

# WHAT IS CIC(O)?

## A GUIDE TO THE CRIMINAL INJURIES COMPENSATION (OVERSEAS) SCHEME FOR CLAIMANTS AND THEIR REPRESENTATIVES



## *Introduction:*

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Since 1979 the Ministry of Defence has operated a compensation scheme for service personnel and their accompanying dependants which makes payments to innocent victims of crimes of violence. The scheme covers those serving overseas and deliberately mirrors the scheme operated by the Ministry of Justice (MOJ) which compensates victims of crime in the UK. This ensures that they and their families do not suffer a disadvantage as a result of service compared to civilian victims of crime.

As the scheme mirrors the MOJ scheme we do from time to time update our rules in conjunction with any domestic scheme changes. The last time this was done was in November 2008. This booklet provides a summary of the scheme and addresses some of the issues commonly raised by claimants and their representatives. The full rules can be found at:

<http://www.mod.uk/NR/rdonlyres/4343CED1-0001-4B47-99D2-858AB300AD18/0/20081119CICOSCHEMERULES2008final.pdf>

## *How to apply*

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CIC(O) is an evidence based scheme and as such we can only consider your claim based on the information submitted by you or your representative. Consequently a lack of police evidence, medical evidence or witness statements will make it difficult or impossible to make a decision on your claim. It is therefore important that you contact police and medical services as soon after an incident as possible. However, we understand that in some parts of the world the local police will be unable or unwilling to become involved, or may even be corrupt and 'lose' important evidence. In such cases we will consider your application sympathetically.

Even if you are able to gather all the initial required information it is possible that further medical advice will be needed as your claim is progressed. As such we may ask you to visit a specialist using Defence medical personnel where possible. If you are a serving member of the Armed Forces we would typically seek to have any further medical enquiries handled by your units' medical staff. Family members who are eligible to apply to CIC(O) should make use of NHS services where available.

CIC(O) is a scheme of last resort. This means that you should apply to any other national schemes for which you may be eligible before applying to this scheme. Most EU members operate such compensation schemes as do some other countries such as the USA. If you receive compensation for your injuries from another compensation scheme you will be ineligible to receive compensation from CIC(O).

While we will always attempt to deal with your case as swiftly as possible, gathering all the necessary information can be time consuming for your representative or the claims officer. A decision and subsequent award can therefore be delayed for several months when evidence proves hard to gather.

Application forms can be obtained from:

<http://www.mod.uk/DefenceInternet/AboutDefence/CorporatePublications/PersonnelPublications/Pensions/AFCS/CicoApplicationForm.htm>

or can be posted to you from the Service Personnel and Veterans Agency (SPVA) who handle casework. Their address and phone number are:

Service Personnel and Veterans Agency,  
Criminal Injuries Compensation (Overseas) Scheme,  
Room 6129,  
Norcross,  
Thornton-Cleveleys,  
Lancashire,  
England, FY5 3WP

Tel +44 1253 333442

## *Levels of Compensation*

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If you are entitled to receive compensation from CIC(O) the amount is determined by the tariff within the scheme rules. The tariff is identical to that used in the MOJ domestic scheme.

Injuries can attract a tariff ranging from level 1 (£1000) to level 25 (£250000). Some of the more typical claims are for 'disabling mental illness 28 weeks to 2 years' (£4400), 'minor facial scarring' (£1500) and 'fractured cheekbone – substantial recovery' (£2000). Less common but more serious injuries include 'severe facial burns' (£27000) 'significant brain damage' (£82000) and 'quadriplegia' (£250000). A full list of injuries and the associated tariffs can be found in the scheme rules.

In addition to payment of general damages CIC(O) can pay for loss of earnings if your injuries have a long term effect on your ability to work. Loss of earnings calculations will be made by the Claims Officer using Tables A-C of the scheme rules. These calculations will also take account of payments, such as welfare benefits, War Pension Scheme or AFCS compensation and other income replacements you may receive as a result of being unable to work.

