to deliver two separate pieces of legislation:

- The Social Security (Recovery of Benefits) (NI) Order 1997; and
- The Recovery of Health Services Charges (NI) Order 2006.

In 1997, legislation was passed which introduced a new recovery scheme with effect from 6 October 1997. Part IV of the Social Security Administration (NI) Act 1992 and Sections 2 (1) (1A) (3) and (6) of the Law Reform (Personal Injuries) Act 1948 were repealed.

The Social Security (NI) Order 1998 introduced changes to the Social Security (Recovery of Benefits) (NI) Order 1997 which provide clearer grounds for review, two new grounds for appeal and for appeals to be heard by appeal tribunals instead of Medical Appeal Tribunals (MATs). These provisions are effective from 29 November 1999.

On 5 April 1999, the Road Traffic (NHS Charges) Act 1999 came into force and allows for the recovery of health services charges by CRU in GB.

On 2 April 2001, the Health and Personal Social Services Act (NI) 2001 came into operation. This Act allows CRS to recover HS hospital charges arising from road traffic accidents where a compensation payment is made on or after 2 April 2001.

On 29 January 2007, the Recovery of Health Services Charges (NI) Order 2006 came into operation. This Order allows CRS to recover HS hospital charges and HS ambulance trust charges arising from accidents/incidents where a compensation payment is made for an accident on or after 29 January 2007.

On 1 October 2008, the Mesothelioma Act (Northern Ireland) 2008 allowed for the recovery of lump sum payments made under the Act and for the recovery of lump sum payments made under the Pneumoconiosis (Workers' Compensation) (Northern Ireland) Order 1979 on or after 01 October 2008.



The Compensation Recovery Scheme

(including recovery of Lump Sum Payments)

The law on the recovery scheme is contained in:

- The Social Security (Recovery of Benefits) (NI) Order 1997
- The Social Security (Recovery of Benefits) Regulations (NI) 1997
- The Social Security (NI) Order 1998
- The Social Security and Child Support (Decision and Appeals) Regulations 1999
- The Mesothelioma Act (Northern Ireland) 2008

Scheme Overview

The main provisions of the scheme are that:

A person should not be compensated twice over in respect of the same accident, injury or disease.

The scheme applies in the United Kingdom (UK) or elsewhere, regardless of where the compensator is based, or where the accident occurred.

Where a compensator who is, or is alleged to be, liable to any extent for the accident, injury or disease makes a compensation payment, agreed on or after 6 October 1997 and recoverable benefits/lump sum payments have been paid (or are likely to be paid) to, or for, the injured person in respect of that accident, injury or disease, the compensator will be liable to pay DfC an amount equal to the total amount of the recoverable benefits/lump sum payments paid.

Where a payment was made on or after 6 October 1997 in accordance with a Court Order or agreement made before that date, the provisions of the Social Security Administration (NI) Act 1992 and the Social Security (Recoupment) Regulations (NI) 1990 will continue to apply.

A compensator who makes a compensation payment after 1 October 2008 is also liable to repay any lump sum payments paid under the Pneumoconiosis (Workers' Compensation) (NI) Order 1979 and the Mesothelioma Act (Northern Ireland) 2008.

If, after a Certificate has been issued, we become aware that a recoverable lump sum payment has been paid, a revised Certificate will be issued to include the lump sum payment amount and will supersede all previous Certificates.

No person shall make a compensation payment (other than an exempt payment) without first applying to CRS for a Certificate of Recoverable Benefits.

The law allows us four weeks to issue Certificates of Recoverable Benefits.

RECOVERY

Under the provisions of the Social Security (Recovery of Benefits) (NI) Order 1997, the compensator – the person who caused the injury or, more commonly, his insurer – is liable both to pay damages to the injured person and to repay benefits to the Department for Communities. (Strictly speaking it is not the actual benefits which are recovered, but “an amount equivalent to” the total benefit payment). In certain circumstances it will be possible for the compensator to deduct some, or all of, the amount he has had to repay to the Department from the gross compensation award, a practice known as “offsetting”.

Where the amount of compensation relating to a particular head of compensation is less than the amount of the corresponding benefit, the compensator is still liable to repay the full amount shown on the Certificate of Recoverable Benefits (heads of compensation are defined in Schedule 2 of the Social Security (Recovery of Benefits) (NI) Order 1997).

Under the provisions of the Social Security (Recovery of Benefits) (Lump Sum Payments) Regulations (NI) 2008 the compensator must reduce the general damages element of the compensation award before reducing the special damages element of the award.

Under the provisions of the Social Security (Recovery of Benefits) (Lump Sum Payments) Regulations (NI) 2008, if the amount of compensation is

less than the lump sum payment CRS can only recover an amount up to the equivalent of the gross compensation award.

When making a deduction the compensator must inform the injured person.

The compensator, the injured person or his representative may ask at any time for the Certificate of Recoverable Benefits to be reviewed.

A compensator has the right of appeal against the Certificate of Recoverable Benefits only when he has repaid the total amount of recoverable benefits shown on the Certificate to the Department. An injured person has a similar right, but only where his compensation payment has been reduced to take account of benefit recovery under Article 10 of the Order.

Pensions awarded by the Veterans Agency (previously the War Pensions Agency) are not a recoverable benefit, but may be adjusted to take account of a compensation payment.

Bereavement benefits are not recoverable; however any other benefits that fall within the CRS Scheme and are used to top-up the weekly payment will be recoverable.

THE RELEVANT PERIOD

The period in respect of which listed benefits may be recovered by DfC is called the **relevant period**. This is defined in Article 5 of the Social Security (Recovery of Benefits) (NI) Order 1997 and begins on:

- the day following an accident or injury; or

- in disease cases, the date that a listed benefit as shown in Schedule 2, is first claimed in consequence of the disease.

The period ends on:

- the day a compensation payment is made in final discharge of a claim; or
- the date an agreement is made between the compensator and injured person under which an earlier compensation payment is treated as having been made in final discharge of any claim; or
- the date five years after the relevant period begins, whichever comes first.

The relevant period does not apply to Lump Sum Payments made under the Pneumoconiosis, etc. (Workers' Compensation) (NI) Order 1979 and the Mesothelioma Act (Northern Ireland) 2008.

EXEMPT PAYMENTS

Benefits will not be recovered from the following types of payments as listed in Schedule 1 of the 1997 Order:

1. Any small payment (defined in Part II of this Schedule).
2. Any payment made to or for the injured person under Article 14 of the Criminal Justice (NI) Order 1994 (compensation orders against convicted persons).
3. Any payment made in the exercise of a discretion out of property held subject to a trust in a case where no more than 50 percent by value

of the capital contributed to the trust was directly or indirectly provided by persons who are, or are alleged to be, liable in respect of –

- the accident, injury or disease suffered by the injured person, or
- the same or any connected accident, injury or disease suffered by another.

4. Any payment made out of property held for the purpose of any prescribed trust (whether the payment also falls within paragraph 3 above or not).
5. Any payment made to the injured person by an insurance company within the meaning of the Insurance Companies Act 1982 under the terms of any contract of insurance entered into between the injured person and the company before –
 - the date on which the injured person first claims a listed benefit in consequence of the disease in question, or
 - the occurrence of the accident or injury in question.
6. Any redundancy payment falling to be taken into account in the assessment of damages in respect of an accident, injury or disease.
7. So much of any payment as is referable to costs.
8. Any prescribed payment.

The following trusts are prescribed for the purpose of paragraph 4 of Schedule 1 (and may be found in Regulation 2.1 of the Social Security (Recovery of Benefits) Regulations (NI) 1997):

- the Macfarlane Trust established on 10 March 1988 partly out of funds provided by the Secretary of State to the Haemophilia Society

for the relief of poverty or distress among those suffering from haemophilia

- the Macfarlane (Special Payments) Trust established on 29 January 1990 partly out of funds provided by the Secretary of State for the benefit of certain persons suffering from haemophilia
- the Macfarlane (Special Payments) (No. 2) Trust established on 3 May 1991 partly out of funds provided by the Secretary of State for the benefit of certain persons suffering from haemophilia and other beneficiaries
- the Eileen Trust established on 29 March 1993 out of funds provided by the Secretary of State for the benefit of persons eligible for payment in accordance with its provisions
- a trust established out of funds provided by the Secretary of State in respect of persons who suffered, or who are suffering, from variant Creutzfeldt-Jakob disease for the benefit of persons eligible for interim payments in accordance with its provisions; (Statutory Instrument 2001 No. 1118, which amends the 1997 Regulations)
- a trust established out of funds provided by the Secretary of State in respect of persons who suffered, or who are suffering, from variant Creutzfeldt-Jakob disease for the benefit of persons eligible for payments, other than interim payments, in accordance with its provisions. (Statutory Instrument 2001 No. 1118, which amends the 1997 Regulations)
- the UK Asbestos Trust established on 10 October 2006 for the benefit of certain persons suffering from asbestos-related diseases

- the EL Scheme Trust established on 23 November 2006, for the benefit of certain persons suffering from asbestos-related diseases

The following payments are prescribed for the purposes of paragraph 8 of Schedule 1:

