



Changes to Criminal Injuries Compensation

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Early in 2012, the Government consulted on changes to the Criminal Injuries Compensation Scheme which would have made savings of £40m - £60m through reducing compensation payments to victims of crime. This was part of a wider package of changes to services for victims and witnesses set out in the Government's consultation document, [Getting it right for victims and witnesses](#). The consultation ended in April 2012, and in July the Government laid a Draft Scheme before Parliament. Whilst there had been some modifications following the consultation, a number of organisations have been campaigning against the changes. The Draft Scheme was approved in the Lords in July 2012. When the Draft Scheme was considered in the Commons by the First Delegated Legislation Committee on 10 September 2012, there were criticisms from both Labour and Conservative Members. The recently-appointed Justice Minister, Helen Grant, decided not to move the relevant motion, so that the Draft Order had to be referred to a new Delegated Legislation Committee.

The Draft Order was debated by the Seventh Delegated Legislation Committee on 1 November 2012, and then approved in the Commons on 12 November 2012 by 275 votes to 231. It is due to come into force on 27 November 2012.

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1 The history of the scheme

The Criminal Injuries Compensation Scheme is a state scheme to compensate victims of violent crime. A non-statutory scheme was first introduced in 1964, but statutory schemes were introduced under the *Criminal Injuries Compensation Act 1995*. There have been three schemes under this Act: the original one, which came into force in 1996 and two subsequent ones in 2001 and 2008.

2 What is the scheme for?

Basic information on the scheme is available on the “[Am I eligible?](#)” page from the *Criminal Injury Compensation* section of the Ministry of Justice website. For claims made since 3 November 2008, the rules are contained in the *Criminal Injuries Compensation Scheme 2008*. The current guidance to the 2008 scheme, *A Guide to the Criminal Injuries Compensation Scheme* gives an overview which stresses the fact that the scheme is designed to compensate “blameless victims” of violent crime:

The Criminal Injuries Compensation Scheme (the scheme) is a government funded scheme that allows blameless victims of violent crime to get a financial award. Under the 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.

3 How does it work?

The scheme is conveniently summarised in the Impact Assessment on the Government’s proposals:¹

13. CICS pays compensation to victims of violent crime. It currently pays compensation in two main ways. First, it makes a payment in recognition of the victim’s pain and suffering. Second, where the applicant is unable to work for at least 28 weeks, payments may also be made for loss of earnings and special care costs (such as medical treatment, adaptations to property and nursing). In addition, where the victim dies as a result of a violent crime, the CICS makes awards to close relatives for pain and suffering, as well as payments for funeral costs, to bereaved dependents for financial loss and to bereaved children for loss of parental services.

14. Injuries are graded into 25 tariff bands for the payments for pain and suffering, according to their seriousness. These range from £1,000 for injuries such as fractured fingers and sprained ankles (tariff band 1) through to £250,000 for quadriplegia or severe brain damage (tariff band 25). In some cases the tariff band an injury falls into will depend on how long the effects last as well as the nature of the injury.

15. Loss of earnings and special care is only payable where the applicant has been incapacitated as a result of the injury for at least 28 weeks (because statutory sick pay is available for the first 28 weeks). The maximum total award in any one case is £500,000 including loss of earnings and special care.

4 How much does it cost?

The scheme costs the Government over £200 million per year, and in 2011-2012 a total of £449 million was paid out in criminal injuries compensation payments.²

¹ Ministry of Justice, *Getting it right for Victims and Witnesses: impact assessments*, 30 January 2012

² Justice Minister Helen Grant, *HC Deb 7 September 2012 c571*

5 The Government's proposed changes

5.1 The consultation document

The Ministry of Justice's consultation paper [Getting it right for victims and witnesses](#) was published on 30 January 2012. Part 1 of the document outlined a series of changes to services for victims, with a more strategic approach to funding these and local commissioning. Part 2 set out a series of changes to Criminal Injuries Compensation, which include a number of cuts, as part of "rebalancing" overall resources available to victims:

21 Provision of compensation is of particular importance to those victims who are most seriously affected by their injuries and where the impacts are long-term and life-changing. It is plainly right that compensation payments should be a continuing part of how Government supports and responds to their needs. But consistent with our principles of reform we believe it is more sensible and beneficial for victims with less serious injuries that we focus on ensuring immediate practical and emotional support is available, rather than on compensation. The services these people need are now far more readily available than in the mid 1990s when the statutory compensation scheme was established.

22. We are also concerned that any compensation scheme must be sustainable. The CICS is a demand-led scheme which costs the Government over £200m each year and is one of the most expensive in Europe in terms of direct financial compensation for victims of crime. The Scheme has historically been underfunded, with funding allocated at the beginning of the financial year needing to be topped up later in the year. Under the tariff scheme there are existing applications with an estimated total value of £260m,⁹ more than the value of claims expected to be made each year, and more than the available annual budget for future years. In addition, provision was not made for the scheme's historic (pre-tariff) liabilities of nearly £400m,¹⁰ which this administration is now tackling and to which it is already allocating funding, so that awards due to victims will be paid as their cases are decided.

