

CICAPNI



Criminal Injuries
Compensation
Appeals Panel
Northern Ireland

Your panel hearing

enabling victims of crimes of violence to have their
appeals decided sensitively, fairly and independently in
accordance with the Scheme

The Criminal Injuries Compensation Appeals Panel Northern Ireland (the Panel)

The Panel is an independent body

It deals with appeals against decisions about compensation made by the Compensation Agency (the Agency)

We have not been involved in any earlier decisions about your case

We consider your claim afresh

This guide is to help you prepare for your personal hearing

You may also wish to read:

'The Northern Ireland Criminal Injuries Compensation Scheme 2002' (the Scheme) and the Agency's 'Guide to the Scheme'

Contents

	Page No
Contacts if you need help	3
Eligibility for an award	4
Civil claim	5
Withdrawing your appeal	5
The role of the Agency's Presenting Officer (PO)	6
The Hearing Papers	7
Evidence of eligibility	8
Witnesses	9
Medical evidence	10
Evidence of loss of earnings and Special Expenses	11
Loss of earnings	11
Special expenses	12
Fatal cases	13
Payment of expenses	14-15
Payment	16
Expenses not payable	16
Special needs	17
Arranging your hearing	18
The Hearing Day	19
When you arrive	19
About the hearing	20
Who takes part	20
How the hearing will start	21
Giving evidence	22
The summing up and decision	23
Making payment to you	23
Adjourning your hearing and interim payments	24
Medically re-opening your case	24
Customer Service and Standards	25
Feedback	25
Complaints	25
The Role of the Ombudsman	25
Judicial Review	26
How to contact us	27
How to contact the PO	27

Contacts if you need help

The Panel – contact details are on page 27

Victim Support – Victim Support Northern Ireland can be contacted on **028 90244039**

Victim Support can provide help with your appeal, free of charge

They can help you at your hearing by providing either representation or moral support

You can contact other Voluntary Agencies if you wish

The reference number for your appeal is the same as given to you by the Agency

Please give this number whenever you write or phone

➤ = ***Action for you***

➤ • **Tell us if you change address**

➤ • **Tell us if you change your representative**

Eligibility for an award

The Hearing Panel needs to be satisfied that:

You were the victim of a criminal injury (paragraph 8 of the Scheme)

and

Your injury was serious enough to reach the minimum award (paragraph 25 of the Scheme)

The Hearing Panel may withhold or reduce an award if:

Delay

You failed to take without delay all reasonable steps to inform the police or other appropriate body or person of the incident giving rise to your injury (paragraph 14(a) of the Scheme)

Non co-operation

You failed to co-operate with the police or other authority to bring your assailant to justice (paragraph 14(b) of the Scheme)

You failed to give reasonable assistance to the Agency or other body or person in connection with your application (paragraph 14(c) of the Scheme)

Conduct

Your conduct before, during or after the incident makes an award in full or part inappropriate (paragraphs 14(d) and 15 of the Scheme)

Character

Your character as shown by your unspent convictions or other evidence (even if unrelated to the incident in which you were injured) makes an award in full or part inappropriate (paragraph 14(e) of the Scheme)

Civil claim

Please tell us as soon as possible if you have started a civil claim for the same injury

We will then consider whether or not the hearing can go ahead before the civil claim is concluded

Withdrawing your appeal

You can write to withdraw your appeal at any time

➤ **If you want to withdraw your appeal and accept the Agency's Review decision, you can only do so where:**

- the compensation offered was not reduced for any reason
- your medical condition has not changed
- there is no new evidence affecting your eligibility such as new convictions

If there is doubt about your eligibility to withdraw your appeal you may have to make your case at a hearing

The role of the Agency's Presenting Officer (PO)

When you appeal the Agency will advise you who will be the Agency's PO and how to contact him or her

The PO will put together all the evidence on which the Agency decided your case

The PO will in light of the reasons for your appeal decide if any additional evidence is required e.g. police reports, medical reports.

