

APPLICATION FOR COMPENSATION FOR WRONGFUL CONVICTION

This form must be used by anyone who wants to apply to the Justice Secretary for a payment of compensation in respect of:

- a conviction for which a free pardon has been granted;
- a conviction which has been quashed on an out-of-time appeal.

There is no automatic entitlement to compensation in any of the above circumstances, but all applications are considered under the provisions of section 133 of the Criminal Justice Act 1988 as amended by Section 61 of the Criminal Justice and Immigration Act 2008. A general guide giving information about this legislation and how applications are dealt with, is attached at Annex A

When you have filled the form in, please send it to us at the following address:

Better Trials Unit
Miscarriage of Justice Team
Post point 7.37
102 Petty France
London
SW1H 9AJ

Information we will need to have in order to consider your application

Before we can decide whether you qualify for a payment of compensation, we will need to see some of the paperwork associated with your case.

It will usually be sufficient for us to look at;

- the form that you used to apply for leave to appeal against conviction (Form NG);
- the perfected grounds of appeal;
- the Court of Appeal judgement.

We should be able to obtain these documents from the Criminal Appeal Office or the relevant Crown Court. However, if you have copies of any of these documents it would be helpful if you would attach them to your completed application form.

It may also be necessary for us to make some enquiries (e.g of the Police, Crown Prosecution Service or other public authority or the court at which a trial was held).

By completing this form you will help us to initiate any enquiries which may be necessary in order to establish the full background to your case. Please try to answer all the questions if you possibly can.

Part 1A What we need to know about you

(If you are filling this in as the representative of the applicant, please give that person's details here and your own details in Part 1B. If you are acting in the capacity of personal representative for an applicant who is deceased, please give that person's details here and your own details in Part 1C.)

Surname:

First names:

If you were using a different name at any stage during your case, please give that name here:

Date of birth

National Insurance No.

Your address and postcode (This should be the address you would like us to use when we write to you. If a firm of solicitors represents you we will write to them and not use this address for correspondence)

Telephone

E-Mail address

Part 1B

Please give details here of anyone who is representing you or helping you with your application (for example a solicitor, relative or friend).

Name

Address and postcode

Telephone

E-Mail address

Fax

Relationship to applicant

Part 1C

Please give your details here if you are making this application as the personal representative of an applicant who is deceased.

Name:

Address and postcode

Telephone

E-Mail address

Fax

Please provide information on your status as the personal representative of the deceased applicant. You will need to submit the original Grant of Probate (it will be copied and the original returned to you by secure post).

Part 2 What we need to know about your case

What offence(s) were you accused of?

When were you arrested?

/

Which police station dealt with your case?

When were you formally charged?

/

At which magistrates' court did you appear?

When did you appear?

Please give the court reference number (if known)

/

Were you: Granted bail? ☐ Granted conditional bail? ☐ Remanded in custody? ☐

If you were remanded in custody, in which Prison were you held and what was your Prison number?

At which court did the trial take place?

On what date(s)?

From:

/

To:

/

What was your crown court or case number?

What were the offences that you were tried for and what was the outcome for each one?

Offence	Verdict, finding, or other Order of the Court	Sentence

On what date were you convicted?

/

Please now go on to complete: Part 3 if your conviction was quashed on appeal; or Part 4 if you were granted a free pardon.

Part 3 What we need to know about your appeal

What was the date of your successful appeal against conviction?

Was the appeal heard by: a Crown Court? (If so please give the name of the Court) or The Court of Appeal Criminal Division?

What was the reference number for your appeal?

Was your case referred to the Court by:

(a) the Home Secretary under section 17 of the Criminal Appeal Act 1968 before 31 March 1997?

Yes ☐ No ☐

(b) the Criminal Cases Review Commission (CCRC) under section 9 of the Criminal Appeal Act 1995 on or after 31 March 1997?

Yes ☐ No ☐

If 'Yes', when was your case referred?

What reference number were you given by the Home Office/CCRC?

Had you completed your sentence before the appeal was heard?

