

Procedure for Making Applications for Criminal Injuries Compensation on Behalf of Children In Care

January 2016



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Introduction

The Criminal Injuries Compensation Scheme

The Criminal Injuries Compensation Scheme is a government funded scheme that allows blameless victims of violent crime to get a financial award. The first scheme for compensating victims of crimes of violence was established in 1964. Under the 2012 Scheme, each type of injury is given a value. The values together form a list that we call 'the tariff'. The award can never fully compensate for all the injuries suffered, but is recognition of public sympathy for the blameless victim.

The Criminal Injuries Compensation Authority (CICA) administers awards of compensation to people who have suffered personal injuries directly attributable to a crime of violence. Compensation in cases of family violence became payable for incidents occurring on or after 1 October 1979.

All forms of sexual abuse of children are considered crimes of violence and therefore compensatable under the scheme. Neglect and emotional abuse are not considered crimes of violence by the CICA and are therefore outside the scheme. However, Kent has successfully achieved awards on appeal against the CICA's decision on this point. Appeal decisions are not binding on the CICA and each case should be looked at on its own merit. Legal advice should be taken before submitting an application for Neglect.

There is no specific requirement that someone should have been convicted of the offence but the applicant should explain to the CICA why no prosecution occurred. Claims are assessed on the balance of probability rather than the claimant having to prove the case beyond reasonable doubt. There may, therefore, be occasions when an offender was found not guilty of an offence but the victim could still be awarded compensation.

Despite the fact that compensation has been available for a number of years there is still a great deal of ignorance of the scheme. As a result many victims of crimes of violence may be deprived of substantial amounts of compensation. The duty of a local authority is to safeguard and promote the welfare of children in its care. This includes the responsibility of making applications to the CICA for children who have suffered injuries and where this is considered to be in the best interests of the child. Failure to make a timely application may result in a child losing the opportunity of substantial compensation and a degree of subsequent financial security.

The Criteria for making an application

To assist the promotion of the interest of children in its care, the SCS Directorate facilitates the prompt processing of compensation applications.

The criteria for making an application are:

1. The Local Authority should have parental responsibility.
2. The child should have been the victim of a crime of violence, which can include the effects of trauma in witnessing a crime of violence.
3. Death of a parent as the result of a criminal act.
4. There should be some evidence of Police involvement, unless a reasonable explanation can be given to the CICA.
5. Where a child is accommodated and has suffered a criminal injury the Local Authority can make an application on the child's behalf in the usual way and send a covering letter to the CICA explaining the circumstances. The person with parental responsibility should sign the application form, but in certain circumstances the Director of Specialist Children's Services can sign the application and acceptance forms, provided that a written explanation is sent to the CICA.
6. There is the overriding issue that the perpetrator should not benefit from any compensation awarded. Close liaison between Social Worker, Area Co-ordinator and the CICA can safeguard this.

Duty of Local Authority in Respect Of Children Looked After By Them

The local authority has a responsibility to look after the best interests of children in its care. This includes making an application for Criminal Injuries Compensation where appropriate. Although any amount of money may not fully compensate the abuse suffered by a child or young person, an award of compensation may at least provide some financial security.

1. Children In Care who are clients of the 16+ Team should receive advice and guidance on how the money can be put to good use as part of their Pathway Plan from 16 years onwards.
2. At the outset of making the application the Area Co-ordinator should consider asking the CICA to make an award subject to a discretionary trust where applicable.

Procedure for Making an Application

1. The question is asked at the first child protection case conference and subsequent child protection/Children in Care reviews:

“Is this a case in which criminal injuries compensation should be claimed?”

2. The Area Co-ordinator identifies children on interim and full care orders (and also those accommodated) by social worker and team from Liberi – a list of children with legal status. The names of these children should be sent to the relevant social workers requesting them to identify any children eligible for compensation. A copy of the Eligibility Criteria should be attached to each request.
3. Where appropriate the views of the child should be sought as well as those of the parents and/or carer. If there is any doubt about whether an individual case comes within the criteria, advice should be sought from Legal Services.
4. Where an injury has been identified to a child or young person the Area Co-ordinator should ensure that a claim is made on behalf of the child and that reports are requested. For other applications Area Co-ordinators can offer assistance by means of consultancy or in certain circumstances complete the application, and in any event not more than two years from the date of disclosure or the date of injury. However, the CICA has discretion on this issue and there are some circumstances where the CICA may accept a late application – see paragraphs 88/89 of the 2012 Scheme.