- any payment to the extent that it is made-
 - in consequence of an action under the Fatal Accidents Act 1976 or the Fatal Accidents (NI) Order 1977
 - in circumstances where, had an action been brought, it would have been brought under the Act or that Order (Please note: If any of the action is being brought under the Law Reform (Miscellaneous Provisions) Act 1934, a CRS1 needs to be completed.)
- any payment to the extent that it is made in respect of a liability arising by virtue of Section 1 of the Damages (Scotland) Act 1976
- any payment made under the Vaccine Damage Payments Act 1979 to or in respect of the injured person
- any award of compensation made to or in respect of the injured person under
 - the Criminal Injuries (Compensation) (NI) Order 1988
 - the Criminal Injuries Compensation Act 1995
 - the Criminal Injuries (Compensation) (NI) Order 2002 or
 - by the Criminal Injuries Compensation Board under the Criminal Injuries Compensation Scheme 1990 or any earlier scheme

- any compensation payment made by British Coal in accordance with the National Coal Board Pneumoconiosis Compensation Scheme set out in the Schedule to an agreement made on the 13 September 1974 between the National Coal Board, the National Union of Mine Workers, the National Association of Colliery Overmen Deputies and Shotfirers and the British Association of Colliery Management
- any payment made to the injured person in respect of sensorineural hearing loss where the loss is less than 50dB in one or both ears
- any contractual amount paid to an employee by an employer of his or hers in respect of a day of incapacity for work
- any payment made under the National Health Service (Scotland) (Injury Benefits) Regulations 1974, the Health and Personal Social Services (Injury Benefits) Regulations (NI) 1975 or the National Health Service (Injury Benefits) Regulations 1995
- any payment made or on behalf of the Secretary of State for the benefit of persons eligible for payment in accordance with the

provisions of a scheme established by him on 24 April 1992 or, in Scotland, on 10 April 1992

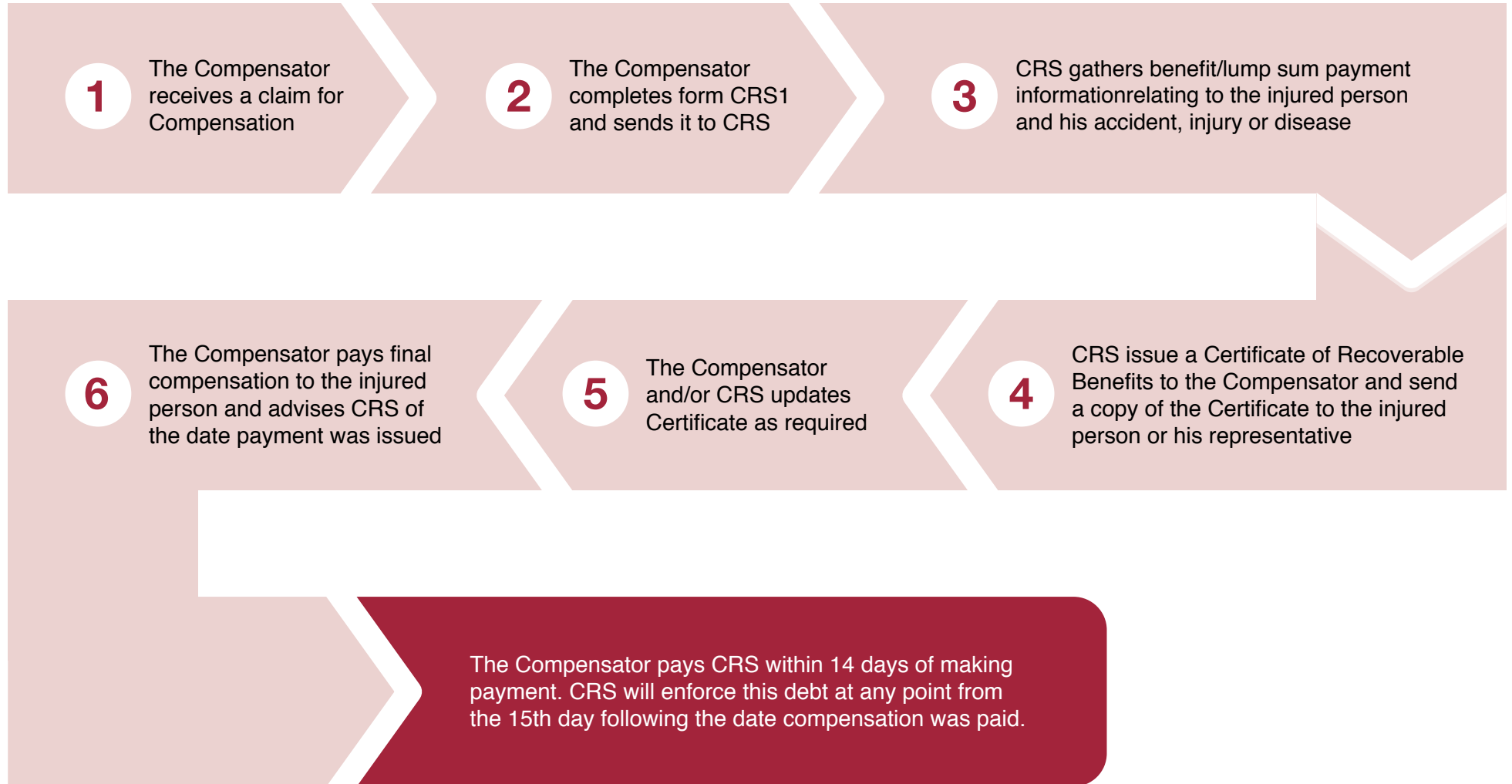
Where it is clear that the claim falls into one of these categories, you do not need to send form CRS1 to us. If there is any doubt about whether an individual payment is, or should be, exempt from the scheme, please contact us for advice.

Please note: ‘The Social Security (Recovery of Benefits) (NI) Order 1997 Schedule 1 Part 1 and Social Security (Recovery of Benefits) Regulations (NI) 1997 Section 2 lists all exempt payments.

DFC RIGHT TO INSPECT RECORDS

The Social Security Administration (NI) Act 1992 Section 104, gives DfC inspectors the right to examine the records of compensators and employers to verify that they are complying fully with the provisions of the Social Security (Recovery of Benefits) (NI) Order 1997.

The CRS Benefit Recovery Process



Telling us about a claim

When you receive a claim for compensation, send form CRS1 to us within 14 days. This does not mean that you have accepted any liability for the accident, injury or disease.

HELP US TO HELP YOU

In order for us to provide a prompt and accurate service it is essential that you tell us about claims as early as possible. If you delay sending us the information on form CRS1 this may cause difficulties and further delay when you request a Certificate. We need to notify the Department's benefit paying offices that a compensation claim has been made as soon as possible. Failure to notify us at the early stage of a claim for compensation may mean archived records need to be retrieved from remote storage and you may have to wait longer for an urgently required Certificate.

COMPLETING FORM CRS1

Please complete the form as fully as possible. It will save further enquiries later on.

You must tell us the following information when someone claims compensation from you:

- the injured person's **full name** and address (if the injured person has previously been known by a different name, e.g. a maiden name, it would be helpful if you could tell us)
- their date of birth
- National Insurance Number (if known)
- the date of the accident or injury
- a **full** description of the nature of the injury or disease
- whether the accident was a Road Traffic Accident (RTA)
- if the person attended a HS hospital because of an RTA before 29 January 2007, or attended a HS hospital as a result of any accident/incident on or after 29 January 2007 (at any time for any treatment, examination etc.)
- if the injured person was admitted to a HS hospital, give date of first attendance/admission
- the full name and address of the hospital(s) or HS Trust(s) the injured person attended or was admitted to (in order of attendance)
- if you are claiming an exemption under the Road Traffic (NI) Order 1981 (Articles 90 & 214) for a road traffic accident occurring before 29 January 2007 you must state the category of exemption: Government Department, Police Service etc.
- whether or not the injured person was employed at the date of incident (in disease cases or where the accident was pre 6 April 1994 only)
- the reference number you use to identify the case. **If your reference number changes before the claim is settled, you should inform us of the new reference number**

- the liability type, i.e. public liability (P), motor liability (M), employer liability (E), clinical negligence (C) or other (O)
- if a claim is registered as 'M' liability but the accident occurred during a person's employment you must notify us of that fact as the injured person may have claimed Industrial Injuries Disablement Benefit
- if the claim is 'P', 'M', 'O' or 'C' and the date of incident is before 6 April 1994 you should give us the name and address of the injured person's employers at the time of the accident, injury or disease. We may then obtain information about (SSP)
- in 'E' liability cases the compensator must provide the SSP information when applying for a Certificate
- if a solicitor is acting on your behalf you must show his name, address and reference number on form CRS1. This will ensure that correspondence is sent to the correct address

If you take over a claim from another compensator, please notify us in writing and attach a completed form CRS1.

Failure to provide the essential information listed above could delay the issue of the Certificate.

Additional stocks of form CRS1 may be downloaded from the DfC website: www.communities-ni.gov.uk/crs

Please note: You may use your own computer-produced version of form CRS1. However, in order to avoid delays when we process the form, its size and format must be the same as the original CRS1 form.

(SSP) EMPLOYER LIABILITY CASES ONLY

In all employer liability cases where the date of incident is prior to 6 April 1994 (or in disease cases where SSP may have been paid before that date) you should ask the relevant employer for details of any SSP that the injured person was paid as a direct result of the accident, injury or disease.

Complete form CRS4 to show the gross amount of SSP. Make sure you do not include any Occupational Sick Pay that may have been paid together with the SSP.

The amount shown on the Certificate will include 100 percent of SSP paid before 6 April 1991 and 80 percent of SSP paid from 6 April 1991 to 5 April 1994.

SSP information for periods on or after 6 April 1994 is not required as the benefit is not recoverable after that date.

GUIDANCE FOR INJURED PERSON'S REPRESENTATIVE

The compensator will give us your details when he notifies us of the compensation claim.