Yes ☐ No ☐

If 'Yes', when were you released and from which prison?

On:

From HMP:

If your case was not referred, when did you apply for leave to appeal?

Did you apply for an extension of time in which to appeal?

Yes ☐ No ☐

When was leave to appeal granted?

Were you granted bail pending the hearing of the appeal?

Yes ☐ No ☐

If you were granted bail, when were you released from custody?

Was your case committed for retrial?

Yes ☐ No ☐

If so please give details

Court

Date

Part 4 What we need to know about your free pardon

When did you apply for a free pardon?

What was the Home Office / Ministry of Justice reference for this application (you should find this on any correspondence)?

When were you notified that a pardon had been granted?

Part 5 Grounds for application

Please use the space below to set out the basis on which you consider yourself to be eligible for compensation under s133 of the Criminal Justice Act 1988.

Part 6 Additional information

Please use the space below to tell us about anything else that you think may be relevant to your application (use extra sheets if you need to).

Part 7 Previous applications

Is this your first application to either the Ministry of Justice or the Home Office for compensation for wrongful conviction?

Yes ☐ No ☐

If 'No', when did you apply previously?

What was the Ministry of Justice / Home Office reference for this application (you should find this on any correspondence)?

Was your previous application in respect of a different conviction or charge?

Yes ☐ No ☐

If 'No', why was your previous application refused?

Please use the space below to provide any new information you think might affect the earlier decision.

Part 8 Additional documentation

Please list in the space below all documents that you are attaching to this application form in support of your application

Part 9 Signature and authorisation

The information I have given in this form is true.

Your signature

Signature of person who is making this application on your behalf

Date



EQUAL OPPORTUNITIES DIVERSITY MONITORING FORM

- We need to carry out diversity monitoring in order to meet our statutory obligations and to make sure our processes are fair for all applicants. Please help us to do this by completing and returning the attached Equal Opportunities Diversity Monitoring Form.
- Everyone applying for compensation will receive equal treatment whatever their age, marital status, gender, ethnic or national origins, disability or religion, sexual orientation. We want to ensure that our policies are fair and equitable and will do this by monitoring applications. To do this we need to seek the following data from applicants. We are therefore asking you to complete the following questionnaire. Your answers will be treated confidentially and will not affect your application in any way.

Personal Details:

Title: Mr ☐ Mrs ☐ Miss ☐ Ms ☐ Dr ☐ other ☐

Surname

First name

Age: 16-24 ☐ 25-34 ☐ 35-44 ☐ 45-54 ☐ 55+ ☐

Gender: Male ☐ Female ☐

Gender Identity (optional):

If you identify as transsexual or transgender (in that you have effected a permanent change of gender identity) or as intersex which group do you identify with?

Transsexual ☐ Transgender ☐ Intersex ☐

Ethnic origin: Please tick against one of the following:

1. Asian or Asian British

Indian ☐
Pakistani ☐
Bangladeshi ☐
Any other Asian background ☐

2. Black or Black British

Caribbean ☐
African ☐
Any other Black background ☐

3. Chinese or Other ethnic group

Chinese ☐
Any other ☐

4. Mixed

White and Black Caribbean ☐
White and Black African ☐
White and Asian ☐
Any other mixed background ☐

5. White

British ☐
Irish ☐
Any other White background ☐
Prefer not to say ☐

Disability: Please tick against one of the following:

Do you consider yourself to have a disability within the meaning of the Disability Discrimination Act 1995?

The Disability Discrimination Act 1995 defines a disabled person as someone who has a physical or mental impairment, which has a substantial and adverse long-term effect on his or her ability to carry out normal day-to-day activities. Conditions covered may include, for example, severe depression, dyslexia, diabetes, epilepsy and arthritis

Yes ☐ No ☐ Prefer not to say ☐

This information is provided for monitoring purposes only.