Whenever possible the following reports should be sought:

Medical/psychological reports covering the first examination of the child, consequences of abuse, current position and prognosis.

If a medical report already exists on the social work file which may be of use to the CICA then the permission of the author of the report should be sought to release it to the CICA.

The CICA will write to the Police directly to obtain evidence of their involvement.

The Headteacher, if applicable, should be requested to provide a written assessment if there are any behavioural or educational challenges presented by the child.

Any other reports considered helpful to the CICA.

If any of the above reports or statements were used in the Care Proceedings then the Area Co-ordinator should make sure that the Court which made the Care Order has also given leave to disclose the papers to the CICA, otherwise an application to the Court for leave will need to be made. Legal Services (or privately commissioned lawyers) should always ask the Judge for permission to use the relevant reports submitted at the Final Care Hearing, in support of a Criminal Injuries Compensation application.

5. The application can be made either on-line or by telephone. The CICA will send the signature and consent page to the Area Co-ordinator to obtain the signatures of whoever holds Parental Responsibility, and the young person if s/he is 12 years or over. Where the application form has been signed by the child, their signature will later be required on the acceptance form.

The signed forms should be returned to:

Criminal Injuries Compensation Authority
Alexander Bain House
Atlantic Quay
15 York Street
Glasgow G2 8JQ
(Tel: 0300 003 3601)

6. Once all the information has been collated this should be submitted to the CICA at the earliest opportunity. This should include the following papers:
 - a) A covering letter stating what evidence is being provided
 - b) Copy of care order if applicable
 - c) Police reports (if filed in care proceedings)
 - d) Medical reports
 - e) School reports
 - f) Any other reports
 - g) Criminal Injuries Co-ordinator's report

Receipt of the application is acknowledged and a CICA reference number is allocated. The Area Co-ordinator is advised by the CICA. Progress should be monitored by the Area Co-ordinator.

Further correspondence about the application once submitted should be made through:

Criminal Injuries Compensation Authority
Alexander Bain House
Atlantic Quay
15 York Street
Glasgow G2 8JQ
(Tel: 0300 003 3601)

always quoting their reference number.

Fatal Injury Claim Procedure

An application may be made for loss of a parent(s) as a result of a crime of violence. A Fatal Injury Form should be completed on-line. If the child also suffered injuries, a separate application for personal injury may be submitted at the same time.

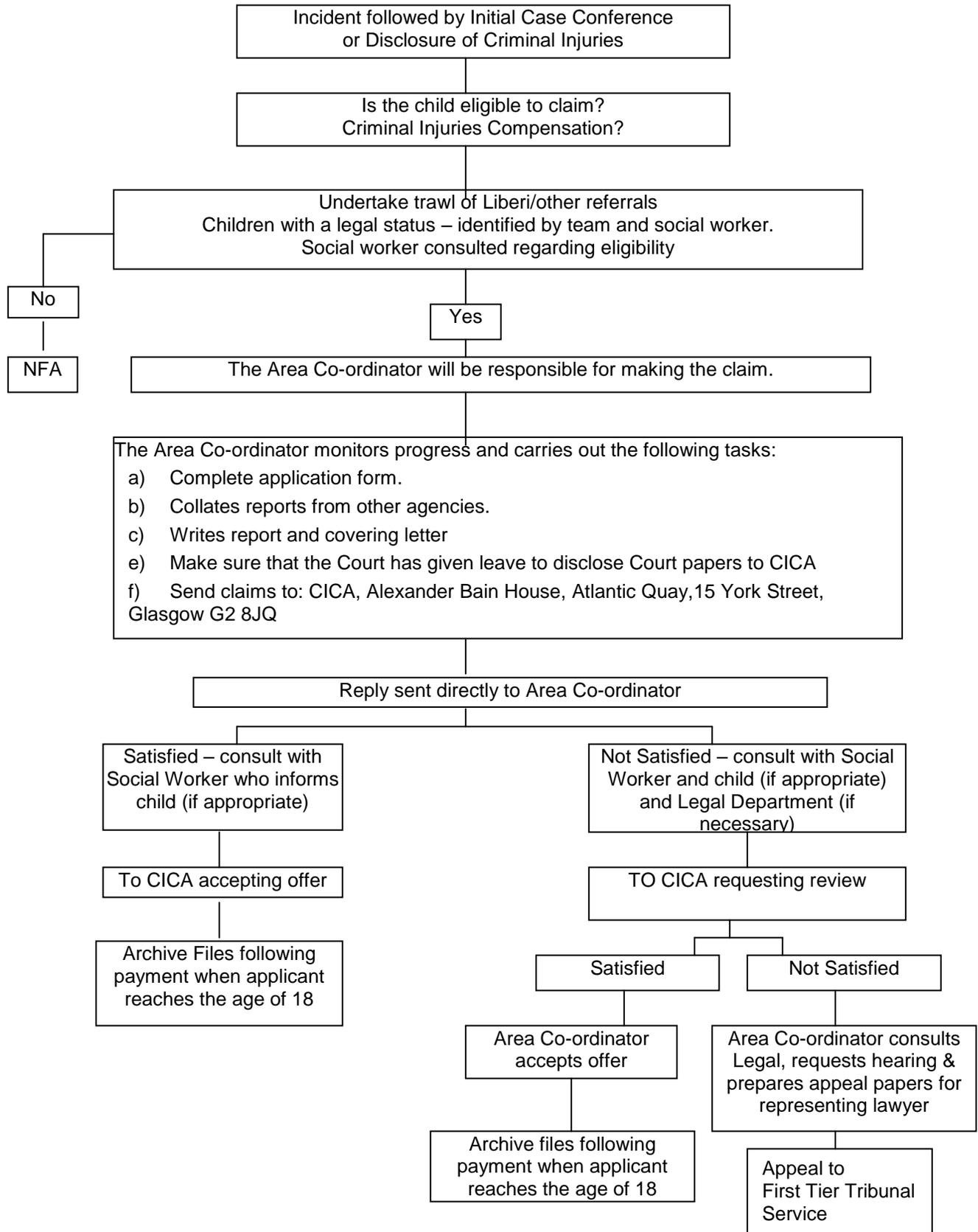
In cases where there is only one qualifying claimant the standard amount of compensation will be £11,000 and where there is more than one qualifying claimant, the standard amount of compensation will be £5,500.