You should always give the compensator your client's full name, address, date of birth and National Insurance Number. You should also provide as much information as possible about the injured person's injuries or nature of the disease. When your client has had an accident/incident on or after 29 January 2007 it is also essential that you provide details of the hospital(s) attended and whether the accident/incident happened during the course of the injured person's employment. It is only necessary to provide hospital details pre 29 January 2007 if the

accident is a road traffic accident. If the injured person has also been known by any other name, e.g. maiden name, please give details.

If you give incorrect or incomplete details it may cause delay or inaccuracies in calculating the amount of recoverable benefit.

The compensator must request a Certificate of Recoverable Benefits before he pays compensation. You cannot request a Certificate, but you will be sent a copy of the Certificate.

CERTIFICATES

We will automatically issue a Certificate in cases where the required mandatory information has been provided. If this is not possible, we will send you form CRS4 to acknowledge that we

have received the CRS1. You will need to return form CRS4 to us when applying for a Certificate.

If you do not have a Certificate when you are ready to settle the claim, you must apply for one by returning form CRS4. We will acknowledge receipt of your request. If you have not received the acknowledgement within 14 days, contact us immediately.

We will issue the Certificate within four weeks of receiving a request. The Certificate will specify the total amount of recoverable benefits/lump sum payments. You must pay us the amount shown on the Certificate within 14 days of the day on which the compensation payment was made to the Injured Person.

We will send a copy of the Certificate to the injured person or his representative.

Obtaining a Certificate

When we receive form CRS1 we will automatically send you a Certificate if this is possible. If this is not possible, we will send you form CRS4 which you may use to apply for a Certificate.

Alternatively, a CRS Update Stencil may be downloaded from the DfC website. www.communities-ni.gov.uk/crs

URGENT REQUESTS FOR CERTIFICATES OF RECOVERABLE BENEFITS

If you need a Certificate urgently (for example because of an imminent court hearing) we will do our best to issue one as soon as possible. You must tell us the reason for the urgency (for example a letter from the court). It may not be possible to issue the Certificate immediately but we will send it as quickly as possible.

THE CERTIFICATE

The Certificate will include:

- details of the injured person's identity and, where appropriate, the date of the incident which gave rise to the compensation claim
- the total of each recoverable benefit paid up to a specified date
- the total amount of lump sum payments paid
- the rate expected to be paid for a short future period if benefit is still in payment

- the date the Certificate ceases to be valid
- the total amount we require to be repaid
- a note to say whether any of the above amounts or dates have been estimated

The period of validity of Certificates varies according to circumstances. It is important to check each Certificate to establish how long it is valid for.

Legislation states that a compensator must apply for a Certificate prior to making a compensation payment. If the compensator settles a compensation claim without a Certificate that covers the actual date of settlement, we will issue a one day Certificate valid only for the date of settlement. The one day Certificate may include benefits that have not been taken into account during the negotiation process but will be recoverable. It is therefore important that you request a Certificate prior to making a compensation payment.

Please note: Article 7, of the Social Security (Recovery of Benefits) (NI) Order 1997 refers to Information contained in the Certificates.

POWERS TO ESTIMATE

The law allows us to estimate any amount, date or period specified in the Certificate. (Social Security (Recovery of Benefits) (NI) Order 1997, Article 7(4)) and Social Security (Recovery of Benefits) (Lump Sum Payments) (NI) Regulations 2008 refer).

ISSUE OF THE CERTIFICATE

We will send the Certificate to you and at the same time we will send a copy to the injured person or his representative. Write to us if you have any queries about the Certificate. We will issue a further Certificate if necessary.

INCREASES IN CERTIFICATES

After a Certificate has been issued we may become aware that further recoverable benefits have been paid. These benefits would have been included in the Certificate had we been aware of them at the time it was issued.

During the validity of a Certificate the amount of recoverable benefit shown may not be increased, **except where the compensator has provided us with incorrect or insufficient information.**

If recoverable benefits are inadvertently omitted from a Certificate, and a compensation payment is not made during the period of validity of that Certificate, the additional benefits will be shown on any later Certificate.

If we become aware that recoverable lump sum payments have been paid after a Certificate has been issued, we will issue a revised Certificate to include the lump sum payment amount and the revised Certificate will supersede any previous Certificate.

HAVING THE CERTIFICATE RENEWED

The compensator should only request renewal Certificates **when he is ready to settle the claim.** Persistent requests for renewal Certificates, where claim settlement does not follow, generates extra work and expense for everyone and may cause delays.

We cannot issue a new Certificate until the current one expires. Where it is clear that the case is very near settlement and that the current Certificate will expire before the settlement takes place you may request a renewal Certificate. Renewal Certificates will be issued within four weeks of the expiry of the current Certificate.

REQUESTS FOR DETAILS OF BENEFITS PAID PRIOR TO THE DATE OF ACCIDENT, INJURY OR DISEASE

We do not provide details of benefits paid before the date of incident, or give any estimate of which benefits might have been payable had the incident not occurred.

We will only provide details of benefits paid as a result of an accident, injury or disease for which compensation has been claimed in the form of a Certificate of Recoverable Benefits. If you need to know the amount of benefits your client has received, or if details of any earlier benefits are needed, you should request this information from the relevant DfC benefit paying office. You will need to include a signed authority from the injured person.

Telling us when a claim has settled

Please tell us as soon as possible when you know the outcome of the claim even if it is unsuccessful. Form CRS102 should be used for this purpose. Failure to do this may result in you incurring costs for the retrieval of files from storage. **We will not pay the retrieval costs where a compensator has not informed us of a compensation payment.**

If no notification has been received about the outcome of a compensation claim after two years, automatic follow up action will be taken to obtain the result of the claim. You should respond to any enquiries immediately.

When compensation has been paid you **MUST** send us form CRS102 together with the appropriate payment.

The CRS account details for BACS payments are:

Bank Name & Address	DANSKE BANK 8-9 DONEGALL SQUARE NORTH BELFAST BT1 5GJ
Name of Account	DEPARTMENT FOR COMMUNITIES (DfC) GENERAL ACCOUNT
Sort Code	95-01-21
Account Number	21061569
IBAN Number	GB07DABA95012121061569

Please remember to include the CRS Reference Number on BACS remittance advice.

If you are unable to pay by BACS, you may pay by cheque. Cheques should be made payable to **“Department for Communities”**.

Please ensure the correct CRS reference number is shown on the remittance advice note, along with your claim reference number and if possible the incident/accident date or the name of the injured person.

You may send one cheque in respect of any number of claims. In order that we may allocate a bulk payment correctly to each case, the cheque **MUST** be accompanied by a schedule detailing ALL the CRS reference numbers and the AMOUNT DUE for each individual case. The total amount on the schedule should be checked to ensure the cheque is for the correct amount. If you choose this option you should bear in mind that the liability to pay any individual amount within 14 days of making the compensation payment, still applies.

PENALTY FOR DEFAULT

The DfC may take action against you to secure payment of the recoverable amount if:

- you make a compensation payment but do not apply for a Certificate; and/or
- you fail to repay us the specified amount

If you obtain a Certificate of Recoverable Benefit and make the appropriate compensation payment but fail to pay the DfC, we will

send you a reminder. Payment must be made immediately you receive the reminder. If your records show that you have already sent us a payment, then you should provide us with the details, for example the cheque number and the date it was cashed.

In accordance with Article 9 (3)(4)(5) of the 1997 Order, failure to pay DfC the amount shown on the Certificate may result in legal action being taken against you.

Please refer to the Social Security (Recovery of Benefits) (NI) Order 1997, Article 8 - Liability to pay the Department. Also Article 9 - Recovery of payments due under Article 8.

Reviews

The compensator, the injured person, or either party's representative may ask us to review any aspect of a Certificate at any time.

A change in the legislation means that you cannot appeal our decision until we have considered an application for review. This means that you **must** ask for at least one review **before** you can appeal our decision – we call this a “Mandatory Reconsideration”.

Once the Mandatory Reconsideration is complete, we will send you a letter explaining what we have done, we call this a Mandatory Reconsideration Notice and this will include the information you need should you wish to appeal our decision. We will either confirm that the Certificate is correct or revoke the Certificate and issue a fresh one.

A request for a Mandatory Reconsideration and any subsequent review requests must be made in writing and include the reasons why you think the Certificate is wrong, and include any evidence to substantiate your claim.

A review may be made on the following grounds:

- a mistake (whether in computation or otherwise) has occurred in the preparation of the Certificate
- the amount of recoverable benefit on the Certificate is more than the amount due to the Department

- the person who applied for the Certificate provided incorrect or insufficient information and as a consequence the amount on the Certificate is less than the amount due to the Department

When we review a Certificate we look at all the benefits we have listed as recoverable, the amounts paid, and the period over which they have been or are likely to be paid. Any errors, omissions or other changes, which may affect the outcome of the review, will be taken into account, even if unrelated to your reasons for requesting the review.

If, following the review, a revised Certificate is issued it will cover the same period as the Certificate it replaces. Any refunds due will be paid to the compensator.

We will issue a fresh Certificate showing an increase in the amount of recoverable benefits only where the variation is required because the person who applied for the Certificate supplied us with incorrect or insufficient information. Where this happens, the compensator will be liable to pay the difference.