Religion or belief: Please tick against one of the following:

No religion	<input type="checkbox"/>	Jewish	<input type="checkbox"/>
Bahai	<input type="checkbox"/>	Muslim	<input type="checkbox"/>
Buddhist	<input type="checkbox"/>	Sikh	<input type="checkbox"/>
Christian	<input type="checkbox"/>	Other	<input type="checkbox"/>
Hindu	<input type="checkbox"/>	Prefer not to say	<input type="checkbox"/>
Jain	<input type="checkbox"/>		

Sexual Orientation: Please tick against one of the following:

Bisexual	<input type="checkbox"/>	Gay Man	<input type="checkbox"/>
Gay Woman/Lesbian	<input type="checkbox"/>	Heterosexual/straight	<input type="checkbox"/>
Prefer not to say	<input type="checkbox"/>		

Thank you for completing this form.

COMPENSATION FOR WRONGFUL CONVICTION¹

A GENERAL GUIDE

Payment of Compensation

1. The Justice Secretary will under certain specified circumstances pay compensation to those who have convictions quashed at out of time appeals. These circumstances are set out in the provisions of Section 133 of the Criminal Justice Act 1988 as amended by Section 61 of the Criminal Justice and Immigration Act 2008 (see Annex A (I) attached). The legislation complies with international obligations [article 14(6) of the International Covenant on Civil and Political Rights].

How to apply for compensation

2. Applications should be made in writing to the Justice Secretary and sent together with copies of the NG form², the Court of Appeal judgment and perfected grounds of appeal, if you have them available, to the Miscarriages of Justice Team, Better Trials Unit, Post point 7.37, 102 Petty France, London, SW1H 9AJ using the application form attached.

How applications are decided

3. The Justice Secretary will consider any application which is made to him under the statutory provisions. Outside of those statutory provisions there is no entitlement to compensation in respect of a quashed conviction. The application must be made before the end of a period of 2 years beginning with the date on which the applicant has been pardoned or their conviction has been “reversed” (see further below on what this means)³. In exceptional circumstances the Secretary of State may direct that an application made after the 2 year limit is to be treated as if it had been made within time. Generally, not being aware of the scheme would not count as exceptional circumstances but each application received out of time would be considered on its merits.
4. On 19 April 2006 the then Home Secretary abolished the discretionary scheme he had operated up until that date which considered compensation where people did not fall within the terms of the statutory scheme. Accordingly, compensation is now payable only through the statutory scheme.

Statutory provisions

Briefly, compensation is payable under section 133 of the Criminal Justice Act 1988 if the following two conditions are met:

The first condition is that either the applicant’s conviction must have been “reversed” or he must have been granted a Free Pardon.

A conviction qualifies for these purposes as being “reversed” if:

- it has been quashed on an appeal out of time and the applicant is not to be subject to a retrial; or
- it has been quashed on an appeal out of time, and the applicant was subject to a retrial, and the applicant has been acquitted of all offences at the retrial or the prosecution has indicated that it has decided not to proceed with the retrial; or

¹ This is a general guidance note it is not, nor is it intended to be, an authoritative statement of the law.

² Form NG is the formal document required to be lodged by appellants to the Court when seeking to quash their convictions.

³ Under transitional arrangements an application for compensation for a quashed conviction or free pardon granted before 1 December 2008 must be made before 30 November 2010.

- it has been quashed after the case has been referred to the Court of Appeal by:
 - (i) the Home Secretary under section 17 of the Criminal Appeal Act 1968 if referred before 31 March 1997 or
 - (ii) the Criminal Cases Review Commission under section 9 of the Criminal Appeal Act 1995 if referred on or after 31 March 1997; or
- it has been quashed on appeal under Section 7 of the Terrorism Act 2000; or
- it has been quashed on appeal under section 12 of the Prevention of Terrorism Act 2005.

The second condition is that the conviction must have been reversed, or the applicant pardoned, on the ground that a new or newly discovered fact shows beyond reasonable doubt that there has been a miscarriage of justice, unless the non-disclosure of this fact was wholly or partially attributable to the applicant.