The evidence prepared by the PO is called the **Hearing Papers**

The PO will forward the **Hearing Papers** to the Panel and we will send you a full copy

The Hearing Papers

The **Hearing Papers** should contain all the documentary evidence for your hearing

➤ **If you think there is any other information the Panel should have please tell us immediately and, if possible, provide it**

There is a covering list (a Schedule) and a **Hearing Summary** at the front of the **Hearing Papers**

Other documents are numbered in the top right corner

The **Hearing Summary** gives:

- brief details of the incident
- details of your injury
- the decisions made by the Agency
- the issues raised by the Agency
- the names of witnesses invited to attend

➤ ***Do read the Hearing Summary***

➤ **Make sure you understand the issues which will be raised at your hearing**

These may not be the same as the issues in the earlier Agency decisions

➤ **Now check the papers carefully**

➤ **Please tell us if you think anything is wrong or missing**

If we do not hear from you we will go ahead and arrange your hearing

Once arranged it will not be postponed unless there is a very good reason

➤ **Remember you have to make out your case for compensation at the hearing**

Evidence of eligibility

The main eligibility issues are listed on page 4

The **Hearing Summary** lists any eligibility issues raised by the Agency in your case

The Hearing Panel will decide your case on the evidence in the Hearing Papers and on any evidence given at the hearing

The **Hearing Papers** should include witness statements and any other evidence that the Agency has been able to collect about what happened

➤ **Do check this evidence is complete**

Witnesses

The witnesses named in the **Hearing Summary** are those who the PO consider can help the Hearing Panel reach a decision

➤ **If there are other witnesses who you believe can help your case it is important that you invite the witness to attend the hearing**

If they are able to give evidence which is relevant to your case, we will consider paying their reasonable travel expenses

We cannot make any witness attend

A police officer will usually be invited if there is an issue about your eligibility for an award

Alleged Offenders

One of the witnesses may be the convicted or alleged offender

This is because it is only fair to give them the chance to tell the Hearing Panel their account of what happened

Alleged offenders are often requested to attend

They are told the date, time and place of the hearing **only** if they tell us in writing they intend to come

They do not get a copy of your Hearing Papers

➤ **If facing the person who caused you the injury will upset you please let us know as soon as possible**

We can arrange to meet you away from the hearing venue and take you into the hearing without meeting the alleged offender

We will then do our best to make sure this person is kept apart from you at all times

You can ask to leave the hearing room while evidence is being given by the alleged offender

Medical evidence

If you are eligible for an award, the Hearing Panel decides the compensation which you should be awarded under the tariff set out in the Scheme

You can be compensated only if your injuries or the psychological effects from your injuries are supported by medical evidence

- **Do make sure your Hearing Papers contain all the medical evidence about your injuries and treatment and is up to date**
- **Tell us if it is not complete and, if possible, provide the further evidence**

Medical evidence may include records or letters from your GP, hospital doctor, consultant, or dentist and any other medical notes

If you are claiming for psychological injury you must have been diagnosed, or the prognosis made, by a psychiatrist or clinical psychologist and be supported by written evidence from the psychiatrist or clinical psychologist

- **Please look at the tariff to see where you believe your injuries fit in**
- **You may obtain and pay for your own medical report if you wish**
- **You need to give the PO a copy at least three weeks before the hearing**

If you feel that it would assist the presentation of your case for the Panel to see evidence of your injuries (eg scarring) in areas which are not visible, please bear this in mind and dress appropriately

- **Please tell us before the date of the hearing if you are agreeable to Panel Members viewing your scars.**

This will be done in a sensitive and considerate manner in a separate private room where if you wish someone may accompany you to provide moral support.