23. It is clear that a review of the Scheme is long overdue and that it takes place in a difficult financial climate. The Scheme must be sustainable if it is to continue to offer timely compensation to victims in the long-term and provide a set of fair, realistic expectations. Our proposals for reform are focused on protecting awards to those most seriously injured by violent and sexual crime. They open the way to make savings from the Scheme and rebalance the overall resources available to victims to best effect by increasing the financial reparation made by offenders in order to provide additional funding for victims services.

5.2 How much will the changes save?

The Government's overarching aim is to reform the Scheme to reduce the burden on the taxpayer by focusing resources on victims in the greatest need, and the Impact Assessment on the changes made it clear that the cuts were to be roughly equivalent to the increase in spending on victims' services:³

Description and scale of key monetised benefits by 'main affected groups'

Victims of crime (in England and Wales): increase in spending on victims' services of up to £40m - £50m per year

Government: reduction in compensation paid under the Criminal Injuries Compensation Scheme by £35m - £55m (or £40m - £60m in 2011/12 nominal terms)

³ Ministry of Justice, [Getting it right for Victims and Witnesses: impact assessments](#), 30 January 2012, p5

5.3 Detailed proposals

The Impact Assessment usefully summarises the changes the consultation document proposed:⁴

- Clarifying eligibility for the scheme and changing the scope of the scheme to no longer make payments for mental injury to those who: witness, or are closely involved in the aftermath, of a violent crime against someone with whom they had, and still have, a close relationship of love and affection; are employed on the railways and witness (or are involved in the aftermath) of an injury resulting directly from an offence of trespass on the railways;
- excluding those who are not an EU national or a national of a state party to the European convention on the Compensation of Victims of Violent Crime, and who do not have a non-transient connection to the UK (demonstrated by at least 6 months lawful residency) OR (ii) excluding only those not legally present in the UK at the time of the incident;
- requiring that (except in exceptional circumstances) an offence be reported to the police (rather than another body) as soon as reasonably practicable, and that the applicant cooperate so far as practicable in bringing the assailant(s) to justice;
- no longer making awards where the applicant has consented to a criminal offence in fact (but not in law). (Retain the practice that a child under 13 who is the victim of sexual assault will remain eligible for compensation. For children between 13 and 15 an assessment will be made for each case relating to a sexual offence (see consultation document for details);
- making awards to under 18s where previously it would have been deemed against their interest;
- excluding (except in exceptional circumstances) all of those with unspent criminal convictions OR (ii) excluding those with unspent convictions for offences that could result in an award under the scheme. In fatal cases take into account any convictions of the claimant but not those of the deceased, except in exceptional circumstances. Continue to take into account the conduct of the deceased;
- eliminating tariff bands 1 – 5 (less serious injuries);
- reducing payment in bands 6 - 12 by £1500 in band 6 to £1000, by £1800 in band 7 to £1500 and by £2000 in bands 8 – 12 (no change to bands 13 – 25);
- but retaining fatal injury awards and awards for sexual assault and for physical abuse (including those in bands 1 – 5) at their current values;
- and no longer distinguishing between mental and physical injuries when calculating multiple injury awards;
- paying for lost earnings (to victims and bereaved dependents) at a flat-rate of statutory sick pay (currently £4,243 pa) per year of loss without making any deductions OR (1ii) paying the flat rate but not paying if the claimant has employer funded income (e.g. ill-health pension, that exceeds the minimum wage) OR (2) reducing the cap on annual loss to around £12,600,

⁴ Ibid, pp 117-8

60% of gross median earnings (for all employees), and continuing to apply deductions for other sources of income (and, for dependency, the living expenses of the deceased);

- removing the special expenses payments for private medical care not available on the NHS;
- and increase the onus on applicants to provide evidence for their case, while clarifying the application process by:
 - maintaining the onus on the applicant to make out their case, but clarifying what evidence the applicant will be required to provide as a minimum, so far as it is practicable for the applicant to do so. This includes initial expert/medical evidence that an injury has been sustained;
 - tightening the circumstances where CICA will meet the costs of obtaining expert (mainly medical) evidence;
 - introducing a new provision enabling the applicant to request that a decision on the case be deferred for an initial period of two years, with one further two year period of deferment possible when requested, and also enabling asylum seekers to request their application be deferred until the question of their refugee status is settled;
 - reducing the period for applicants to accept, or request a review of, their award from 90 to 56 days;
 - extending the circumstances where repayment of all or part of the award may be requested to cover circumstances where it comes to light that the applicant had not cooperated in bringing their assailant to justice or the applicant deliberately misled the claims officer when making their application;
 - removing the possibility of reopening cases on medical grounds from the scheme;
 - when it becomes apparent that a claims officer has made an error on review, allowing CICA (with the agreement of the applicant) to withdraw the decision before the appeal is heard so that the appeal falls and a fresh decision can be issued;
 - implementing provisions in the Criminal Injuries Compensation Act 1995 to allow CICS claims officers to issue a recovery notice to an offender for the compensation paid to their victim and, if the amount is not paid, to initiate debt recovery action through the civil courts

6 The response

The Government's response document, [Government response to 'Getting it right for victims and witnesses consultation'](#), was published on 2 July 2012⁵. The Government made concessions in the case of some of the contentious issues. These included:

- introducing a requirement that applicants have been lawfully resident in the UK for six months

⁵ Ministry of Justice, [Government response to Getting it right for victims and witnesses consultation](#), Cm 8397, July 2012

- excluding all those with unspent criminal convictions
- expecting applicants to pay up to £50 for their own medical reports

The concessions are set out in section 7 below.