Awards of compensation

5. The Justice Secretary takes the final decision as to whether the applicant qualifies for payment. If he decides that an applicant does qualify for compensation, an independent assessor determines the amount of the award in all cases. It is not the Justice Secretary's normal practice to publish details of individual awards or to give any information about individual applications or awards.

Ministry of Justice
 Better Trials Unit
 Miscarriages of Justice Team
 1 December 2008

ANNEX A (1)

TEXT OF SECTIONS 133, 133A and 133B OF THE CRIMINAL JUSTICE ACT 1988: COMPENSATION FOR MISCARRIAGES OF JUSTICE (including subsequent amendments)

133 Compensation for miscarriages of justice

- (1) Subject to subsection (2) below, when a person has been convicted of a criminal offence and when subsequently his conviction has been reversed or he has been pardoned on the ground that a new or newly discovered fact shows beyond reasonable doubt that there has been a miscarriage of justice, the Secretary of State shall pay compensation for the miscarriage of justice to the person who has suffered punishment as a result of such conviction or, if he is dead, to his personal representatives, unless the non-disclosure of the unknown fact was wholly or partly attributable to the person convicted.
- (2) No payment of compensation under this section shall be made unless an application for such compensation has been made to the Secretary of State before the end of the period of 2 years beginning with the date on which the conviction of the person concerned is reversed or he is pardoned.
- (2A) But the Secretary of State may direct that an application for compensation made after the end of that period is to be treated as if it had been made within that period if the Secretary of State considers that there are exceptional circumstances which justify doing so.
- (3) The question whether there is a right to compensation under this section shall be determined by the Secretary of State.
- (4) If the Secretary of State determines that there is a right to such compensation, the amount of the compensation shall be assessed by an assessor appointed by the Secretary of State.
- (4A) Section 133A applies in relation to the assessment of the amount of the compensation.
- (5) In this section “reversed” shall be construed as referring to a conviction having been quashed—
 - (a) on an appeal out of time; or
 - (b) on a reference—
 - (i) under the Criminal Appeal Act 1995; or
 - (ii) under section 194B of the Criminal Procedure (Scotland) Act 1995 (c 46);

or

- (c) on an appeal under section 7 of the Terrorism Act 2000; or
 - (d) on an appeal under section 12 of the Prevention of Terrorism Act 2005.
- (5A) But in a case where—
 - (a) a person’s conviction for an offence is quashed on an appeal out of time, and
 - (b) the person is to be subject to a retrial,

the conviction is not to be treated for the purposes of this section as “reversed” unless and until the person is acquitted of all offences at the retrial or the prosecution indicates that it has decided not to proceed with the retrial.

- (5B) In subsection (5A) above any reference to a retrial includes a reference to proceedings held following the remission of a matter to a magistrates' court by the Crown Court under section 48(2)(b) of the Supreme Court Act 1981.
- (6) For the purposes of this section and section 133A a person suffers punishment as a result of a conviction when sentence is passed on him for the offence of which he was convicted.
- (7) Schedule 12 shall have effect.

133A Miscarriages of justice: amount of compensation

- (1) This section applies where an assessor is required to assess the amount of compensation payable to or in respect of a person under section 133 for a miscarriage of justice.
- (2) In assessing so much of any compensation payable under section 133 as is attributable to suffering, harm to reputation or similar damage, the assessor must have regard in particular to—
 - (a) the seriousness of the offence of which the person was convicted and the severity of the punishment suffered as a result of the conviction, and
 - (b) the conduct of the investigation and prosecution of the offence.
- (3) The assessor may make from the total amount of compensation that the assessor would otherwise have assessed as payable under section 133 any deduction or deductions that the assessor considers appropriate by reason of either or both of the following—
 - (a) any conduct of the person appearing to the assessor to have directly or indirectly caused, or contributed to, the conviction concerned; and
 - (b) any other convictions of the person and any punishment suffered as a result of them.
- (4) If, having had regard to any matters falling within subsection (3)(a) or (b), the assessor considers that there are exceptional circumstances which justify doing so, the assessor may determine that the amount of compensation payable under section 133 is to be a nominal amount only.
- (5) The total amount of compensation payable to or in respect of a person under section 133 for a particular miscarriage of justice must not exceed the overall compensation limit.