## ***If you do not agree with our decision***

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If you believe we have not considered all the evidence, or new evidence comes to light after a decision is made on your case you may request a review of your case. Similarly if you are unhappy with the review decision you may request an appeal. For both reviews and appeals we will expect you to provide evidence as to why the decision should be reconsidered. It is not sufficient for you to seek a review or appeal solely because you consider the decision is wrong or unfair.

## ***Important information***

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**Legal representation.** You do not need to have legal representation to apply to the scheme. However, free legal advice and assistance is available from Army Legal Assistance (ALA), whose services are available to any CIC(O) applicant regardless of which service they are a member of. They are based in Germany and can be contacted on 00 49 521 9254 3191. Accompanying dependants who are claiming compensation through CIC(O) can also make use of ALA services.

**Costs.** As the scheme does not require you to have legal representation and ALA offer free legal representation the scheme is unable to pay for any legal charges you incur whilst making a claim. The only fees we would be willing to cover are medical reports that cannot be provided by military or NHS institutions. Such costs need to be agreed by the claims officer before they are incurred.

**Time limit.** In general, we can consider your application only if we receive it within two years of the incident which caused your injury. The purpose of the time limit is to provide a reasonable period for people to make an application that can be supported by reliable evidence. It is usually more difficult to get reliable information about police investigation and medical treatment for incidents that happened a long time ago – records are harder to get hold of and may actually have been destroyed, making it harder for us to accept any claims.

In exceptional cases we may accept applications outside this two-year period only if, because of the particular circumstances of the case, it is reasonable and in the interests of justice to do so. Among other considerations, we would need to be confident that it is not going to be too difficult to get reliable evidence of the circumstances of the incident and how serious the injury is. If, for example, we cannot get independent information about how your injury happened, we have no basis on which to consider making an award. If this is the case, there is little point in us agreeing to consider a late application.

We may consider a late application in the following circumstances:

- you were not able to act for yourself at the time;
- you were under 18 at the time of the incident (as long as you then apply soon after reaching the age of 18); or
- your injuries become noticeable only some time after the incident which caused them, as long as you apply as soon as you discover the cause.

We will not usually consider a late application if you claim you were unaware of the scheme. Posters are sited at many bases, and RMPs routinely advise you of the scheme when they attend an incident. There has also been a DIN (ref DIN 2008DIN01-269) to raise awareness.

**Reducing an award.** Awards from the scheme may be abated or withdrawn depending on the circumstances surrounding an incident and the conduct of the applicant before, during or after the incident. As such the scheme needs to consider that you were an innocent victim of a crime of violence and that you did not provoke the actions which led to your injuries. While alcohol consumption regularly features when claims are made, it is not automatically assumed that because you were under the influence of alcohol you were abusive or violent and therefore not an innocent victim. As with every claim, decisions will be made on the evidence submitted.

If it is determined that you contributed to the incident in which you were injured, it is likely that your award will be abated or even completely withheld. Abatements can be any amount between 1% and 100%, but as with other aspects of the scheme any decision will be based on the evidence presented.

Compensation for an injury caused by a violent crime is an expression of public sympathy and support for innocent victims. The original civilian scheme, introduced in 1964, said that people with significant criminal records, or whose own behaviour led them to being injured, or who failed to co-operate in bringing the offender to justice, would not receive compensation from public funds. These conditions have continued in each scheme since then. Consequently, we have to consider whether one or more of the reasons set out in the scheme apply to the application. If so, we may have to withhold or reduce an award, even if it is clear that you suffered a criminal injury as a result of a crime of violence.

These are some examples of situations where we may refuse or reduce an award:

- if your injury was caused in a fight which you had voluntarily agreed to take part in, even if the fight turns out to be much more serious than you expected. If you instigated a fight, we will not usually award compensation, even if you end up with more serious injuries. The same is likely to apply if you chose to accept such a challenge by the offender. The fact that the offender went further or used a weapon will not normally make a difference.
- if, without good cause, you struck the first blow, regardless of how seriously you were hurt when that person fought back.
- If the incident in which you were injured formed part of a pattern of violence in which you took part voluntarily, for example, if there was a history of assaults involving both sides and you had previously attacked the other person.
- if you were injured while trying to get revenge against the person who attacked you.
- if you had drunk too much alcohol or used illegal drugs and this had contributed to the attack which caused your injury (paragraph 13 of the 2008 scheme says that we must consider this issue specifically).
- if you used offensive language or gestures, or behaved in an aggressive or threatening way, which led to the attack which caused your injuries.