Additional compensation is then calculated in accordance as follows:

Funeral Expenses: Where the child's parent dies as a result of criminal injury an application will be considered for reimbursement of reasonable funeral expenses, for the benefit of their estate under the 2012 Scheme (para 75). KCC can be reimbursed for the cost of funeral expenses if appropriate.

In the case of the child(ren)/Young person being adopted, the adoption documentation should be sent to the CICA. Documents include Adoption Order, new birth certificate and specimen signature of the adoptive parent.

Flow Chart for Making an Application



Procedure of the CICA for Determining Awards

Assessments, Reviews and Appeal Hearings

1. The application will first be considered by the Area team who will assess whether the applicant is entitled to compensation and the amount of the award. The assessment is passed to the Decision Maker for approval.
2. The CICA Area Team will notify the Area Co-ordinator of the decision in writing. A decision will be made on whether to accept the result or ask for a Review. If a request for a Review of the decision is decided upon this has to be sent to the CICA within the required time limit as stated in the decision letter and be signed by the Area Co-ordinator. When requesting a Review the Area Co-ordinator may ask for a copy of the TB1, which is the information supplied to the CICA by the Police. The Review will be conducted by a Senior Claims Officer and the Area Co-ordinator will be notified in writing of the decision of the Review. A decision to Appeal must be lodged within the required time limit or the offer accepted. Decision to appeal must be in consultation with Legal Services.
- 3(a) If the award is considered appropriate, the acceptance form is signed by the Director of Specialist Children's Services and returned to the CICA within the required time limit as stated in the decision letter. Young People 12+ must sign their forms, and for those accommodated the person with parental responsibility must sign the form.

The CICA will retain the award and invest it on behalf of the young person until 18 years of age. See page 10 – "Investment Administration of Awards"

- 3(b) If the decision of the CICA Review is not accepted the Area Co-ordinator may undertake to request an Appeal Hearing, prepare the papers and request new reports if necessary. Taking a case to Appeal needs the agreement of the Integrated Children and Young People Services Manager (for funding) and should be noted on Liberi by the Integrated Children and Young People Services Manager. The completed Appeal Application form needs to be signed by the Director of Specialist Children's Services. If the Appeal Hearing is granted, a copy of the Hearing Bundle should be forwarded to Legal Services. The Area Co-ordinator should liaise with Legal Services and may attend the hearing if appropriate. Young people aged 16 and over are expected to attend the Hearing (if appropriate) and support at the hearing should be arranged for them.
4. The Appeal Hearing may be an oral hearing before the First Tier Tribunals Service. The Tribunals Panel is an independent panel made up of three members, the Chairperson being a Senior Lawyer. The members and staff of the Tribunals Panel are entirely independent of the CICA. Their address is:

Tribunals Service
Wellington House
134-136 Wellington Street
Glasgow G2 2XL

(Tel: 0141 354 8555)

5. An award may be withheld or reduced on account of an applicant's character, as shown by his/her criminal convictions (excluding spent convictions). Mitigating circumstances can be presented by the Area co-ordinator to the Decision Maker, and taken into account in certain circumstances. This will probably necessitate liaison with Catch 22 16Plus Team and the Youth Offender Service. However, no award will be made if there is a conviction resulting in a custodial sentence, community or rehabilitation order.