Evidence of loss of earnings and special expenses

You may find it helpful to read the Agency's 'Guide to Applicants for Loss of Earnings and Special Expenses'

Ask us if you need a copy

The **Hearing Papers** should include any documents about your loss of earnings and special expenses

- **You need to tell us immediately if any evidence is missing and, if possible, provide it at least three weeks before your hearing**
- **Please check any calculations**

Loss of earnings and special expenses can only be paid if you are made a tariff award

You become eligible for special expenses **only** when you have lost earnings for **more than 28 weeks** or have been incapacitated for **more than 28 weeks**

Such expenses may then be paid from the date of the incident

Loss of earnings

Loss of earnings is not paid for the first 28 weeks of loss

If the **Hearing Papers** do not contain an estimate or calculation of your loss, you must provide a document or schedule of loss at least three weeks before the hearing, which sets out the details of what you are claiming

You need to provide documentary evidence of both actual and potential loss of earnings eg letters from the Inland Revenue, tax returns and assessments, P60s or P45s, pay slips or accounts

Special expenses

You may be able to claim for special expenses such as costs of care

Paragraphs 35 – 36 of the Scheme give details

Any claim must be supported by documentary evidence

The loss of earnings you claim will be reduced if you receive:

- social security benefits or other benefits
- employer's sick pay
- employer's ill health, injury benefits, death pensions or gratuities
- insurance payments
- post incident earnings from employment

(see paragraphs 45-47 of the Scheme for details)

The Hearing Panel will want to see details and evidence of these items in the schedule of loss

Fatal Cases

You may find it helpful to read the Agency's 'Guide to Applicants in Fatal Cases'

Ask us if you need a copy

The **Hearing Papers** will include any documents you have provided about the deceased person's loss of earnings, your dependency or other compensation issues:

- **You need to tell us immediately if any evidence is missing**
- **Please check any calculations**
- **If you are claiming for dependency or loss of earnings you must provide a schedule of loss at least 3 weeks before the hearing**
- **You need to provide documentary evidence of both actual and potential loss of earnings eg letters from the Inland Revenue, tax returns and assessments, P60s or P45s, pay slips or accounts**
- **If you are claiming for special expenses such as costs of care this must be supported by documentary evidence**

Paragraphs 35 – 36 and paragraphs 37 – 44 of the Scheme give details

The loss of earnings and dependency claimed will be reduced if you or the deceased received:

- social security benefits or other benefits
- employer's sick pay
- employer's ill health, injury benefits, death pensions or gratuities
- insurance payments
- post incident earnings from employment

(see paragraphs 45 – 47 of the Scheme for details)

The Hearing Panel will want to see evidence of these items in the schedule of loss

Payment of expenses

We will pay reasonable costs for:

Travel

- Your travel expenses by train or bus between your home in Northern Ireland and the hearing venue
- Travel by private car (paying the public mileage rate) but only where there is no reasonable public transport available, or if you are registered disabled. If reasonable public transport is available we can only reimburse you with the equivalent costs of the bus/train fare.
- Travel to the hearing for anyone who needs to come with you because you cannot travel alone or need an interpreter
- Travel to the hearing for a witness who is giving evidence for you provided we have agreed beforehand that they need to come
- Car parking if you (or your witness) are disabled and you have an approved disabled badge

➤ **You need to contact us well before the hearing if:**

- You need to travel by plane or taxi
- You need a rail warrant (ticket)
- You are travelling from any other part of the UK
- You are on benefit and need an advance for expenses

Meal Allowance

- Staying at the hearings venue for more than 5 hours

Payment of expenses cont.

Lost wages or salary

- Lost wages or salary whether you are employed or self employed

Notes

1. Lost wages means your actual net loss after deductions for tax and national insurance
2. If you are employed you should bring a letter on **headed paper** from your employer stating your actual net loss
3. If you are self employed you should bring:
 - your last tax return, or
 - a letter from your accountant, or
 - a letter from the contractor for whom you would have been working on the day stating what your loss is and whether it is gross or net

Babysitting/Caring

The Panel will make a contribution of £2 per hour up to a maximum of £10. A letter from the babysitter/carer should be provided.

