

# CRIMINAL INJURIES COMPENSATION APPEALS PANEL FOR NORTHERN IRELAND (CICAPNI)

## Nature of the Role – CICAP Adjudicator (Medical Member)

CICAPNI was established under the provision of the Criminal Injuries Compensation (NI) order 2002. Its purpose is to support the victims of violent crime by determining promptly, impartially, fairly and independently appeals against review decisions made by the Northern Ireland Compensation Services in accordance with the Northern Ireland Compensation Scheme(s) (2002 and 2009) and by virtue of Article 6 of the European Convention on Human Rights.

### Panel

A CICAPNI Panel consists of 3 members: the Chair (who is legally qualified), a Medical Member and a Lay Member. The responsibilities of a Panel member include:

- Sitting with the other Panel members to determine appeals against Compensation Services' decisions on eligibility to receive an award or on the amount of compensation payable;
- Noting evidence succinctly and legibly, and recording reasons for the decisions made; and
- Assisting the Panel Chairman in the conduct of Panel business, including matters related to providing written reasons for decisions, judicial reviews and the overall management of the Appeals Panel.

### Process

About two weeks before the hearing date, Panel members receive papers related to the cases that are to be heard. These are usually posted to the Panel member's home address. Typically, the papers consist of:

- Reasons for the Compensation Service's decision
- Police/witness statements
- Medical information questionnaires
- Transcripts of interviews
- Reasons for the applicant's appeal against the original decision of the Compensation Service
- Information about criminal record (if applicable)
- GP/hospital notes
- Specialist reports (usually medical)

It is important that these notes are thoroughly reviewed before the hearing date.

Hearings, which are heard in the Tribunals Centre at the Royal Courts of Justice in Belfast, commence at 10am with the Panel meeting approximately 30 minutes before this to discuss their preliminary views on the listed cases.

The applicant may be legally represented, be represented by organisations such as Victims Support, or represent themselves. Witnesses will often attend hearings, called by the applicant or by the Compensation Service. Applicants may also have in attendance a friend or family member for 'moral support', although these persons cannot take any active part in the hearing. The Panel has an inquisitorial function. It is not bound by the rules of evidence which apply to court proceedings. Its task is to decide on the facts of the case and apply the relevant provisions of the scheme and the law to those facts. All relevant evidence, oral or documentary, is admissible.

The Chairman will begin the hearing by welcoming those present, introducing the Panel members, and describing the role and function of the Panel. Both sides will present their case for and against the appeal and Panel members will also have an opportunity to put questions to the applicant, the Compensation Services representative (called the Presenting Officer) and any witnesses that are present. It is important to remember that the burden of proof rests with the applicant, not with the Compensation Services, and that decisions are made on the balance of probabilities.

After hearing all the evidence, the Panel will retire to deliberate and reach a decision. Unless there are good reasons, the parties are informed of the Panel's decision that day.

On questions of fact and determination of issues, Panel members are of equal status and have collective responsibility for the operation of the Panel. Clearly, however, questions of law are the preserve of the legally qualified member of the Panel. The role of the medical member is not confined to medical aspects of the case. The chairman has overall responsibility for the effective leadership, management and operation of the Panel.

A typical hearing day will consist of 4-5 cases, but this depends on the complexity of the cases, the volume of evidence and the number of witnesses. It would be rare but not impossible for any single case to last more than a full day.

The Criminal Injuries Compensation Scheme documents (2002 and 2009) describe the basis for eligibility for the scheme, the tariff of injuries and the standard amounts of compensation to be awarded. Panel members may also have to consider financial loss as a result of injuries sustained.

There is no right of appeal, but applicants have a right to request written reasons for any decisions made by the Panel and it is therefore vital that Panel members keep clear and legible notes which detail the reasons for any decisions made. Panel members will be involved in assisting the Chairman in providing written reasons when they are requested. Decisions may be subject to Judicial Review on a question of law.

The range of injuries which the Panel is asked to consider vary greatly but the qualifying factor for compensation is that the injuries were sustained as the result of a crime of violence. The schemes of 2002 and 2009 detail the amount of compensation to be awarded for the particular injury sustained. Be aware that Panel members may have to view scarring, but the medical member is not expected to perform a clinical examination of the applicant. With regards to psychiatric/psychological injury, the Hoy case (Judicial Review ref Kerr7422) clarified that compensation will only be payable if there has been a diagnosis of a disabling mental illness made by a consultant psychiatrist or clinical psychologist.

## **Training**

The Adjudicator will be required to undertake initial and refresher training in connection with the work of the Panel.

The Adjudicator will also be required to keep abreast of changes to relevant legislation and other relevant provisions and may be asked to attend training courses and Panel meetings from time to time to discuss current procedures and practice as appropriate.

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