Investment Administration of Awards

1. Once the final decision is reached, the award is retained by CICA and invested and administered on behalf of, and for the sole benefit of the child.
2. It is expected that the award will be invested on behalf of the child until the age of 18. However, there may be circumstances whereby an advance could be made from the award but should only be used for the child's 'advancement, education or other benefits'.
3. Advice should be sought from the Legal Department when the adoption of a child is imminent.
4. A note should be made on Liberi and the child's file under the key information section that the money is held on their behalf by CICA.
5. An up-to-date record of the child/young person's address should be kept on file/information system (particularly in view of the difficulties of keeping track of closed cases).
6. The award should be discussed with the 16+ worker as part of the young person's Pathway Plan.
7. The role of Finance regarding the Criminal Injuries Compensation accounts is detailed in Appendix 3 for awards made before November 2008.

APPLICATION FOR ADVANCE OF FUNDS FROM THE CICA

When the CICA have invested an award on behalf of a Child in Care notification is sent to the Area Criminal Injuries Compensation Co-ordinator (Area Co-ordinator). Forms are enclosed with this letter:

Advance Application Form

Consideration of Advances & Evidence Required

Steps taken for an advance of monies is as follows:

1. Request is made in writing to the Area Co-ordinator
 - By Social Worker if Young person is under 12 years old
 - By Young Person if 12 years or over, endorsed by Social Worker and/or Team Leader.

2. Both CICA forms are sent to Social Worker to complete and obtain the Young Person's signature if applicable. The forms are then returned to the Area Co-ordinator, along with evidence required (estimate/quote).
3. The Area Co-ordinator sends the forms and supporting evidence to the Director of Specialist Children's Services for his agreement and signature which are then returned to the Area Co-ordinator.
4. The forms are sent to the CICA for consideration.
5. If the CICA agree the application an Acceptance form in the Director's name will be sent to the CIC Co-ordinator along with a Bank Details form and a Receipt Details form.
6. The Acceptance form and Bank Details form are completed and signed by the Director of Children's Specialist Services and the Young Person, if applicable and returned to the Area Co-ordinator.
7. The Area Co-ordinator returns the signed forms to the CICA
8. The advance of money is transferred to the specified bank account by BACS transfer.
9. Receipts are obtained and sent to the CICA on the Receipt Details form provided.

Procedure for Approving an Advance of Money from Funds Held by KCC Under the Criminal Injuries Compensation Schemes 1996 - 2001

1. Until November 2008 awards for compensation under the above schemes were held by Kent County Council and invested as approved by the Director of Specialist Children's Services. Since November 2008 all awards for minors are retained and invested by the CICA.

Following a review of financial procedures, KCC took the decision in 2012 to return to the CICA all awards for children/young people whose birthdays fell after 01.07.1995 for the CICA to administer in line with their current procedures.

2. For a young person under 18 years old whose award is still retained by KCC, the social worker shall be the person responsible for initiating an application for an advancement of money. The request should be discussed with the young person to ensure the money is used in an appropriate way.
3. The Social Worker and their supervisor or other SCS manager should agree any advancement.
4. Any request for an advance for medical treatment should be supported by a medical statement that treatment is required and should state whether or not the treatment is available from the National Health Service which should be funded by statutory provision.
5. A copy of the application and a minute of the decision shall be attached to the child's file held by the Area Co-ordinator.
6. Once approved, a request for an advancement of money should be sent to the Finance Officer at Brook House for payment.