LUMP SUM PAYMENTS

If we become aware that recoverable lump sum payments have been paid after a Certificate has been issued, we will issue a revised Certificate to include the lump sum payment amount. The revised

Complex Cases

OFFSETTING

Compensation in respect of **Loss of Earnings** during the relevant period may be reduced where the following benefits have been paid to meet the same need:

- Employment and Support Allowance
- Industrial Injuries Disablement Benefit (also known as Disablement Pension)
- Incapacity Benefit
- Income Support
- Invalidity Pension
- Invalidity Allowance
- Jobseekers Allowance
- Reduced Earnings Allowance
- Severe Disablement Allowance
- Sickness Benefit
- Statutory Sick Pay paid before 6 April 1994
- Unemployability Supplement
- Unemployment Benefit
- Universal Credit

Compensation in respect of **Cost of Care** may be reduced where the following benefits have been paid during the relevant period:

- Attendance Allowance

- Care Component of Disability Living Allowance (DLA Care)
- Disablement Pension increase for Constant Attendance Allowance/ Exceptionally Severe Disablement Allowance
- Living Component of Personal Independence Payment (PIPL)

Compensation in respect of **Loss of Mobility** may be reduced where the following benefits have been paid during the relevant period:

- Mobility Allowance
- Mobility Component of Disability Living Allowance (DLA Mobility)
- Mobility Component of Personal Independence Payment (PIPM)

Where the amount of compensation in respect of a particular head of compensation is less than the amount of benefit to be recovered, the compensator is liable to pay the difference. He may not reduce payment against any other head of compensation to take account of benefit recovery.

OFFSETTING: AN EXAMPLE

An award of compensation totaling £100,000 is agreed, broken down as follows:

General damages	£40,000
Loss of earnings	£30,000
Loss of mobility	£30,000

Appeals

Please refer to the [Appeals section](#) of this guide.

The CRS Certificate lists:

Incapacity Benefit	£5,000
Income Support	£10,000
DLA (Mobility)	£10,000

The compensator may in no circumstances offset against the general damages element of the award. He may however offset the Incapacity Benefit and Income Support against the loss of earnings head of damage, as set out in Article 10 and Schedule 2 of the Recovery of Benefits (NI) Order 1997. He therefore deducts a total of £15,000 from the loss of earnings sum, leaving £15,000 to be paid to the injured person.

Similarly, he may offset the £10,000 DLA (Mobility) against the loss of mobility head of damage, leaving £20,000 to be paid to the injured person.

The injured person has settled his claim for a total of £100,000. Following offsetting, he receives £75,000 from the compensator in addition to the £25,000 he has already received from the state benefits system. Double compensation is thereby avoided.

LUMP SUM PAYMENTS RECOVERABLE UNDER THE 1997 ACT

Lump sum payments recoverable under the 1997 Act include those made under:

- the Pneumoconiosis (Workers' Compensation) (NI) Order 1979
- the Mesothelioma Act (Northern Ireland) 2008
- any ex-statutory payment that was paid because the person didn't qualify for a payment under the 1979 Act.

EXAMPLE OF OFFSETTING FOR LUMP SUM PAYMENTS AND BENEFIT RECOVERY

An award of compensation totaling £60,000 is agreed, broken down as follows:

General damages	£15,000
Loss of earnings	£25,000
Loss of mobility	£20,000

The CRS Certificate lists:

Lump Sum Payments	£20,000
Income Support	£15,000
DLA (Mobility)	£10,000

The compensator must offset the £20,000 lump sum payment from the general damages first, which would leave an outstanding balance of £5,000.

Offsetting may then be applied to any of the remaining heads of compensation, that is, the compensator may offset the outstanding balance of £5,000 plus the £15,000 Income Support from the loss

of earnings head of damage and the £10,000 DLA (Mobility) from the loss of mobility head of compensation.

The injured person has settled their claim for a total of £60,000. Following offsetting, they receive £15,000 from the compensator in addition to the £45,000 they have already received from the state benefits system. Double compensation is thereby avoided.

NOTES

1. If the claim is settled for general **damages only, the compensator is still liable to repay the full amount of benefits** as shown on the Certificate.
2. The compensator **cannot** deduct any amount in respect of a listed benefit from the compensation awarded for general damages (pain and suffering). However they can deduct any amount in respect of a **lump sum payment** from any part of the compensation award, including general damages
3. Lump sum payments must be offset against general damages (pain and suffering) first.
4. Attendance Allowance was replaced by the care component of Disability Living Allowance (DLAC) from 6 April 1992 for those aged 65 or under. Attendance Allowance is still relevant for those aged 66 or over.
5. Mobility Allowance was replaced by the mobility component of Disability Living Allowance (DLAM) from 6 April 1992 for those aged 65 or under. Attendance Allowance is still relevant for those aged 66 and over.
6. Unemployment Benefit and Income Support for unemployed people was replaced by Jobseekers Allowance on 7 October 1996.

7. Incapacity Benefit replaced Sickness and Invalidity Benefit from 13 April 1995.
8. Statutory Sick Pay (SSP) - 100 percent of SSP paid before 6 April 1991 and 80 percent of SSP paid from 6 April 1991 to 5 April 1994 is recoverable. Payments made after 6 April 1994 are no longer subject to recovery.
9. Disabled Persons Tax Credit replaced Disability Working Allowance from 5 October 1999.

INTERIM PAYMENTS

When a compensator makes an interim compensation payment, he will be liable to repay to DfC all recoverable benefits/lump sum payments paid during the relevant period up to the date of the interim payment. If the compensator makes any further payments, or an agreement that a previous payment was in final settlement of the claim, he will be liable to repay any further benefits paid during the relevant period.

However, before making any further payment, or reaching an agreement that a previous payment was in final settlement of the claim, the compensator should apply for a fresh Certificate. This Certificate will show details of all recoverable benefits/lump sum payments and the balance to be paid by the compensator.

In cases where a further compensation payment is made, the compensator:

- may aggregate the payments already made with the payments about to be made to CRS and the injured person and
- use these aggregate amounts when calculating the reductions that may be made under Article 10 of the Order

In cases where there are recoverable lump sum payments and a further compensation payment is made, the compensator may aggregate the payments already made with the payments about to be made and use these aggregate amounts when calculating the reductions that may be made under Regulations 10 and 14 of the Social Security (Recovery of Benefits) (Lump Sum Payments) Regulations 2008.

MULTIPLE COMPENSATORS

Normally when there is more than one compensator involved in a claim for compensation they will act together so that only one compensation payment is made to the injured person and DfC. However, where this does not happen compensators will be liable to repay any benefits, which have not already been repaid, in the relevant period up to the time they make a compensation payment.

Each compensator may make only those reductions to the injured person's compensation allowed by Article 10 of the Order in relation to the compensation he is paying to the injured person and the benefits he is repaying to DfC.

Each compensator who makes a payment to the injured person is liable to repay the amount shown on the Certificate at the date of their settlement.

If the settlement dates is the same for all compensators involved in the claim they should work together to apportion their individual liability in order to ensure we receives the total amount on the Certificate.

STRUCTURED SETTLEMENTS

When a compensator, in final settlement of a claim, enters into an agreement for the making of periodical compensation payments (whether of an income or capital nature) or for the making of such payments and lump sum payments and those payments would fall to be treated as compensation payments:

- The date of the agreement will be classed as the day of a single compensation payment and liability will end at that time, if it has not done so already.
- Any further payments made otherwise than under the agreement will be disregarded for the purpose of determining the end of the relevant period in relation to that further payment.

PAYMENTS INTO COURT (ENGLAND, WALES AND NI)

Where compensation is paid into court the compensator remains liable to repay any recoverable benefits to the DfC.

The compensator must obtain a Certificate and lodge it with the payment into court. The payment into court should be net of any recoverable benefits and/or lump sum payments and net of any allowable deductions specified in Schedule 2 of the Order.

The relevant period for recovery of benefits ends on:

- The day the payment into court is made - but only where the payment in is accepted within 21 days after the injured person is notified that the payment in has been made; or
- If accepted outside of the 21 days, the date on which application to the court for payment out is made.
- In cases where the payment is made in accordance with an order of the court, the date of that order.

The compensator becomes liable to pay the full amount of recoverable benefits to the DfC once he is notified that the payment into court, or any part of it, has been paid out to the other party.

Please note: Article 18 of the Social Security (Recovery of Benefits) (NI) Order 1997 and Regulation 8 of the Social Security (Recovery of Benefits) Regulations (NI) 1997 refer to Payments into court.

INSURER'S LIABILITY

If you need further information about cases where the amount of benefits to be repaid and the amount of the compensation exceed the insurer's maximum liability, please contact us.

CLINICAL NEGLIGENCE

Claims involving clinical negligence may be particularly difficult. This is because consideration must be given to causation and prolongation in order to determine how much of the benefit was paid as a result of the actual negligence and how much was paid for the original incident.

It is important that form CRS1 is submitted in clinical negligence claims as soon as you have been notified of the claim. This will enable us to provide a prompt and accurate service.

GOODWILL PAYMENTS

A goodwill payment, usually in the form of gift vouchers or the like, is sometimes made in response to a complaint about a product or incident, for example, if someone slips in a retailer's premises and suffers only minor injury, inconvenience or embarrassment or if the consumption of foodstuffs is alleged to have caused a stomach complaint.

If such a payment is made at the time of the complaint or incident, we need not be notified about it. However, if such a payment is made at a later date, benefits may have been claimed in the meantime. In these cases, form CRS1 **must** be submitted.

PROPERTY DAMAGE ONLY CLAIMS

You must notify us on form CRS1 if a claim for property damage includes a claim for loss of earnings, loss of mobility, cost of care or any other element of compensation.