The consultation document also had a preferred option of excluding anyone with unspent convictions, but the majority of respondents said this was disproportionate and unfair. The Government decided to exclude automatically only those applicants with unspent convictions resulting in either a custodial sentence or community order, and giving discretion to make an award to those with other unspent convictions “in exceptional circumstances”. Low level motoring offences would not count.

6.1 Restricting the scope of the scheme

On the issue of restricting the scope of the scheme, the document noted that over a quarter of respondents agreed with the proposal that eligibility should be based upon a “direct, hostile, physical attack against a person”. Some trades unions felt that injuries resulting from trespass on railways (e.g. suicides) should be retained, and over half the respondents felt that the definition should be expanded to cover explicit reference to particular kinds of abuse such as harassment, staking and repeated domestic abuse. The Government decided to keep the proposed definition of a crime of violence.⁶

6.2 Changing the tariff of injuries and offences

Here the document noted that responses were “fairly evenly spread”, with large organisations representing victims and some trades unions opposing the changes, especially removing the first five bands. The Government decided to press ahead with this proposal:⁷

We have taken into consideration the varied responses received. Though we can see merit in some of the arguments, the scheme must be sustainable and we believe that our proposal to remove minor injuries and reduce awards in bands 6–12 is the fairest way to do this while ensuring that awards for the most seriously injured are protected as far as possible. We have considered responses from trades unions raising concerns about the impact on those with minor injuries. However, we believe that, given all people who suffer injuries in the lower bands who are in employment will be entitled to statutory sick pay, the state already compensates them. If we were to continue to make awards in some of the circumstances set out by respondents then we would not be able to protect awards for the most seriously injured.

7 The new draft Scheme

Also on 2 July 2012, the Government laid [The Draft Criminal Injuries Compensation Scheme 2012](#). The then Justice Secretary Kenneth Clarke explained that the changes were part of a “package of proposals”:⁸

First, I intend to proceed with plans to make improvements to the support available for victims, raising up to an additional £50 million from the perpetrators of crime through the victim surcharge and other financial impositions. The way in which support for victims is purchased will also be subject to reform. We will move to a mixed model of national and local commissioning. The budget for the bulk of services will be devolved

⁶ Ministry of Justice, [Government response to Getting it right for victims and witnesses consultation](#), Cm 8397, July 2012, p 41 This definition is set out in Annex B of the [Draft Criminal Injuries Compensation Scheme 2012](#)

⁷ Ibid, pp47-8

⁸ [HC Deb 2 July 2012 c36-7WS](#)

at local level to police and crime commissioners who will decide which services are needed in their communities. For some specialist support services, including rape support centres and support to those bereaved by homicide, my Department will continue to commission services nationally. Police and crime commissioner (PCC) elections will be taking place this November. The decision on when funding for victims services will transfer to PCCs will be made in due course but we would not envisage this happening any later than April 2015.

Secondly, our system of criminal injuries compensation will be reformed so it is properly focused on victims of the most serious crimes. The revised scheme will, for the first time, be placed on a sustainable footing. There will be an end to payments for minor injuries, and to those with serious criminal convictions.

There will be a revised victims' code, setting out more clearly what victims can expect from the criminal justice system and ensuring that victims are treated always with dignity and respect. We will consult on a new draft code next year.

These reforms will also, among other things, aim to increase the use of restorative justice and of the victim personal statement. Both can help victims to cope and recover, both have a valuable role to play in the criminal justice process.

We will also put in place the first statutory compensation scheme for British victims of terrorist atrocities abroad. It will see Britons who are targeted in future terrorist attacks overseas compensated in the same way as domestic victims of terrorism.

In the light of the major reforms that the Government are announcing today to improve services for victims and introduce greater local accountability, the Government will consider how best to ensure that victims' interests are well represented and review the role of the victims' commissioner while the new framework for victims is established.

The [Explanatory Memorandum](#) to the Draft Scheme summarised the reactions to the proposals and the ways in which the Ministry of Justice had modified them:⁹

- 8.1 The Ministry of Justice held a twelve week public consultation between 30 January 2012 and 22 April 2012, which set out proposals to make changes to the current scheme. The Ministry received around 60 responses on criminal injuries compensation. It also held 8 events around the country to engage with the public and practitioners. Key respondents included the Association of Personal Injury Lawyers, the Bar Council, the Law Society, the First-tier Tribunal and a number of voluntary sector organisation supporting victims of crime.
- 8.2 Each proposal attracted a range of responses both for and against. Objections to three of the main proposals were:
 - 8.2.1 that the proposed requirement that applicants must have been resident in the UK for six months was unfair because migrant victims who came into the UK for less than six months may be more vulnerable but would not be eligible to apply.
 - 8.2.2 that proposals to exclude all those with unspent criminal convictions were disproportionate because no account would be taken of the severity of the injury or the nature of the criminal conviction; and
 - 8.2.3 that the requirement that the applicant pay for their own medical reports could prevent some economic groups from making an application.