7. Guiding Principles

- a) Those considering whether an advance of money should be made shall consider whether it would be better to allow the capital to accumulate. KCC has a duty to be accountable to the young person as the custodian of the money.
- b) Any advance should be for the sole benefit of the child/young person. It needs to be borne in mind that the young person may have returned to live with those who abused them as a child.
- c) No money should ordinarily be applied for in respect of day to day maintenance of the child who is being looked after by the Local Authority.
- d) Examples of how an advance might be spent:

- i) School trips if not funded by KCC – confirmation required from school and advice re additional spending money required for the trip.
 - ii) Guide/Scout/Cadet trips – confirmation required from relevant organization of destination and cost of trip.
 - iii) Computer and Accessories – quote required from reputable dealer and letter from school or college supporting request.
 - iv) Purchase of items necessary for college – Documentation required from college confirming items required for course. Additional quote may be required for cameras, computer etc.
 - v) Driving lessons for minors aged 17 – quote from reputable driving school for a maximum of 20 lessons per advance plus copy of provisional driving licence.
 - vi) Purchase of car for minors aged 17 – Copy of full driving licence and quote from reputable dealer.
 - vii) First month's rent plus deposit on flat/accommodation for minor aged 16+ living independently, if not funded by Catch 22 16Plus – Copy of tenancy agreement and quote from the landlord.
 - viii) Purchase of baby equipment for minors who have had a baby – Quotes required for major purchases e.g. pram/pushchair.
 - ix) Equipment to assist minors with disabilities, if not funded by KCC/Health – quote required for equipment.
- f) Those considering the request for money should have regard to the individual child's age and development and whether the proposed financial advance would, in all circumstances, benefit the child.
8. The young person shall be entitled to all the monies held for them by the Council on attaining the age of 18 years.

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APPLICATION FOR ADVANCE OF FUNDS FROM KCC ACCOUNT AT BANK OF SCOTLAND

Trusts Funds are currently held by KCC and the awards are placed in named accounts with the Bank of Scotland.

Steps taken for an advance of monies is as follows:

10. Request is made in writing to the Area Co-ordinator
 - By Social Worker if Young person is under 12 years old
 - By Young Person if 12 years or over, endorsed by Social Worker and/or Team Leader.
11. The Area Co-ordinator forwards the request to the Finance Officer who considers if this is appropriate use of funds.
12. A cheque is drawn from the KCC – Social Services Cheque Book Account and a letter requesting transfer of funds from the young Person's account to the KCC Account, addressed to the Bank of Scotland, is completed. Both are signed by two approved signatories and returned to the Finance Officer.
13. The letter is scanned and emailed to the Bank of Scotland requesting transfer of funds.
14. The cheque is sent to the Young Person with a covering letter.

Guidelines for Area Co-ordinator's Report to the CICA

These guidelines are designed to assist in producing as full a report as possible in order that the CICA can make an early and informed decision. It will help if the report is typed in double-spacing, with numbered paragraphs. If a young person chooses to attend an Appeal hearing they should have the opportunity to read all the documents in the Appeal Bundle.

1. Name, age, date of birth of child/young person
2. Family details and history of child
3. Circumstances at time of injury
4. Action taken
5. Prosecution
6. Reports attached
7. Statement by child and/or carer, if appropriate
8. Pen picture of child/young person at present time
9. Estimate of present and future effect on child
10. Future plans, including prospect of being reunited with offender.

Criminal Injuries Compensation Scheme Checklist for Processing Claims																																											
<p>1. On-line application completed <input type="checkbox"/></p> <p>2. Application form signed by Director <input type="checkbox"/></p> <p>3. Covering letter and Area Co-ordinator's report <input type="checkbox"/></p> <p>4. Copy of Care Order <input type="checkbox"/></p> <p>5. Medical report <input type="checkbox"/></p> <p>6. Other reports - please list</p> <table border="1" style="width: 100%; height: 60px; margin-top: 5px;"> <tr><td> </td></tr> <tr><td> </td></tr> <tr><td> </td></tr> <tr><td> </td></tr> <tr><td> </td></tr> <tr><td> </td></tr> </table> <p>7. Acknowledgement</p>							<p>8. Date submitted to CICA</p> <table border="1" style="width: 100%; height: 20px; margin-top: 5px;"> <tr> <td style="width: 25%; text-align: center;"> </td> </tr> </table> <p>9. Date decision received from CICA</p> <table border="1" style="width: 100%; height: 20px; margin-top: 5px;"> <tr> <td style="width: 25%; text-align: center;"> </td> </tr> </table> <p>10. Legal Department Consulted (where applicable)</p> <table border="1" style="width: 100%; height: 20px; margin-top: 5px;"> <tr> <td style="width: 25%; text-align: center;"> </td> </tr> </table> <p>11. Applicant informed</p> <table border="1" style="width: 100%; height: 20px; margin-top: 5px;"> <tr> <td style="width: 25%; text-align: center;"> </td> </tr> </table> <p>12. CICA informed</p> <table border="1" style="width: 100%; height: 20px; margin-top: 5px;"> <tr> <td style="width: 25%; text-align: center;"> </td> </tr> </table> <p>13. Review Requested</p> <table border="1" style="width: 100%; height: 20px; margin-top: 5px;"> <tr> <td style="width: 25%; text-align: center;"> </td> </tr> </table> <p>14. Appeal Hearing requested (in consultation with Legal Services)</p> <table border="1" style="width: 100%; height: 20px; margin-top: 5px;"> <tr> <td style="width: 25%; text-align: center;"> </td> </tr> </table> <p>15. Notification that award has been invested</p> <table border="1" style="width: 100%; height: 20px; margin-top: 5px;"> <tr> <td style="width: 25%; text-align: center;"> </td> </tr> </table> <p>16. Social worker and/or applicant notified and information recorded on case file.</p> <table border="1" style="width: 100%; height: 20px; margin-top: 5px;"> <tr> <td style="width: 25%; text-align: center;"> </td> </tr> </table>																																				