REQUESTS AND NOTIFICATIONS NOT APPROPRIATE TO CRS

Professional negligence

If a claim is made in respect of professional negligence and the particulars of claim, statement of claim or letter before action does not include a claim for compensation as a result of the original accident, injury or disease, completion of form CRS1 is not required. If details of benefits paid are required, a request should be made to the relevant DfC benefit paying office. If you have already sent us form CRS1 for such a case, please let us know as soon as possible.

Where compensation is also to be paid as a result of the original accident, injury or disease, form CRS1 must be submitted by the compensator.

Compensation for criminal injuries

The Compensation Recovery Scheme does not apply in criminal injuries cases. If details of benefit are required they should be obtained from the relevant DfC benefit paying office.

For information about the Criminal Injuries Compensation Scheme contact

The Compensation Agency

Millennium House
19-25 Great Victoria Street
Belfast BT2 7BN
Phone: 0300 200 7887



Health Services (HS) Charges

The law on the HS Charges scheme in NI is contained in:

- The Health and Personal Social Services Act (NI) 2001
- The Road Traffic (Health Services Charges) Regulations (NI) 2001
- The Road Traffic (Health Services Charges) (Appeals) Regulations (NI) 2001
- The Road Traffic (Health Services Charges) (Amendment) Regulations (NI) 2001
- The Road Traffic (Health Services Charges) (Amendment) Regulations (NI) 2002
- The Road Traffic (Health Services Charges) (Amendment No 2) Regulations (NI) 2002
- The Road Traffic (Health Services Charges) (Amendment) Regulations (NI) 2004
- The Road Traffic (Health Service Charges) (Amendment) Regulations (NI) 2005
- The Road Traffic (Health Service Charges) (Amendment) Regulations (NI) 2006
- The Recovery of Health Services Charges (NI) Order 2006
- The Recovery of Health Services Charges (Amounts) Regulations (NI) (various)
- The Recovery of Health Services Charges (General) Regulations (NI) 2006
- The Recovery of Health Services Charges (Reviews and Appeals) Regulations (NI) 2007
- The Recovery of Health Services Charges (Consequential Provisions) Order (NI) 2007

HS Overview

The main provisions of the scheme are as follows:

(where road traffic accident occurred before 29 January 2007)

The scheme applies where a person (the traffic casualty) has suffered an injury, or fatal accident, as a result of the use of a motor vehicle and received treatment at a HS hospital, and subsequently a successful claim for compensation in respect of that injury or death is made.

A compensator who is, or is alleged to be, liable for the RTA and makes a compensation payment (including an interim payment) on or after 2 April 2001 is liable to repay the appropriate charges in accordance with Part II of The Health and Personal Social Services Act (NI) 2001.

(where accident/incident occurs on, or after, 29 January 2007)

The Recovery of Health Services Charges (NI) Order 2006 makes provision for the establishment of a scheme to recover costs of providing treatment to an injured person in all cases where that person has made a successful personal injury claim against a third party on or after 29 January 2007.

The main areas of liability are:

- motor
- employer
- public and
- other

This list is not exhaustive.

The provisions are not restricted to payments made as a result of insurance and it is the person making the payment in the primary compensation claim who will be liable for the HS charges.

The new legislation does not extend to disease cases, unless the disease in question is attributable to the injury suffered by the injured person.

It applies to ALL compensators, not just insurance companies and those holding a security or deposit in accordance with the 2001 Act.

It extends to foreign compensators, accidents/incidents abroad etc. providing the HS treatment is provided in Northern Ireland.

HS Trusts who are also the compensator are exempt, from repaying their “own” HS charges but are liable to repay any other HS Trust’s HS charges up to the maximum amount.

Recovery of ambulance charges are to be repaid **direct** to the NI Ambulance Service. Charges will not be collected for charity-funded ambulances in NI.

For RTA cases before 29 January 2007, a compensation payment means:

- a payment made by an authorised insurer under, or in consequence of, a policy issued under Article 92 of the Road Traffic (NI) Order 1981 (NI 1) - “authorized insurer” is defined in Article 101 of that Order
- a payment made by the owner of the vehicle, in a case where the vehicle is one in relation to the use of which a security under Part VIII of that Order is in force
- a payment made by the owner of the vehicle who has made a deposit under that Part or
- a payment made in pursuance of a compensation scheme for motor accidents

For all injury cases from 29 January 2007, a compensation payment means a payment made by, or on behalf of, a person who is liable to any extent in respect of the injury or in pursuance of a compensation scheme for motor accidents. The definition of 'compensation payment' covers any payment made, even where liability is denied or payment is made in respect of costs only. The definition also includes payments made in money's worth, which would include, for example, gift vouchers or providing physiotherapy. However, payments mentioned in Schedule 1 to the HS Order are excluded.

We may not recover a HS hospital charge in respect of treatment provided without admission to hospital prior to 2 April 2001.

We will forward the HS charges to the responsible body of the hospital that provided treatment.

THE RELEVANT PERIOD

The period in respect of which HS charges may be recovered begins on the first day of treatment following the accident/incident.

The period ends on:

- the day a compensation payment is made in final discharge of a claim provided the compensation payment is made on or after 2 April 2001 or
- the date an agreement is made under which an earlier compensation payment is treated as having been made in final discharge of any claim, provided the date is after 2 April 2001 or
- when the appropriate limit is reached.

HS CHARGES TARIFF

The amount to be charged will depend on when the accident/incident occurred (see table overleaf). The charges will relate to either treatment provided without admission to hospital or treatment provided with admission to hospital, but **not both**.

'With admission' charges are calculated according to the number of nights the injured person stays in hospital. This is subject to a minimum of one day when the casualty is released on the day of admission, this is known as a 'day case'. Where the casualty is admitted to hospital on one day and discharged the following day, the day of discharge is disregarded. Therefore, only one day of treatment will be charged.

The table below shows the tariffs on which the hospital charges will be based:

Date of Accident	Out-Patient Charge	In-Patient Charge	In-Patient Maximum Tariff
Pre 02.07.97	n/a	£435	£3,000
02.07.97 to 01.04.01	n/a	£435	£10,000
02.04.01 to 31.12.02	£354	£435	£10,000
01.01.03 to 31.03.03	£440	£541	£30,000
01.04.03 to 31.03.04	£452	£556	£33,000
01.04.04 to 31.03.05	£473	£582	£34,800
01.04.05 to 31.03.06	£483	£593	£35,500
01.04.06 to 28.01.07	£505	£620	£37,100
29.01.07 to 31.03.08	£505	£620	£37,100
01.04.08 to 31.03.09	£547	£672	£40,179
01.04.09 to 31.03.10	£566	£695	£41,545
01.04.10 to 31.03.11	£585	£719	£42,999
01.04.11 to 31.03.12	£600	£737	£44,056
01.04.12 to 31.03.13	£615	£755	£45,153
01.04.13 to 29.04.14	£627	£770	£46,046
30.04.14 to 14.04.15	£637	£783	£46,831
15.04.15 to 31.03.16	£647	£796	£47,569
01.04.16 onwards	£665	£817	£48,849

EXEMPT PAYMENTS

The following classes of compensation payment are exempt from the requirement to pay HS Charges for road traffic accidents occurring up to and including 28 January 2007:

- Any compensation payment made by a compensator who in accordance with Articles 90 & 214 of the Road Traffic (NI) Order 1981 is exempt on the grounds of no requirement to carry compulsory insurance for their motor vehicles (for example vehicles owned by Belfast City Council, Translink, the Police Service of NI, and Health and Social Services Boards).
- Any compensation payment made by the Motor Insurers' Bureau in pursuance of a compensation scheme for motor accidents, only in respect of an accident occurring before 2 April 2001.

A compensator who is exempt will not be issued with a Certificate of HS Charges unless we have been notified of the exemption after a Certificate of HS Charges has been issued. In these circumstances, we will revoke the Certificate and issue a Certificate advising that no payment is due. You must therefore inform us if you receive a Certificate of HS Charges on a compensation payment that is exempt.

Note however that if the defendant chooses to purchase insurance, even though it is not required under the 1981 Order, and the compensation is paid out of a claim against that insurance policy, the compensator will be liable to pay HS charges.

In cases involving injuries occurring from 28 January 2007 Schedule 1 to the HS Order specifies exemptions from having to pay HS charges.

These include cases where

- the payment was a compensation order against convicted persons and
- the compensator is the HS Trust where the HS treatment was administered

AMBULANCE CHARGES

The HS Order has provided for the collection of HS ambulance charges for accidents/incidents on or after 29 January 2007.

Ambulance charges are recoverable for each ambulance journey to hospital, or transfer between hospitals, where treatment of the injuries for which compensation is awarded, for example, if a patient is taken by ambulance to Accident and Emergency at hospital A, transferred and admitted to hospital B and then transferred again to a specialist Scheme in hospital C, all 3 ambulance charges would be recoverable. The ambulance charge is incorporated in the HS capped amount.

Any recovery of HS ambulance charges will be repaid direct to the Northern Ireland Ambulance Service.