We are likely to refuse or reduce an award if you fail to help us or any other relevant authority in connection with your application. Such as:

- fail, without a good excuse to go to medical examinations or inspections that are needed to help us reach a decision in your case;
- persistently fail to respond to our requests for information;
- fail to tell us about important circumstances; or
- make false or misleading statements about the incidents or your injuries.

## Q&A

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### **1. How quickly will a decision on my claim be made?**

Once we have all the necessary evidence to make a decision, a determination on your case can be made within a matter of weeks, subject to the caseload of the claims officer. However, gathering of evidence by ALA or other representative can take several months, and in extreme cases over a year.

### **2. What happens if I am unable to work because of my injuries?**

As well as paying general damages for your injuries, you may claim for loss of earnings. However, if you are able to remain in service your wages will not be affected. The War Pension Scheme or Armed Forces Compensation Scheme may pay compensation instead of CIC(O), depending on the circumstances of your injury.

### **3. Do you commission accountancy reports to determine a loss of earnings claim?**

We do not commission accountancy or employment reports. However, you can commission your own reports but these will be at your own cost.

### **4. What happens if I am unhappy with the Appeal decision?**

If you remain unhappy with the decision of the appeal officer you may wish to consider a Judicial Review. This is a review by the courts of a decision or action of government officials.

### **5. If I apply to the domestic scheme they gather information for my case. Why doesn't CIC(O)?**

Regrettably there are insufficient resources to allow the CIC(O) case officer to gather and chase medical and police records. Were they to do so the length of time to decide a case would be significantly extended. However, through ALA, MOD does provide a way by which information can be gathered, at no expense to the applicant.

### **6. Should I make a claim if I am being bullied?**

CIC(O) is not designed to compensate for a prolonged period of bullying, and the duration of the bullying may mean some incidents fall outside the two year time limit. CIC(O) may make a payment for a particularly violent incident but the best avenue to deal with bullying is to approach the Service Complaints Commissioner. Details can be found on:

<http://armedforcescomplaints.independent.gov.uk/>

**7. If I am based overseas and am injured while visiting another country, will CIC(O) pay compensation?**

We cannot pay compensation for injuries suffered in countries other than those to which you are posted. For instance, if you are based in Germany and decide to take a holiday in Spain, and it is in Spain where you are injured, you will not be eligible to apply to CIC(O).

**8. What happens if I am injured in a third country whilst travelling on deployment at the start of a tour?**

Before applying to CIC(O) you should seek compensation from AFCS.

**9. My family visit me for the weekend and one of them is the victim of a violent attack. Will CIC(O) compensate them?**

No. CIC(O) will make payments to your accompanying dependants. If your wife or child accompanies you on your posting, the scheme will cover them. If they only visit you for the weekend they are not accompanying and therefore not eligible to apply.

**10. How does a family member apply if they are injured whilst accompanying me overseas?**

As with any other CIC(O) application, assistance can be sought from ALA. If the family member is a minor, a parent will need to complete any paperwork on their behalf.

**11. I have a bad back which is made worse by an attack on me. Would I be eligible for 100% of an award for an injured back?**

The scheme can make an award only if the injury directly caused by the violent crime is serious enough to justify a payment of at least £1000. Therefore if medical evidence states that your back is 50% worse because of the incident, the scheme will pay you 50% of the appropriate tariff.

**12. My pre-existing injury means my injury grants less than £1000. Will I still receive compensation?**

No. In the example above, if the tariff was for £1000 you would not have a criminal injury which on its own justified an award of at least £1,000 as the abated figure is £500. In these circumstances, unfortunately, we would not be able to make an award at all.

**13. Is my compensation taxable?**

No.

**14. Can I claim compensation if I am injured in a road traffic accident?**

If there is clear evidence that the vehicle was driven at you with the intention of injuring you, i.e. the vehicle was used as a weapon, you will be eligible to claim. Otherwise the scheme will not consider your application.