CIC Awards held by KCC – The Role in Finance

The review of the administration of Criminal Injuries Compensation client funds by the Social Services Finance Standards team led to an agreement that Finance undertake the following services:

1. Secure custody of Criminal Injuries Compensation client awards.
2. Withdrawal of client moneys, when notified to the Finance Officer, and subsequent distribution of cheques to clients.
3. Maintenance of an up to date client database that includes addresses, ages, amounts withdrawn, and account balances of existing clients.
4. Regular reconciliation of client withdrawals and account balances.
5. Provision of financial advice to Area Co-ordinators, where appropriate, if required.

**STANDARD LETTER REQUESTING A
SCHOOL REPORT**

STRICTLY CONFIDENTIAL

Direct Dial/Ext:
Ask For:
Your Ref:
Our Ref:
Date:

Dear.....

re:

As you know, children who have been victims of crimes of violence may claim compensation from the Criminal Injuries Compensation Authority.

I am completing the application form on behalf of..... who is being looked after by Kent County Council. Would you please let me have a report onwith particular reference to any **behavioural or education problems he/she may be experiencing or has experienced in the past.**

The following reports..... (photocopies to be attached) are held on our files. Will you please give consent to allowing copies to be sent to the Criminal Injuries Compensation Authority in order to support this application.

Many thanks for your help in this matter.

I look forward to your early reply.

Yours sincerely

**STANDARD LETTER REQUESTING A
MEDICAL REPORT**

STRICTLY CONFIDENTIAL

Direct Dial/Ext:
Ask For:
Your Ref:
Our Ref:
Date:

Dear.....

re:

As you know, children who have been victims of crimes of violence may claim compensation from the Criminal Injuries Compensation Authority.

I am completing the application form on behalf ofwho is being looked after by Kent County Council and who has given me authority to approach you to ask you to provide a medical report.

The following reports (*list them with dates*) are already on file (*photocopies to be attached*). Will you please give consent to allowing copies to be sent to the Criminal Injuries Compensation Authority in order to support this application:

I should be most grateful if you would let me have an up to date report giving the present condition of the child and the prognosis for the future, including the long term psychological damage suffered by the child, and any treatment that may be required in the future.

At a later date your report may be shown, on request, to the applicant or his representative. Any information which you regard as confidential, but material to the proper investigation of the application (e.g. short life expectancy/other serious, but unconnected medical problems) should please be recorded separately from your report and marked 'CONFIDENTIAL'. This separate attachment (marked 'CONFIDENTIAL') will not subsequently be shown to the applicant without your express consent.

Many thanks for your help in this matter.

Yours sincerely

EU CRIMINAL INJURIES COMPENSATION SCHEMES

UK residents who are injured as a result of a crime of violence in a member country of the European Union can apply for compensation from that country with the help of the Criminal Injuries Compensation Authority in Glasgow. They can also supply information about the member states schemes.

The EU Compensation Assistance Team (EUCAT) is based in Glasgow. They have produced a leaflet “Applying for Criminal Injury Compensation in other EU Countries” and can be contacted via the CICA’s usual number – 0300 003 3601 or email euca@cica.gsi.gov.uk

Asylum seeking children may seek Criminal Injuries Compensation whilst resident within the UK. N.B. Birth certificates not necessarily required, but EUCAT need to know the ‘deemed date of birth’.