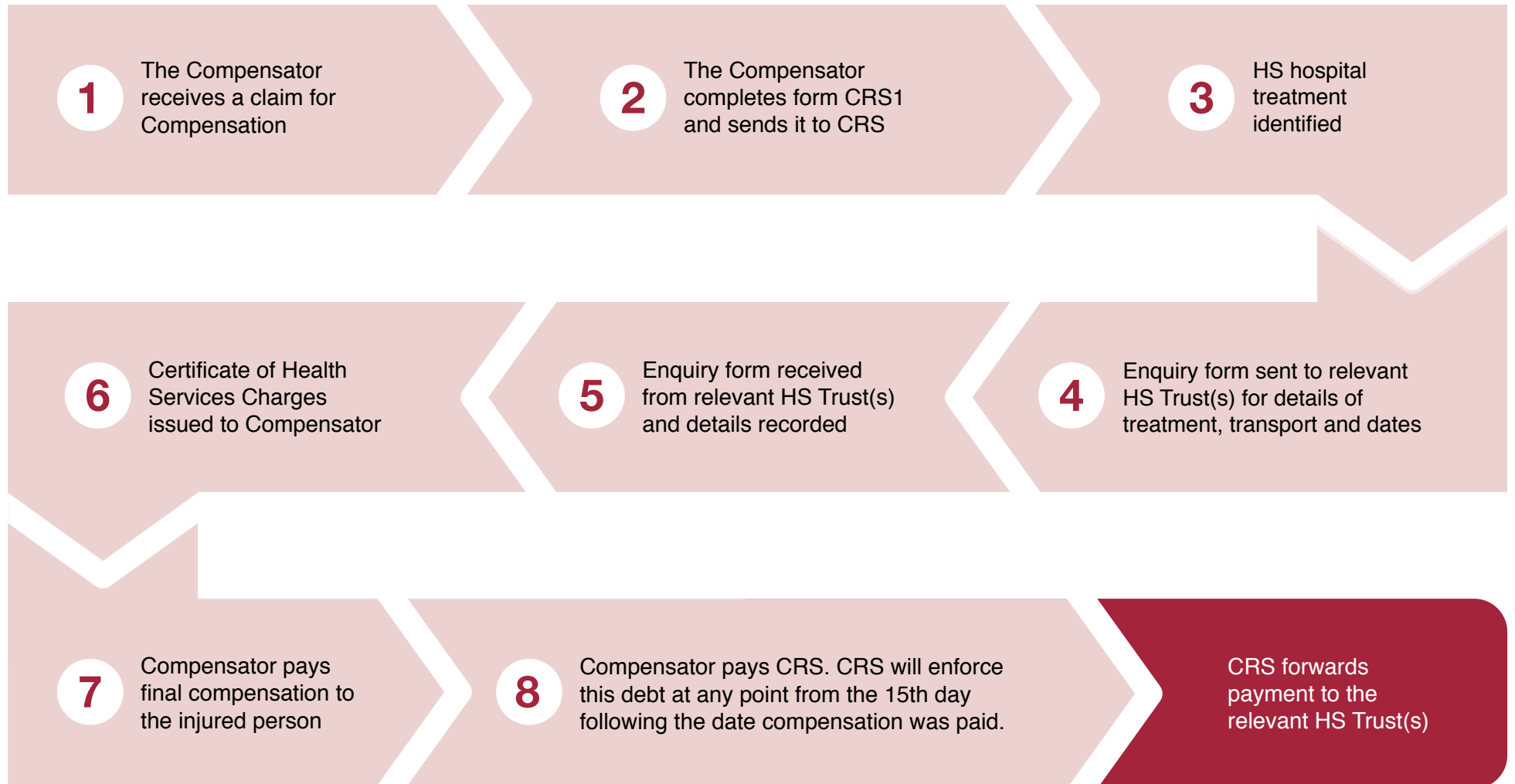
Charges will not be collected for the ambulance journey if the person is pronounced dead on arrival at hospital.

Charges will not be collected for charity-funded ambulances in NI.

The table below shows the tariffs on which the ambulance charges will be based.

Date of Accident	Ambulance Charge
29.01.07 to 31.03.08	£159
01.04.08 to 31.03.09	£165
01.04.09 to 31.03.10	£171
01.04.10 to 30.03.11	£177
01.04.11 to 31.03.12	£181
01.04.12 to 31.03.13	£185
01.04.13 to 29.04.14	£189
30.04.14 to 14.04.15	£192
15.04.15 to 31.03.16	£195
01.04.16 onwards	£201

The Compensation Recovery Scheme Health Services Recovery Process



Telling us about a Health Services Claim

When you receive a claim for compensation, send form CRS1 ensuring that where appropriate it contains the name and address of the hospital where treatment was provided as a result of the accident/incident.

Form CRS1 must be submitted within 14 calendar days. This does not mean that you have accepted liability for the accident.

Health Services Certificates

You do not need a Certificate of HS Charges prior to making a compensation payment. However, if all particulars are provided in accordance with the legislation, we will provide a Certificate of HS Charges whenever a Certificate of Recoverable Benefits is requested.

A copy will not be sent to the injured person or his representative.

It is not mandatory for a compensator to apply for a Certificate of HS Charges prior to making a compensation payment; however, if a compensator makes a compensation payment he **must** apply for a Certificate of HS Charges.

After receiving a properly completed request we will issue the Certificate of HS Charges as soon as is reasonably practicable.

The Certificate of HS Charges is completely separate to the Certificate of Recoverable Benefits. The Certificate of Recoverable Benefits does not cover both schemes. **A Certificate of HS Charges must always be obtained when you make a compensation payment.**

The Certificate will include:

- details of the injured person's identity and the date of accident which gave rise to the compensation claim
- the name of the responsible body for the hospital (i.e. HS Trust) at which the treatment took place
- if the injured person was admitted to hospital, the number of days of admission
- if the injured person was transported by ambulance, the number of trips and total ambulance charges
- the date the Certificate ceases to be valid
- the total HS charges due to be repaid up to the maximum recoverable amount

If you have any queries in relation to the Certificate please contact us and, if necessary, we will issue a further Certificate.

Settled Health Services Cases (including Contributory Negligence)

You should advise us of the date the compensation payment was made and the type of payment made, for example interim payment, payment into court, as soon as possible. You should use the CRS102 form that accompanied the Certificate of Recoverable Benefits for this purpose.

Please note: payments should not be sent to us if a compensation payment has not been made to the injured person.

If no notification has been received about the outcome of a compensation claim after two years, automatic follow up action will be taken to obtain the result of the claim. Form CRS250 will be issued and should be completed and returned immediately.

When compensation has been paid, you must send the amount specified on the Certificate to DfC within 14 calendar days of making the compensation payment, if a valid Certificate is held, or within 14 calendar days of issue of the Certificate, whichever is the latest.

The CRS account details for BACS payments are:

Bank Name & Address	DANSKE BANK 8-9 DONEGALL SQUARE NORTH BELFAST BT1 5GJ
Name of Account	DEPARTMENT FOR COMMUNITIES (DfC) GENERAL ACCOUNT
Sort Code	95-01-21
Account Number	21061569
IBAN Number	GB07DABA95012121061569

Please remember to include the CRS Reference Number on BACS remittance advice.

If you are unable to pay by BACS, you may pay by cheque. Cheques should be made payable to **“Department for Communities”**.

Please ensure the correct CRS reference number is shown on the remittance advice note, along with your claim reference number and if possible the incident/accident date or the name of the injured person.

You may send one cheque in respect of any number of claims. In order that we may allocate a bulk payment correctly to each case, the cheque **MUST** be accompanied by a schedule detailing **ALL** the CRS reference numbers and the **AMOUNT DUE** for each individual case. The total amount on the schedule should be checked to ensure the cheque is for the correct amount. If you choose this option you should bear in mind that the liability to pay any individual amount within 14 days of making the compensation payment, still applies.

CONTRIBUTORY NEGLIGENCE

Where a RTA has occurred before 29 January 2007, contributory negligence is not taken into account in the calculation of Certificates of HS Charges.

If an accident/incident or injury has occurred on or after 29 January 2007, The HS Order brings in provisions to take into account contributory negligence in all cases where it is a factor in the primary

compensation claim. The regulations set out the requirements needed to be shown when all parties to the primary compensation claim have reached an agreement on contributory negligence.

If you want us to review a Certificate of Health Services Charges to take account of contributory negligence you must provide the required evidence. A Contributory Negligence Template to do this may be downloaded from the DfC website www.communities-ni.gov.uk/crs. The template must be fully completed and signed by a representative for both the compensator and the injured person.

When notifying us of contributory negligence some compensators work out the reduction before requesting the review and send in the charges with their evidence. Please note, if doing this, that the percentage of the contributory negligence will be rounded up or down to the nearest full percentage point. If a claimant has accepted 1/3 of the responsibility the Certificate of NHS Charges would be reduced to 67 percent of the total. If the claimant accepted they were 2/3 responsible, the Certificate of NHS Charges would be reduced to 33 percent.

This is to make the calculation of charges as straightforward as possible as the amount owed would vary depending upon whether it was calculated as 66.7 percent, 66.67 percent or 66.667 percent. This could lead to a variation in the amount owed, depending upon the original NHS charge.

We consider this to be fair to both the compensator and the trust that provided treatment as the charges may be rounded up or down. Where

the compensator does not round to the nearest full percentage point we will need to issue a refund or request further payment.

We try to be flexible in the evidence we accept and will consider, for example, a report detailing the agreement signed by both sides, or offer and acceptance letters that clearly show the acceptance of responsibility by the claimant, and amounts or percentage of agreed responsibility involved.

Please note that the legislation stipulates a signed report. Therefore, we cannot accept notes from a telephone call or email exchanges (unless printed and signed by the claimant to demonstrate acceptance of the terms). If you intend to request a reduction in the Certificate of HS Charges, you need to consider how the agreement with the claimant is documented.

Please note that the evidence must refer to a reduction in the payment of damages on account of the claimant's share of responsibility for the accident. We cannot allow the review where:

- a reduction in damages has been agreed in order to speed up the negotiation process; or
- it is stated that the claimant does not accept any blame.