⁹ Ministry of Justice, [Explanatory Memorandum to the Criminal Injuries Compensation Scheme](#), published as part of Dep 2012-1104, 2 July 2012

- 8.3 The Ministry has taken account of these objections and has made some revisions to its proposals. In these areas they are as follows:
- 8.3.1 applicants will now be required to demonstrate being ordinarily resident in the UK rather than being ordinarily resident in the UK for at least six months at the time of the injury. The Ministry has also refined its policy in respect of those who are exempt from this requirement, in particular in respect of those who are conclusively identified as victims of human trafficking or are granted asylum;
 - 8.3.2 in response to concerns about the criminal convictions proposals, there will be discretion to make an award, and to reduce it, where an unspent conviction does not result in a custodial or community sentence. This recognises the concerns of some respondents to the consultation in relation to the proportionality of refusing compensation entirely on the basis of a minor unspent conviction. Applicants with motoring offences resulting in a fine, endorsement or penalty points will not generally have their awards reduced; and
 - 8.3.4 where a person is not able to obtain or cannot afford to pay for initial medical evidence, the cost of that evidence will be met by the CICA and will be deducted from the final compensation award, if one is made.
- 8.4 In addition, the Ministry is not taking forward the consultation proposal to remove from the Scheme the possibility of reopening a case on medical grounds.

8 Campaigns against the Draft Scheme

A number of organisations lobbied the Parliamentary committees which were scrutinising the Draft Scheme.

The Communication Workers Union is particularly concerned about postal workers attacked by dogs:¹⁰

In Paragraph 186 of the Consultation Document, it listed the things that the Minister proposes or intends to exclude in future. The 6th bullet point states

"Where a person has been the victim of an animal attack, unless the animal itself was used deliberately to inflict an injury on that person. This is a tightening of current policy under which claims have in some cases been considered from applicants attacked by dangerous dogs not kept under proper control." The CWU is totally opposed to this proposal for very important reasons and strongly requested that the Minister reviewed and withdrew the proposal.

23,000 Postal Workers have been attacked By Dogs in the last 5 Years. 12 Postal workers on average are attacked by dogs every day, amounting to around 5,000 injured every year in dog attacks and two were nearly killed in 2007 and 2008. Many are never able to return to their job due to the physical and psychological effects of the attack.

The Union of Shop, Distributive and Allied Workers ("USDAW") identified the following "key points" in its briefing on the changes:¹¹

¹⁰ Communication Workers Union, *'Draft' Criminal Injuries Compensation Scheme 2012 - CWU Submission to the House of Lords Secondary Legislation Scrutiny Committee*, 16 July 2012

¹¹ USDAW, *Briefing by Usdaw – Cuts to Criminal Injuries' Compensation for Victims*, July 2012

Key Points – Cuts to Compensation for over 90% of Victims

The proposed changes to the Scheme (CICS) will cut between £40m and £60m a year from the £200m cost of the scheme. According to figures in the Impact Assessment for the average cases over 2008/09 and 2009/10, the effect of the changes will be:

- 50% of victims currently eligible for compensation would receive nothing in future, even for quite serious and permanent injuries (18,600 cases on average).
- Over 40% will see their compensation claim severely reduced (15,300 cases).
- Only 9% of victims (3,200 cases) with the most severe injuries or fatalities will be eligible for the same amount of compensation. These amounts have not increased at all since 1996.
- Payments for loss of earnings (for those off work for more than 28 weeks) are being drastically cut. Rather than the victim's average earnings, only the level of Statutory Sick Pay (£85 a week) will be paid to those with long-term and permanent disabling injuries, to those unable to work again, and to dependants of fatally injured victims.

Cuts to Compensation for 91% of Victims of Crime

The introduction to the Government's response to the consultation says that, "The revised scheme will ensure that where payments are made they are to blameless victims of serious crimes."

However the Government's proposals will abolish or cut payments to 91% of blameless victims who suffer significant injury by criminals so we do not believe that the proposals fulfil the Government's aims.

USDAW also criticised the changes in a letter to the Delegated Legislation Committee which was due to consider the Draft Order in September 2012.¹²

The Association of Personal Injury Lawyers has also produced detailed criticisms:¹³

Excluding victims of crime

The CICS operates a tariff scheme which is split into 25 bands. The Ministry of Justice has proposed removing the first five bands, which currently include all claims valued under £2,500, from the new scheme.

According to the Criminal Injuries Compensation Authority (CICA) annual report 2011-2012, almost 50 per cent of all payments made by the CICS fell into bands one to five.

By way of example, under the new scheme, someone who has suffered a minor disfigurement of the face due to scarring will no longer be entitled to any compensation, and someone who suffers temporary partial deafness will also be denied compensation.

Reducing compensation As well as removing the first five bands, the Government has also proposed slashing compensation for claims between £2,500 and £11,000 by up to 60 per cent. (...)

¹² USDAW, *Letter to Members of the Secondary Legislation Scrutiny Committee*, July 2012

¹³ APIL, *The Draft Criminal Injuries Compensation Scheme 2012: A parliamentary briefing from the Association of Personal Injury Lawyers (APIL)*, October 2012

The above tariff bands represent almost 42 per cent of criminal injury compensation payments under the CICS. These injuries can include the loss of a finger, two collapsed lungs or a partial loss of an ear.