Payment

The Hearing Panel's receptionist will help you fill in your expenses claim form

We pay costs up to £20 in cash on the day whenever possible

We pay costs over £20 by payable order or directly into your bank account within 28 days

You must produce receipts and tickets for your travel

Expenses not payable

We will not pay the:

- Fees or expenses of a legal or other representative
- Cost of the attendance of witnesses from abroad
- Cost of the attendance of any witness other than those who give or would have been able to give relevant evidence
- Expenses of anyone coming with you for moral support (unless previously agreed with us)

Special needs

> Please tell us if:-

- **you have any special needs we can help you with**

We can send you documents in large print

- **stairs or steps cause you difficulty or if any other physical disability will cause you problems**

We try to make sure all venues have wheelchair access and toilets suitable for people with disabilities

- **you have a hearing difficulty or use an induction loop or need someone to sign**

You can bring someone with you to assist or if you ask us well in advance we can provide someone to help

- **you do not speak English**

You can bring a friend or family member to interpret for you or we can provide an interpreter if you tell us well in advance

The Hearing Panel may decide to adjourn your case if they consider that an independent interpreter is needed

- **you have learning or reading difficulties**

You can bring someone with you to assist or we can provide a member of staff to help

Arranging your hearing

We try to give you at least three weeks notice of your hearing

Where necessary we will make arrangements by phone

In any event we will write to you with the hearing details

We will send you a map showing you how to get to the Hearings Venue

> **Please allow plenty of time for travel**

> **Please try to keep the whole day free**

Your hearing may start later than scheduled but we will try to keep your waiting time as short as possible

Let us know before the hearings day if you have to leave early eg if you have children to collect

There are no childcare facilities at the hearing centre

The Hearing Panel will normally decide the case in your absence if you fail to attend the hearing without providing a good reason beforehand

> **Remember to bring your Hearing Papers with you**

You will need to look at these during the hearing

The Hearing Day

When you arrive

You must arrive at least 15 minutes before your hearing is due to start

If you are delayed unexpectedly please phone us

Our receptionist will welcome you and where appropriate pay any expenses

You will be asked to sit in the waiting area

You will be told how earlier cases are progressing

As soon as your case is ready to be heard you will be shown into the hearing room

About the Hearing

The length of a hearing varies considerably depending on the issues

The average hearing time is about one hour

It is a private hearing unless you ask in advance for the hearing to be public

You can attend the hearing on your own or be represented by a lawyer, your union, someone from Victim Support or a similar organisation, or a friend or family member

You can bring a friend or family member or someone from Victim Support or a similar organisation to sit with you for moral support

The section on Medical Evidence at page 10 gives more information on what you should do in the event of the need during the Hearing for members of the Panel to view an injury which is not visible (eg scarring).

If you have any disability or need a helper or someone to act as an interpreter they will be able to sit with you

The Hearing Panel is a tribunal not a court of law

There is no swearing of witnesses

We try to keep the hearing as informal as possible but it is a serious occasion with evidence being given

Who takes part

There will normally be a Panel of three, one of whom usually will be a lawyer

The Agency's Presenting Officer and the Panel's hearing clerk, will also be in the room

The Presenting Officer's role is to put the Agency's case to the Hearing Panel

How the hearing will start

You will be asked to sit at a table near the Panel Members with your representative and anyone with you for moral support

The Chairperson will welcome you and explain what will happen

➤ **Do ask if you are unsure about anything**

➤ **Do say if you want a short break at any time**

The Chairperson will identify the issues which the Hearing Panel needs to decide

These are shown in the **Hearing Summary** in your **Hearing Papers**

The Panel Members have the same papers and will have read them before the hearing

It may not therefore be necessary to go into full details about the incident itself

The Hearing Panel can take into account anything that emerges during the hearing even if it is not mentioned in the **Hearing Summary**

The Panel Members will make personal notes of the oral evidence to help them when they make their decision

There is no written transcript or recording of the hearing

Giving evidence

You may be asked questions about the incident and your injuries by the Presenting Officer, your representative or the Panel Members

It is important that the Hearing Panel has the full facts in order to reach a reasoned and sound decision based on all the evidence

You may find the questioning direct and sometimes probing but it should always be courteous and sensitive

If you wish the Members of the Panel to view injuries not normally visible, please dress appropriately.