The legislation allows for a reduction only in cases where the claimant has agreed, in a fair manner, that they were partly responsible. Where it is apparent that no degree of responsibility has been accepted by the claimant the review request will be disallowed.

The legislative requirement to apply for a Mandatory Reconsideration, before the right of appeal exists, does not apply to Health Service Charges.

Health Services Reviews

The compensator may ask us to review any aspect of a Certificate of HS Charges up to three months from either:

- the date the Certificate is issued
- the date of the compensation payment

whichever is the later.

The request must be in writing clearly stating the grounds on which a review is being sought.

A review may be requested, or initiated by DfC, on the following grounds:

- a mistake (whether in computation or otherwise) occurred in the preparation of the Certificate
- the amount specified in the Certificate is in excess of the amount due to the DfC
- incorrect or insufficient information was supplied to the DfC by the person who applied for the Certificate, or the HS Trust, and in consequence the amount specified in the Certificate was less than, or in excess of, what it would have been had the information supplied been correct or sufficient
- it appears that a ground for appeal is satisfied

When we review the Certificate we will look at all the HS charges

recorded and the information provided by the HS Trust. Any errors, omissions or other changes that may affect the outcome of the review will be taken into account, even if unrelated to your reasons for requesting the review.

If there is no apparent reason to change the decision we will contact the appropriate HS Trust to ask them to check all records to confirm that the treatment details provided to us are correct and relate to the accident/incident for which compensation is being sought.

Once the review is complete we will either confirm in writing that the Certificate is correct or revoke the Certificate and issue a fresh one. If a revised Certificate is issued it will cover the same period as the Certificate it replaces.

Unlike GB, for accidents up to and including 28 January 2007, we can issue a fresh Certificate showing an increase in the amount of HS charges regardless of whether or not the variation is required as a result of incorrect or insufficient information being supplied by the compensator. Where this occurs the compensator will be liable to pay the difference to DfC.

INCREASES IN CERTIFICATES

For accidents from 29 January 2007, we will only revise the HS charges after a Certificate has been issued if the compensator has failed to provide the correct information at the time it was issued. However, if the accident occurred prior to 29 January 2007 we can still increase an HS Certificate even if the compensator has provided the correct information.

This will enable us to collect the correct amount when someone other than the compensator makes a mistake.

If HS charges are inadvertently omitted from a Certificate, a revised Certificate will be issued showing the correct details.

There are no time limits for compensator error reviews. We can conduct an error review after the compensator has settled the claim.

REQUESTS AND NOTIFICATIONS NOT APPROPRIATE TO CRS

HS Charges may not be recovered for claims arising from:

- Professional negligence claims where action does not include a claim for compensation as a result of the original accident,

injury or disease; or

- Compensation for criminal injuries claims.

Appeals

Please refer to the [Appeals section](#) of this guide.

Complex Cases

Multiple Compensation Payments

When a compensator makes a compensation payment, he will be liable to repay any HS charges incurred up to the date of that payment. If the compensator makes any further payments, or an agreement that a previous payment was in final settlement of the claim provided it was on or after 2 April 2001, they will be liable to repay any further HS charges, which have not already been repaid.

If this is the case, the compensator should apply for a fresh Certificate of HS Charges. This Certificate will show details of all HS charges and the balance to be paid by the compensator.

Structured Settlements

When a compensator, in final settlement of a claim, enters into an agreement for the making of periodical compensation payments (whether of an income or capital nature) or for the making of such payments and lump sum payments and those payments would fall to be treated as compensation payments:

The date of the agreement will be classed as the day of a single compensation payment and liability will end at that time, if it has not done so already.

Any further payments made otherwise than under the agreement will be disregarded for the purpose of determining the end of the relevant period in relation to that further payment.

Payments into Court

Where compensation is paid into court the compensator remains liable to repay any HS charges to DfC and the making of the payment is treated as a compensation payment.

In these circumstances, the relevant period for recovery of HS charges ends on:

- the day the payment into court is made - but only where the payment in is accepted within 21 days after the injured person is notified that the payment in has been made; or
- if accepted outside the 21 days, the date on which application to the court for payment out is made.
- in cases where the payment is made in accordance with an order of the court, the date of that order; or
- the date that the payment in is accepted by consent between the parties. The settlement date is the date on which the person making the payment into court is notified that it has been accepted.

The compensator must apply for a Certificate of HS Charges not later than 14 calendar days after he is notified that the payment into court has been accepted.

Fatal Accidents

Where a compensation payment is made in accordance with the Fatal Accidents Legislation (Administration of Justice Act 1982) the compensator is liable to repay any HS charges due as a result of the accident/incident.

HS charges will not be levied when the casualty is certified as dead on arrival at a HS hospital.

Any payment in consequence of an action under the Fatal Accidents Act 1976, the Fatal Accidents (NI) Order 1977 or the Scottish equivalent

is exempt from HS charges recovery action. **However if any of the action is being brought under the Law Reform (Miscellaneous Provisions) Act (NI) 1934, a CRS1 needs to be completed.**

Injured person resident in NI or GB

Resident in NI:

Where the injured person is a resident of NI for benefit recovery purposes the claim is handled by CRS, however where treatment has been provided at a hospital in England, Scotland or Wales, CRU GB will recover the National Health Service charges. Until certain necessary changes are made to the IT systems in both Schemes the following procedures are in place:

- on receipt of a CRS1 from the compensator the claim will be taken onto both GB and Northern Ireland systems, and you will be notified that this has been done
- each claim will have two reference numbers, one relating to CRU (GB) and one relating to CRS (NI)
- CRU (GB) will issue a Certificate of NHS Charges while CRS will issue the Certificate of Recoverable Benefits
- You will be liable to repay any NHS charges to CRU (GB) and any benefit recovery to CRS

Where an injured person makes a compensation claim for personal injury and has received inpatient treatment as a result of that injury

at a hospital in both GB and NI, HS Charges will be recoverable under both The Health and Social Care (Community and Standards) Act 2003 and The Recovery of Health Service Charges (NI) Order 2006.

Resident in GB:

Where the injured person is a resident of GB but receives treatment in a NI HS hospital the same procedures apply in reverse.

Emergency Treatment Fee

An Emergency Treatment Fee is not recoverable in Northern Ireland.

Pre Paid HS Charges

Where a HS hospital invoice has been raised and sent to an insurer prior to 2 April 2001 and a compensation payment was made on or after 2 April 2001 the compensator will still need to apply for a Certificate of HS Charges under the scheme. He will be liable to repay the tariff set in the Road Traffic (Health Services Charges) Regulations (NI) 2001.

Where the compensator has already paid HS charges under the Road Traffic (NI) Order 1981, and advises us of the amounts paid we will confirm with the HS Trust that payment has been received. Where the Trust confirms receipt of payment the appropriate HS charges will be reduced by the amount already repaid direct to the Trust.

Ministry of Defence (MoD) Hospitals

There is no provision allowing for a HS charge in respect of treatment at a Ministry of Defence hospital in NI.



Appeals

Administrative responsibility for the initial receipt and processing of an appeal will move from the Compensation Recovery Scheme (CRS) to The Appeals Service (TAS) - this is known as Direct Lodgement. Direct Lodgement of appeals to TAS applies to both Recovery of Benefit and Health Service Charges.

As Mandatory Reconsiderations do not apply to Health Service Charges this section contains separate guidance on appeals against Recovery of Benefit and Health Service Charges Certificates.

Recovery of Benefit Appeals

MANDATORY RECONSIDERATION AND APPEAL

An appeal against a Recovery of Benefit decision cannot be made until:

- CRS have considered an application for review (Mandatory Reconsideration) and the outcome has been notified via the Mandatory Reconsideration Notice (MRN); and
- The compensation claim has been fully disposed of; and
- The compensator has paid the amount specified in the certificate to CRS.

WHO CAN APPEAL?

An appeal can be made by;

- the Compensator to whom the certificate was issued;
- the Injured Person (or another person to whom the compensation payment has been made) but only if the compensation payment has been reduced to take account of benefit recovery;
- a representative acting on behalf of either the Compensator or Injured Person.

HOW TO APPEAL AGAINST A CERTIFICATE OF RECOVERABLE BENEFIT

If you wish to appeal, you must do so within one month of repaying the full amount of recoverable benefit/lump sum(s) shown on the Certificate to the Compensation Recovery Scheme, or within 1 month of making any payment to the Compensation Recovery Scheme, when agreement has been reached to treat an earlier payment as a final payment.

Your appeal **must** be in writing and sent to The Appeals Service Northern Ireland and a copy of the Mandatory Reconsideration Notice (MRN) should be attached.

You can use the Notice of Appeal form NOA1 (CR) to make your appeal. Using this form will help you to make sure that all the information the tribunal needs is included. To download a copy of a Notice of Appeal form, go to: **www.nidirect.gov.uk** You may also obtain a copy of the Notice of Appeal form by contacting The Appeals Service Northern Ireland at the address or telephone number below.

You can also appeal by letter giving all the reasons for your appeal. But if any information is missing your appeal may be delayed.

WHERE TO SEND YOUR APPEAL

Send your appeal to:

The Appeals Service Northern Ireland
PO Box 2202
BELFAST
BT1 9YJ

Telephone number: **02890 544000**

Grounds of appeal

An appeal against a Certificate may only be made on the ground that:

- any amount, rate or period specified in the Certificate is incorrect; or
- benefits listed in the Certificate have been paid other than because of the accident, injury or disease in question, and should not have been included; or
- benefits listed in the Certificate have not been, and are not likely to be, paid to the injured person during the relevant period and should not have been included; or
- the payment on the basis of which a Certificate was issued is not a payment within Article 3(1)(a) of the Recovery of Benefits Order.