No-one asks to be a victim of crime. Reducing, or removing altogether, the amount of compensation available to these people will simply send a very clear message that the state does not view their injuries as serious or important.

While APIL recognises that the Government has proposed to retain awards at their current level for injuries in respect of sexual offences and physical abuse, only around eight per cent of victims of other crimes will be unaffected by these changes.

An upfront charge Under the new scheme, victims will be asked to pay up to £50 upfront to obtain their initial medical evidence. Making victims pay this amount while they may be off work, or still emotionally and mentally scarred from their attack, could prevent genuinely injured victims from bringing a claim.

Loss of earnings

Victims of violent crime who are eligible for compensation under the new scheme, and who are unable to work due to their injuries will also suffer as a result of changes to the scheme. These victims will be worse off due to changes in the arrangements for future loss of earnings, which will now only pay statutory sick pay, which is currently £85.85 per week. If someone were to work a 37 hour week on minimum wage of £6.19 an hour (£229.03 per week) before they were injured, they would be worse off by £143.18 per week, which could result in serious financial hardship.

Changes to the scheme also fail to take into account the current employment market. The new scheme states that to be eligible for a loss of earnings payment, the victim will have had to have been in 'regular paid work for a period of at least three years immediately before the date of the incident giving rise to the injury'. The scheme does offer exemptions to this if the person had a good reason for not having been in regular paid work, for example because of age, care responsibilities, or full-time education. In the current climate, however it would not be unusual for someone to have been moving between temporary jobs, or to have had a period of unemployment in any three year period. The new scheme will prevent someone from receiving a loss of earnings payment under such circumstances, even if they are now in regular paid work.

The changes to loss of earnings provisions will not only affect those who have been injured, but they will also affect relatives eligible for dependency payments after the loss of a loved one. The dependency payments, which are awarded to someone financially or physically dependent on the deceased, will be reduced as a result of these changes, and may not be enough to support the dependent.

Failing to protect the most vulnerable

Some of the most vulnerable people in our society are children, yet this new scheme will do nothing to protect children who are victims of certain violent crimes.

The Department for Environment Food and Rural Affairs has recently consulted on possibly extending section 3 of the Dangerous Dogs Act 1991, to make it a criminal offence in England for an owner of a dog to allow it to be out of control on private property, such as on the owner's own property. That consultation closed on 15 June, and no response has yet been published. At the same time, the Ministry of Justice has proposed removing the right of compensation from those attacked by animals, unless the animal was 'used deliberately to inflict an injury on that person'.

This would create a scenario where a child has been mauled by a dog, but that child will be denied compensation, even though a criminal offence may have occurred (if the Dangerous Dogs Act is extended) and that child will have sustained life changing injuries.

While the Government is retaining all awards for sexual offences, the decision no longer to cover the cost of private medical care may prevent a victim of child abuse from receiving counselling and support quickly. While these services are available on the NHS, private funding would prevent any delays, and prompt treatment can be vital in such circumstances.

It was the Government's intention to cut the lower awards to provide better protection and support for the most seriously injured victims. There is, however, no evidence that this has actually happened. Even those with the most serious injuries will suffer as a result of these changes.

9 The Lords Secondary Legislation Scrutiny Committee

This Committee reported on the Draft Scheme on 17 July 2012:¹⁴

The Government anticipate that the 2012 Scheme will lead to savings of around £50m per year. These savings will be directed toward paying claims outstanding under the current and previous Schemes as they are determined until 2014, when the annual budget will be reduced.

6. We received evidence from the Communication Workers Union and from the Union of Shop, Distributive and Allied Workers ("USDAW") expressing concern that the reduction in the scheme's coverage will leave postmen and shop workers without compensation in a wide range of situations and that payments for loss of earnings for those most seriously injured, who require more than 28 weeks off work, will be cut from their average earnings to the level of Statutory Sick Pay. This evidence is published on the Committee's website^[1].

The Draft Order was approved in the Lords on 25 July 2012 after a Labour amendment to the motion to approve was negated on division.¹⁵

10 Debate in the First Delegated Legislation Committee

The debate in the Commons First Delegated Legislation Committee on 10 September 2012 led to the new Justice Minister, Helen Grant, deciding not to move the relevant motion.

Introducing the Draft Order, Ms Grant argued that there were better uses for the resources involved:¹⁶

The proper protection and support of those who have suffered at the hands of criminals is a fundamental part of a civilised justice system. We are determined to provide the best support for the most seriously affected, vulnerable and persistently targeted victims of crime, to help them cope with and recover from the effects of crime. We believe that victims should never feel like accessories to the system, be kept in the dark about their cases or expected to sit next to the families of perpetrators in court. Since it was set up in 1964 and then reformed in 1996 following primary legislation, the criminal injuries compensation scheme has offered support from taxpayers to victims of

¹⁴ Lords Secondary Legislation Scrutiny Committee, Eighth Report . [Draft Criminal Injuries Compensation Scheme 2012](#), 17 July 2012, HL 36 2012-13

¹⁵ [HL Deb 25 July 2012 c719-36](#)

¹⁶ [First Delegated Legislation Committee, 10 September 2012 c5](#)

crime. No amount of money by way of compensation can make up for the injury or emotional trauma that often results from crimes of violence, but in some circumstances it is right to provide financial assistance.