That limit is—

- (a) £1 million in a case to which section 133B applies, and
- (b) £500,000 in any other case.
- (6) The total amount of compensation payable under section 133 for a person's loss of earnings or earnings capacity in respect of any one year must not exceed the earnings compensation limit.

That limit is an amount equal to 1.5 times the median annual gross earnings according to the latest figures published by the Office of National Statistics at the time of the assessment.

- (7) The Secretary of State may by order made by statutory instrument amend subsection (5) or (6) so as to alter any amount for the time being specified as the overall compensation limit or the earnings compensation limit.

- (8) No order may be made under subsection (7) unless a draft of the order has been laid before and approved by a resolution of each House of Parliament.

133B Cases where person has been detained for at least 10 years

- (1) For the purposes of section 133A(5) this section applies to any case where the person concerned (“P”) has been in qualifying detention for a period (or total period) of at least 10 years by the time when—
- (a) the conviction is reversed, or
 - (b) the pardon is given,

as mentioned in section 133(1).

- (2) P was “in qualifying detention” at any time when P was detained in a prison, a hospital or at any other place, if P was so detained—
- (a) by virtue of a sentence passed in respect of the relevant offence,
 - (b) under mental health legislation by reason of P’s conviction of that offence (disregarding any conditions other than the fact of the conviction that had to be fulfilled in order for P to be so detained), or
 - (c) as a result of P’s having been remanded in custody in connection with the relevant offence or with any other offence the charge for which was founded on the same facts or evidence as that for the relevant offence.
- (3) In calculating the period (or total period) during which P has been in qualifying detention as mentioned in subsection (1), no account is to be taken of any period of time during which P was both—
- (a) in qualifying detention, and
 - (b) in excluded concurrent detention.
- (4) P was “in excluded concurrent detention” at any time when P was detained in a prison, a hospital or at any other place, if P was so detained—
- (a) during the term of a sentence passed in respect of an offence other than the relevant offence,
 - (b) under mental health legislation by reason of P’s conviction of any such other offence (disregarding any conditions other than the fact of the conviction that had to be fulfilled in order for P to be so detained), or
 - (c) as a result of P’s having been remanded in custody in connection with an offence for which P was subsequently convicted other than—
 - (i) the relevant offence, or
 - (ii) any other offence the charge for which was founded on the same facts or evidence as that for the relevant offence.
- (5) But P was not “in excluded concurrent detention” at any time by virtue of subsection (4)(a), (b) or (c) if P’s conviction of the other offence mentioned in that provision was quashed on appeal, or a pardon was given in respect of it.

(6) In this section—

“mental health legislation” means—

- (a) Part 3 of the Mental Health Act 1983,
- (b) Part 3 of the Mental Health (Northern Ireland) Order 1986, or
- (c) the provisions of any earlier enactment corresponding to Part 3 of that Act or Part 3 of that Order;

“the relevant offence” means the offence in respect of which the conviction is quashed or the pardon is given (but see subsection (7));

“remanded in custody” is to be read in accordance with subsections (8) and (9);

“reversed” has the same meaning as in section 133 of this Act.

(7) If, as a result of the miscarriage of justice—

- (a) two or more convictions are reversed, or
- (b) a pardon is given in respect of two or more offences,

“the relevant offence” means any of the offences concerned.

(8) In relation to England and Wales, “remanded in custody” has the meaning given by section 242(2) of the Criminal Justice Act 2003, but that subsection applies for the purposes of this section as if any reference there to a provision of the Mental Health Act 1983 included a reference to any corresponding provision of any earlier enactment.

(9) In relation to Northern Ireland, “remanded in custody” means—

- (a) remanded in or committed to custody by an order of a court, or
- (b) remanded, admitted or removed to hospital under Article 42, 43, 45 or 54 of the Mental Health (Northern Ireland) Order 1986 or under any corresponding provision of any earlier enactment.