Please note: Articles 12-16 of the Social Security (Recovery of Benefits) (NI) Order 1997 and Regulations 9 and 29-58 of the Social Security and Child Support (Decisions and Appeals) Regulations (NI) 1999 contain all information regarding Reviews and Appeals.

HS Charges Appeals

After all liability has been discharged, a compensator has the right of appeal against the Certificate of HS Charges. The Certificate contains details of the hospital and/or ambulance charges incurred as a result of an accident or injury.

WHO CAN APPEAL?

An appeal can be made by;

- the Compensator to whom the Certificate was issued; or
- a representative acting on their behalf.

HOW TO APPEAL AGAINST A CERTIFICATE OF HEALTH SERVICES CHARGES

Your appeal **must** be in writing and sent to The Appeals Service Northern Ireland.

You can use the Notice of Appeal form NOA1 (HSC) to make your appeal. Using this form will help you to make sure that all the information the tribunal needs is included. To download a copy of a Notice of Appeal form, go to: **www.nidirect.gov.uk** You may also obtain a copy of the Notice of Appeal form by contacting The Appeals Service Northern Ireland at the address or telephone number below.

You can also appeal by letter giving all the reasons for your appeal. But if any information is missing your appeal may be delayed.

WHERE TO SEND YOUR APPEAL

Send your appeal to:

The Appeals Service Northern Ireland
PO Box 2202
BELFAST
BT1 9YJ

Telephone number: **02890 544000**

Grounds of appeal

An appeal against a Certificate may only be made on the ground that:

- an amount specified in the Certificate is incorrect;
- an amount specified in the Certificate takes into account treatment which is not HS treatment received by the injured person, as a result of his injury, at a HS hospital;
- an amount specified in the Certificate takes into account ambulance services which are not HS ambulance services provided to the injured person as a result of his injury

that the payment on the basis of which the Certificate was issued is not a compensation payment.

An appeal cannot be made until:

- the compensation claim has been finally disposed of; and

- the Compensator has paid the amount specified in the Certificate to CRS*.

*Note: Compensators may apply for the requirement for prior payment to be waived if payment would cause exceptional financial hardship. You should provide particulars of the exceptional financial hardship that would be caused by payment of the amount specified in the HS Certificate. Compensators will have a right of appeal against a waiver decision using the same procedures as for an appeal against a Certificate.

A waiver application must be sent to the Department not later than;

- 3 months after the date on the Certificate, or if later, the date on which the compensation payment was made; or
- if the compensator has been granted an extension of the time limit for an appeal against a Certificate, one month after the date of that decision

An appeal against a Certificate must be made within the following time limits:

- not later than 3 months after the date on the Certificate or, if later, the date on which the compensation payment is made;
- where a Certificate is confirmed following a review by the Department, not later than 3 months after the date of that confirmation;
- where an agreement is made under which an earlier compensation payment is treated as having been made in final discharge of a claim made by or in respect of an injured person and arising out of the injury or death, not later than 3 months after the date of that agreement; or
- where the compensator makes a waiver application, not later than one month after the date of the waiver decision, or if the compensator appeals against that decision, the date on which the appeal is decided or withdrawn.

Please note: The waiver provision applies to the waiving of pre-payment being made prior to an appeal application. This does not mean that payment of HS charges can be waived where an appeal upholds the Certificate of HS Charges.

For Road Traffic Accidents up to and including 29 January 2007, where the amount on a Certificate is increased following an appeal the compensator will be liable to pay the balance of HS charges to DfC.

Where the amount on the Certificate is reduced, the balance will be deducted from the HS Trust and refunded to the compensator.

REQUESTS AND NOTIFICATIONS NOT APPROPRIATE TO CRS

HS Charges may not be recovered for claims arising from:

- Professional negligence claims where action does not include a claim for compensation as a result of the original accident, injury or disease; or
- Compensation for criminal injuries claims.



General Information

Data Protection

Under the Data Protection Act 1998, only the claimant may apply for access to all DfC records. In certain circumstances this information may be provided to an Appointee appointed by the DfC or an attorney under Power of Attorney. A solicitor representing the claimant may have copies of documents relating to DfC records following an incident/condition for which compensation has been claimed providing a written letter of authority from the claimant is produced. The benefit paying offices hold copies of all claim forms.

A request for access to DfC records by a defendant or his representative (following a claim to compensation) must be denied unless a court order is produced. However, the Social Security (Recovery of Benefit) (NI) Order 1997 allows the defendant to have 'particulars' of benefits shown on a Certificate of Recoverable Benefits. This may mean a full explanation of the benefit award but not necessarily copies of the documents concerned. If a claim has been settled and no further compensation will be paid, then consideration will be given to the release of copy documents.

If a claimant contacts DfC directly (and not through a solicitor) then the full DfC records may be released. If there is agreement for the defendant to see these records, it is the responsibility of the claimant to forward the documents. The request may be made to us or to the relevant Benefit Paying Office.

Customer Service

We are very interested to hear your views about this guide and are always happy to receive any suggestions or comments that will help us improve the service we provide. Our aim is to provide a service that is focused on your needs and our staff aim to provide accurate information and advice at all times.

- We will acknowledge all claim notifications made on form CRS1 within 15 working days
- If you write to or email us with an enquiry, we aim to:
 - confirm we have received your message within two working days and
 - send you a reply within 10 working days
 - If we cannot answer your query within 10 working days, we will write to tell you why, and when you should expect an answer.
- If you contact us by phone and we cannot deal with your query immediately, we will call you back. If we cannot help you the same day, we will explain why and tell you, when you can expect our answer.

Electronic Communications

Compensators can now send on-line notifications of compensation claims directly to us. This service is provided through the Claims Underwriting Exchange Personal Injury Database (CUE PI).

CUE PI is a UK wide secure database of personal injury/industrial illness claims and includes claims previously held on the NI database - NIPAR. Any claim which is submitted to us at the Compensation Recovery Scheme is held on the database as well as claims from individuals resident abroad (who do not need to notify us).

The information on the database is provided by insurers and other compensators who are members of Insurance Database Services Ltd. (IDSL). IDSL manages three claims databases on behalf of its members - CUE PI, CUE Motor and CUE Home. All claims for compensation arising out of injury or industrial illness are held on the CUE PI database.

Each record on the database relates to a single claimant. The CUE PI database can be searched at any time to provide the claims history of the individual. No claim settlements are shown on CUE PI as the purpose of the database is to show all claims and which type of injury/illness have occurred to the individual.

The benefits of the database are:

- Claims management - Identification of previous related claims
- Potential fraud - Identification of patterns of similar claims against other insurers/compensators

- Convenience - Easy search for related claims
- Efficiency - Desktop access means less paper
- Benefit to the Compensation Recover Scheme - Can create notification form (CRS1) to send to us

There is also the facility to allow us to issue acknowledgements and Certificates on-line.

The system allows users to:

- Add claims to the database (when claims are added the system automatically searches for related claims)
- Submit the CRS1 electronically to Compensation Recovery Unit in GB and the Compensation Recovery Scheme in NI
- Update CUE PI records (e.g. finding an additional previous address)
- Request Certificates/statements (CRU100/300)
- Receive Certificates (CRU100)
- Advise CRU when a case has settled (CRU102)
- Make ad hoc enquiries (e.g. it would allow a search to be carried out on a witness to ensure that there are no previous claims involving the witness and the claimant)

You can get access to this database by contacting IDSL, which is a “not for profit” company set up by insurers to allow data to be shared between them. Membership is open to all authorised insurers in UK, Lloyd’s syndicates and compensators. To discuss membership please contact:

Melanie Riddiford, Elizabeth Stewart or Louise Malthouse
(Service Delivery Managers) at:

IDSL
Linford Wood House
6-12 Capital Drive
Milton Keynes
MK14 6XT

Phone: 07730 517631

email: MRiddiford@mib.org.uk
estewart@mib.org.uk
lmalthouse@mib.org.uk

Website: www.insurancedatabases.co.uk

For compensators who choose not to use the CUE(PI) database, we are in the process of developing alternate electronic methods of communication with Insurance Companies as part of our ongoing process improvements. At the moment we offer you the facility to

- register claims (CRS1)
- request Certificates (CRS4)
- receive certain types of Certificates (CRS100)
- advise us when a claim is settled (CRS102)
- download certain forms and leaflets
- send general correspondence by electronic methods

These services can be accessed on the CRS pages of the DfC website where we will also post details of our progress - www.communities-ni.gov.uk/crs

Contact Details

Compensation Recovery Scheme
Mail Opening Unit
PO Box 42
Limavady
BT49 4AN

Alternatively, you may wish to email us at:
CRSTEAM.BELFAST@NISSA.GSI.GOV.UK

Our phone number is **0800 587 1322**.

If you use a Textphone you can call us on **028 9023 2106**.

Our fax number is **028 9037 4768**.

Our opening hours are 9.00 am to 5.00 pm Monday to Friday.

Please have the CRS reference number on hand when you contact us. It will help us to deal with your enquiry more quickly. The CRS reference number consists of 3 letters followed by 3 numbers, e.g. WYZ-123. Cases dealt with by NI start with W, Z or V.

If you are unable to provide the CRS reference number please tell us the injured person's National Insurance (NI) number, full name and date of birth.