Our consultation argued that the provision of support services for victims at the point of need is a better use of money than providing small amounts of compensation some time after the incident for relatively minor injuries, such as sprained ankles and broken fingers. Our reforms therefore remove payments for minor injuries and focus payments on seriously injured victims of serious crime.

The criminal injuries compensation scheme is demand-led. It costs the Government some £200 million a year. Historically it has been underfunded, with the funding allocated at the beginning of the year needing on occasion to be topped up at the end of the year to enable claims to be paid as and when they fall due. Minor changes to the scheme were made in 2008, but the scheme has not been substantially reformed since the introduction of the first tariff scheme in 1996.

She went on to say that “the scheme is unsustainable in this unfortunate economic climate.”¹⁷

During the debate, both Conservative and Labour members of the Committee raised concerns about the changes. Labour’s shadow justice minister, Robert Ffello, was one of those criticising the Draft Order:¹⁸

I believe that these drastic cuts change the fundamental nature of the criminal injuries compensation scheme. They are at direct variance with the Government’s first stated aim of the review of the scheme—

“to protect payments to those most seriously affected by their injuries”—

and with the Government’s statement that in cutting the deficit, they would protect the most vulnerable, because if the innocent, severely injured victims of violent crime and the orphaned children of parents killed by criminals can be targeted for such drastic cuts, surely no one is immune. In short, the deficit, which is escalating as a result of current policies, is being used as an excuse to drive a coach and horses through the criminal injuries compensation scheme as we approach its 50th anniversary.

I find it very hard to comprehend why such drastic changes to such an important scheme are being scrutinised by just 19 of us this afternoon. I receive considerable correspondence from victims of crime. I am sure that other hon. Members on both sides of the Committee do, too. As Members of Parliament, we get to understand only a little of the horror and trauma suffered by those who are assaulted. I am sure that many hon. Members would wish to express their views about the impact of the proposals. I am sure, too, that many victims of future violent crimes—crimes committed from next month onwards—will want to know that Parliament gave thorough consideration to a policy that will affect those victims so severely. I therefore feel the weight of responsibility on me today, and I am sure that other members of the Committee do, too.

The Conservative Member Jonathan Evans was particularly concerned about victims of dog attacks:

The aspect of the greatest concern to me is dog attacks, certainly upon postal workers but particularly upon children. I will mention just one case, which relates to a Labour councillor in my constituency, Councillor Dilwar Ali—the hon. Member for Llanelli

¹⁷ [First Delegated Legislation Committee, 10 September 2012 c6](#)

¹⁸ [First Delegated Legislation Committee, 10 September 2012 c25-6](#)

probably knows him, as he is very active in Welsh political circles. His young son was the victim of an horrific dog attack that has been the subject of widespread press and television attention. Reconstructive surgery was needed on this poor young child's face. The person in charge of the dog did not set the dog on the child but failed to exercise any sort of control over it, and he was subsequently sent to prison. He will therefore not be in a position to be sued in the civil courts. Criminal injuries compensation is the only resource available to that child. I say to my hon. Friend the Minister that I do not want to be asked to vote today in favour of a change that says to that child, "From now on, because of the difficulties of the deficit, you're not going to get any compensation."

I have the greatest respect for my hon. Friend, and I congratulate her on her appointment, but she has just assumed the post and this is an inheritance—some would say a hospital pass—from her predecessors in the Department. I ask her and the Secretary of State to reconsider the proposal and examine the points made in this debate. We are not saying that the system does not need revision, but we are uncomfortable in so many instances that that would be an appropriate gesture.¹⁹

The Conservative John Redwood argued that there were better ways of achieving savings:²⁰

(...)I have never been shy about saying that I would like us as a Government to spend less overall, but I have never once thought that it had to be done by cutting something so sensitive or giving a worse deal to the disabled, the poor or the most vulnerable. I hope that the Government will think again. (...)

(...)The purpose of my questions on how much money we are trying to save and how we are saving it was to ensure that we do not have to cut payments to vulnerable people and to people who have suffered bad injury through no fault of their own. I would be happy to see the Minister's proposals for simplifying the administration. I think £20 million of administrative costs for a fund of such a size—10%—is rather high. I would warmly support simplifications and reductions in the cost of the scheme.

I warmly support the idea that offenders should pay more. I hear the warning about that, but it would be good to try to get more financial penalty out of offenders, because they are the people who caused the problem. Why should the general taxpayer be burdened if we can get it out of the people who are primarily responsible? That money should go to the victims of the crimes.

I am reluctant to approve a scheme that apparently would cut back on payments to people who are vulnerable and who have just been through a bad time in their lives for no good reason. Of course I wish the growth rate in public spending to be brought down, even within the Ministry of Justice itself, but I could think of many ways I would rather do it than the proposals today.

Labour's Nia Griffiths expressed concern about the position of shop workers:²¹

By scrapping all the compensation for injuries in bands 1 to 5, many people who have had traumatic and dreadful incidents will receive nothing at all, and by reducing all the awards in bands 6 to 12, many people will be receiving far less than they would now. The sums are not enormous; even in band 12 now, we are talking about £8,000. For 48% of the current beneficiaries in bands 1 to 5—nearly half of them—to get absolutely nothing at all is a mammoth cut. It is very worrying indeed.

