

Howard League for Penal Reform's response to the consultation on the Criminal Injuries Compensation Scheme Review 2020

October 2020

Summary

1. Since its inception in 1866, the Howard League has worked to support victims of crime. The Howard League was pivotal in the creation of the government funded scheme to compensate victims of crimes of violence.
2. The Howard League therefore welcomes the opportunity to comment on the consultation on the Criminal Injuries Compensation Scheme Review 2020.
3. The Criminal Injuries Compensation Scheme was founded to provide compensation to victims of violent crime. Since 2012, the CICA has had a blanket policy of denying applications made by victims of violent crime with unspent criminal convictions. This has created a hierarchy of victims.
4. There is a significant overlap between people who have committed crimes and who have been victims of crime. All too often, women and children who have experienced terrible abuse and neglect, fall into this category. The statutory framework governing when convictions become spent already disadvantages children who turn 18 before they are convicted. A blanket provision that bars any person who has an unspent conviction from being able to seek compensation compounds the injustice they face and further erodes confidence in the justice system.
5. This review is a missed opportunity to address the injustice in the current scheme. It is imperative that all victims of violent crime are eligible to claim compensation. At the very least, the discretion to award compensation to those with unspent convictions which was removed in 2012 should be reintroduced.

1. About the Howard League for Penal Reform

- 1.1 Founded in 1866, the Howard League is the oldest penal reform charity in the world. The Howard League has some 13,000 members, including prisoners and their families, lawyers, criminal justice professionals and academics. The Howard League has consultative status with both the United Nations and the Council of Europe. It is an independent charity and accepts no grant funding from the UK government.
- 1.2 The Howard League works for less crime, safer communities and fewer people in prison. We achieve these objectives through conducting and commissioning research and investigations aimed at revealing underlying problems and discovering new solutions to issues of public concern. The Howard League's objectives and principles underlie and inform the charity's parliamentary work, research, legal and participation work as well as its projects.
- 1.3 The Howard League legal team works directly with children and young adults in prison.

2. Howard League and the Criminal Injuries Compensation Scheme

- 2.1 In 1964, following initiatives from the Howard League and its one-time director Margery Fry, a government funded scheme to compensate victims of crimes of violence was introduced in the UK.
- 2.2 The Howard League is pleased that the scheme is informed by principles which include recognising that compensation acknowledges the harm suffered by victims and that the Scheme intends to "*work equally for all victims of violent crime*".¹

3. Unspent Criminal Convictions

- 3.1 In 2012 the Scheme was amended and new rules were introduced which prevent victims of violent crime from obtaining compensation if they have an unspent criminal conviction. Prior to this, the Criminal Injuries Compensation Authority could, at its discretion, award compensation to victims with unspent convictions. The current scheme has created a hierarchy of victims and implies that victims with previous convictions are less deserving of support and sympathy, irrespective of the circumstances. The Criminal Injuries Compensation Scheme Review 2020 reports that eight per cent of applications for compensation were rejected due to unspent convictions.
- 3.2 Unspent convictions are governed by the Rehabilitation of Offenders Act 1974. The scheme properly differentiates between children and adults. It is right that there is a separate scheme for children, which means their rehabilitation periods are half of those prescribed for adults. This accords with the well-established principles in domestic and international law that children in conflict with the law should be treated differently, in accordance with their welfare needs (Art 3 UNCRC, s44 of the Children and Young Persons Act 1933) and their propensity to change more quickly than adults (R v Lang).
- 3.3 But the aim of having separate schemes is being frustrated because of the way that the scheme currently operates, which says that the date of conviction triggers whether the adult or child scheme is used (as opposed to the latest date when the offence was

¹ Criminal Injuries Compensation Scheme Review 2020, page 5

committed). A significant² and increasing (especially since Covid) number of children commit the offences before they turn 18 but are not convicted until after they turn 18, which means they fall into the adult scheme, resulting in having to wait double the time until the conviction becomes spent compared to if they had been convicted before turning 18. This leads to obvious concerns for young people who want to progress with their rehabilitation as quickly as possible.³

- 3.4 The current blanket rules mean that no consideration is given to the circumstances of the original offence or the seriousness of that offence. Not only does this result in individuals who have suffered horrific and life changing injuries being denied compensation due to a minor and completely unrelated unspent offence, but it also unfairly impacts victims of abuse, exploitation and trafficking.
- 3.5 The Howard League has published widely on the overlap between people who are victims of crime and who are perpetrators of crime. Earlier this year, the Howard League's report on arrests of women reported that in one police force almost three quarters of women arrested had previously come to the attention of the police as victims of violence or sexual violence.⁴ Over half of these women had been victims of domestic abuse.⁵ The Howard League's work to end the criminalisation of children in residential care has revealed that children who are suffering from criminal exploitation are currently more likely to be criminalised than recognised as victims and helped.⁶
- 3.6 The scheme should acknowledge the harm people have suffered and compensate them accordingly rather than compounding the injustice that they have already endured.

4. Concluding observations

- 4.1 This Review is a missed opportunity for the Criminal Injuries Compensation Authority to redress the inequality in the current scheme and allow those with unspent convictions to claim compensation.
- 4.2 At the very least, the discretionary element present in the Scheme prior to 2012 should be reintroduced. Doing so would enable the scheme to align with its stated purpose - to work equally for all victims.

**The Howard League for Penal Reform
October 2020**

² Every year at least 2-3% of proven offences are committed by children who turn 18 prior to conviction. This corresponds to 2,500 offences for the twelve months ended March 2017 and 1,400 offences for the twelve months ended March 2018.

See <https://justforkidslaw.org/sites/default/files/fields/download/YJLC%20Turning%2018%20briefing%20%28June%2020%29.pdf>

³ See <https://www.theguardian.com/society/2019/nov/05/revealed-hundreds-of-children-pushed-into-adult-courts-by-delays>

⁴ Available at: <https://howardleague.org/wp-content/uploads/2020/09/APPG-on-Women-in-the-Penal-System-briefing-2-FINAL.pdf>

⁵ Available at: <https://howardleague.org/wp-content/uploads/2020/09/APPG-on-Women-in-the-Penal-System-briefing-2-FINAL.pdf>

⁶ Available at: <https://howardleague.org/wp-content/uploads/2020/03/Victims-not-criminals.pdf>