After giving your evidence you remain to hear all the evidence

Any witnesses will be called one by one to give their evidence, then they will usually leave

Witnesses may be questioned by the Presenting Officer, by you or your representative, or by the Hearing Panel

➤ **Please tell the Chairperson if you do not want to stay in the room with the alleged offender**

The Panel is not bound by the rules of evidence used in a court

Witnesses, including police officers, may be asked to give their opinion or hearsay evidence. (Hearsay evidence is evidence of a fact that the witness has heard said by someone else)

You will be able at the end to say whether you agree with the evidence or not

The summing up and decision

At the end of the hearing the Presenting Officer will sum up the Agency's case

You or your representative will be invited to make final representations

The Hearing Panel will consider their decision in private

This does not normally take long

The Chairperson will usually tell you the Hearing Panel's decision on the day

This decision may be to confirm the Agency's award, increase it, reduce it, or make no award

You will be given a brief written record of the decision

In some circumstances such as special hearings for sexual and childhood abuse, or in complex claims for loss of earnings, the Hearing Panel's decision may be given in writing after the hearing

If you would like the Hearing Panel's decision explained in greater detail, you must contact us within 1 month from the date of the decision at the relevant address on page 27

THE DECISION OF THE HEARING PANEL IS FINAL

Making payment to you

If you are made an award you will normally be asked to sign your acceptance of it at the hearing

The Agency is responsible for paying awards

Compensation will be reduced if you receive court or other compensation for the same injury.

Adjourning your hearing and interim payments

If the Hearing Panel agrees that you qualify for an award but has to adjourn your case for further medical or other evidence you can ask for an interim payment

Where a case is adjourned for the amount of an award to be assessed, the Hearing Panel may decide to refer it back to a single Panel Member for a decision without the need for a further hearing

If you disagree with the single Panel Member's decision you can apply for a fresh hearing

Medically re-opening your case

If, after the Hearing Panel has made its decision, there is a material change in your medical condition (which is due to the original injury) you may apply to the Agency for your claim to be re-opened (paragraph 56 of the Scheme)

A case will not be re-opened more than two years after the Hearing Panel's decision unless the renewed application can be considered without a need for further extensive enquiries (paragraph 57 of the Scheme)

Customer Service and Standards

Feedback

We are always looking to improve our service and welcome feedback

If you have any comments or suggestions please write to the Chief Executive, CICAPNI, 2nd Floor, The Corn Exchange Building, 31 Gordon Street, Belfast BT1 2LG

Complaints

If you are unhappy about the way in which your appeal or hearing was conducted you should write to the Chief Executive, CICAPNI, 2nd Floor, The Corn Exchange Building, 31 Gordon Street, Belfast BT1 2LG explaining why you are complaining

Please head your letter "Complaint"

We will acknowledge your letter

You will normally receive a full reply within six weeks from the Chief Executive

The Role of the Ombudsman

If you wish to complain about how your appeal was administered you may contact the Parliamentary Commissioner for Administration (the 'Ombudsman')

Any such complaint must be made through your Member of Parliament

Judicial Review

If you consider that the Hearing Panel's decision was wrong in law you may seek Judicial Review of its decision

You can seek independent legal advice to do so, or you can ask for help in starting the process by writing to the Chief Executive, CICAPNI, 2nd Floor, The Corn Exchange Building, 31 Gordon Street, Belfast BT1 2LG

How to Contact Us

The Criminal Injuries Compensation Appeals Panel for Northern Ireland (CICAPNI)

2nd Floor
The Corn Exchange Building
31 Gordon Street
BELFAST
BT1 2LG

E-mail: mailto:cicapni@nics.gov.uk

Tel: 028 90924400

Fax: 028 90924420

Website: <http://www.cicapni.org.uk>

This contains information about the Panel and copies of the Panel's documents

How to contact the PO

The Presenting Officer (PO)

The Compensation Agency
Royston House
34 Upper Queen Street
BELFAST
BT1 6FD

Tel: 028 90547429

Fax: 028 90547421

Website: <http://www.compensationni.gov.uk>

This provides information about the Scheme and helps applicants fill in their application form.