¹⁹ Ibid cc19-20

²⁰ Ibid cc20-21

²¹ Ibid c23

We need to remember that many people—for example, those working in retail—are in jobs that put them at risk. If someone is in close proximity to large amounts of cash, they are a temptation to those wishing to get their hands on that cash. With stores struggling to compete, we often see perhaps only two junior members of staff left to lock up late at night in a lonely place with little protection. The Minister needs to think carefully about that; we are talking about people who are at risk, who have no other form of compensation and who need support. That worries me considerably.

We have had a number of graphic examples, and I will resist the temptation to add to that list. People must have the opportunity to be properly compensated for the terrible trauma that they can suffer as a result of being victims of criminal injury.

Labour's Katy Clark raised concerns about public sector workers and railway workers who might receive criminal injuries in the course of their work:

If the proposals are adopted, many of the lowest paid in the public sector—cleaners, porters, grade A nurses and auxiliary nurses—will lose significant amounts of money and be significantly out of pocket as a result of injuries that they sustained only because of what they do for a living. Often those people work in the caring professions and are assaulted in a hostel, a children's home, a hospital emergency department or a psychiatric ward. In most cases, needle-stick injuries, where people are attacked with syringes in their workplace, will no longer receive any sort of compensation. Such injuries involve a huge amount of not only physical injury but psychological trauma as a result of the worry of having to go for tests for conditions such as HIV. Over time, if the proposals are adopted they will cause a great deal of concern.

(...).

Another exemption is made in the regulations for those who suffer injury as a result of witnessing suicides or attempted suicides. That is a big issue, particularly for those who work on the railways, where individuals can be highly traumatised by such experiences. An example has been brought to my attention of a woman who received compensation as a result of a fatality on the track. She was off work for 11 weeks, had a phased return to work and had eight sessions of counselling and eight sessions of therapy, but she had ongoing stress and associated medical conditions for a far longer period. Such people will be significantly worse off.²²

Labour's Tony Lloyd urged the Minister to withdraw the order:

There is widespread concern that the regulations will penalise genuine victims of criminal acts. We have already heard that, for example, people with permanent speech impediments would lose any ability to make a claim under the scheme. A former police officer who had served in the House for many years was attacked, one of the consequences of which was that his speech was badly impaired. He served as a police officer in this House for many years after that quite competently, although it is true that the Metropolitan police tried to get rid of him. It would be ridiculous if someone in his position, having suffered real and material loss, were not able to claim compensation. Even injuries in bands 1 to 5 are serious injuries. That ought to be registered. We are not talking trivial effects, but injuries that change people's lives, either temporarily or, in the case of permanent speech impediment, for the rest of their lives.

It would be unfortunate, whether we are talking about shop workers, workers in mental health units or postal workers, if people in the course of their occupation, going about their proper lawful business, were attacked, whether by a dog or by an irate customer,

²² *ibid* c24

and found themselves unable to claim compensation for a serious criminal act. The whole purpose of compensation is not meant simply to recompense for loss of earnings, but to recognise the injury, suffering and trauma.

On that basis, I hope that the Minister is at least tempted to take the regulations back to the Ministry and to say that now is the time to think again, lest the victims become double victims of the crimes that affect them.²³

In response to the various concerns, the new Justice Minister, Helen Grant, said she would not proceed with the motion:²⁴

Mrs Grant: To continue, I have listened very carefully to what hon. Members on both sides of the Committee have said today about the scheme. I am a new Minister and, having taking some advice and thought very carefully about everything that has been said and the importance of the scheme to people whom we all care about, I have decided not to move the motion on the criminal injuries compensation scheme, and I will not proceed with the motion on the victims of overseas terrorism scheme. I beg to ask leave to withdraw the motion.

11 Debate in the Seventh Delegated Legislation Committee

The Draft Order was referred to another Delegated Legislation Committee and debated on 1 November 2012. Only four of the Members of the Committee were the same as for the First Delegated Legislation Committee.

Helen Grant explained that the Government had considered the First Committee's concerns, but had concluded that it would be right to proceed:²⁵

Right now, there are two salient facts about the criminal injuries compensation scheme. First, it is in serious financial difficulties. Despite a substantial budget of about £200 million, it sometimes relies on emergency cash top-ups at the end of the financial year to remain solvent. Overall scheme liabilities are in excess of half a billion pounds. We are still resolving claims made under the pre-tariff system that operated up to 1996.

(...)

We made extra funding available to pay the older claims, but pre-tariff liabilities stood at about £150 million at the beginning of this financial year. Clearly, the scheme must be put on a sustainable footing if it is to continue to make timely compensation to victims in the long term.

Secondly, the design of the criminal injuries Compensation Scheme is flawed. Compensation is in some cases poorly targeted, with millions of pounds being spent on relatively minor claims such as sprained ankles. Indeed, over the past decade, nearly £60 million has been paid to 19,000 claimants who are convicted criminals. Instead of taking money from an unaffordable scheme and using it to give cash to those with minor injuries months, and sometimes years, after the event, our plans seek to make a structural change in the nature of the help we give to victims.

The first change was to reform the criminal injuries Compensation Scheme so that it focused on the most serious cases involving innocent victims and on reducing the burden on the taxpayer by £50 million. The second change, which is separate but part of the package, was to increase spending on services for victims by a similar sum.

²³ Ibid c21

²⁴ Ibid cc25-6

²⁵ Seventh Delegated Legislation Committee, 1 November 2012 cc4-9

Crucially, however, that will be paid for by criminals, out of their pockets. The new victim surcharge arrangements, which we implemented on 1 October, will mean a lot more offenders paying towards victim services. From the surcharge and other sources, we will raise up to an additional £50 million from offenders.

I will speak in more detail about the changes to the scheme in a moment, but let us be clear about the overall approach. Seriously injured people need to be able to rely on compensation, and our changes will protect the criminal injuries Compensation Scheme for the long term. Meanwhile, victims should get better services as a result of the additional funding. Practical and emotional support is what those who have suffered from crime say they need, and we believe, as a matter of principle, that that is a better priority than compensation for lower-end injuries.

The final element of the package is what it means for the taxpayer, namely that they pay less and criminals pay more.

(...)

Not only is that responsible at a time of economic hardship, but it is fair, and I believe that most of the public would accept it as such. All that was the rationale for the scheme that we brought to the Committee in September.

We have listened carefully to the comments made, but the fundamentals of the case for reform have not, in our view, changed. Against that backdrop, we have decided to proceed with our changes to the criminal injuries compensation scheme without amendment. We believe that that is the correct way forward. Reform is necessary and right, but we want to make separate provision to ensure some flexibility. In particular, we want to protect certain people whose injuries will fall outside the scheme and who are low-paid and find themselves temporarily unable to work. I will say more about that provision in a moment.

Ms Grant did announce the introduction of a new hardship fund for certain groups of people affected by the removal of bands 1 to 5.²⁶

We are not persuaded that the tariff changes are wrong. However, a case has been made for helping very low earners, whether employed or self-employed, who, as a result of the removal of bands 1 to 5, may find themselves in real and immediate financial hardship. That is why I am announcing today that a £500,000 hardship fund has been established for people who are temporarily unable to work and who are not in receipt of statutory sick pay or an equivalent employer-provided scheme. Our intention is that the fund will be available to help eligible applicants keep their heads above water. We will publish full details shortly.

Robert Ffello criticised the Government's response:²⁷

The Minister came to the previous Delegated Legislation Committee on these measures having supported the proposed cuts to the scheme, but in the face of a revolt on her Benches urging her to think again, she said:

"I have listened very carefully to what hon. Members on both sides of the Committee have said today about the scheme. I am a new Minister and, having taking some advice and thought very carefully about everything that has been said and the importance of the scheme to people whom we all care about, I have decided not to

²⁶ Ibid c6

²⁷ Ibid c9

move the motion”.—[*Official Report, First Delegated Legislation Committee, 10 September 2012; c. 25-26.*]

So she gave the impression that she would go away and think again, but we should have known better. We should have known that in the drive to make the new Justice team look much tougher than the previous team, despite the fact that that is all spin, she, too, would have to look tough.

So what changes did the Minister make? Did she recognise the incredulity at her suggestion that permanent speech impairment is a minor injury by reinstating compensation for bands 1 to 5? I am afraid she did not. Was she tough on the administration costs of almost £20 million by diverting some of those funds to victims? No, she did not. Did she accept that it is wrong to cut dramatically the amount of compensation to victims in bands 6 to 12, such as those with a permanent brain injury? No, she did not. Did she go away to think about how limiting loss-of-earnings compensation will mean that, if a murder victim had a short period of unemployment in the previous three years, their children would be denied any payment? No, she did not. Finally, did she go away to work out how to reverse the unfairness

so that innocent victims of dog attacks may get some compensation for their horrific and terrifying injuries? No, of course she did not.

He questioned the value of the hardship fund:²⁸

That discretionary fund is not in the legislation or the statutory instrument. There are no guarantees that it will not be cancelled next year, once the SI has been approved. The concession is worth 1% of the cuts that are being proposed. Government Members should ask themselves how much extra will be spent trying to administer the proposals. How much, on top of the £20 million administration costs already noted, will be spent to administer this £500,000 pot? Will that generate the same value for money that the current scheme actually provides in a stable and sustainable way?

Also, Members should ask themselves how the concession will be scrutinised, to ensure that it is doing what the Minister promises. We do not know, because there are no details. How many of those who are currently receiving payments as a fund of last resort will be left with bills to pay, as a result of them being victims of a crime where it is judged that the concession will not apply? I am afraid, Minister, that this concession is petty and pointless.

Other Labour Members criticised the proposals. Andrew Smith said:²⁹

In more than 25 years in this place, I have seen some pretty bad measures put before the House of Commons, but this is probably the most miserable, mean and ill-judged proposal that I have ever been called upon to express an opinion on and vote on. Like my hon. Friend the Member for Stoke-on-Trent South, I am shocked that the Government, having withdrawn the statutory instrument because they recognised that all parties in the House, and the general public, were concerned, have brought it back without changing the content of the measure. Instead, they have changed the membership of the Committee that is going to consider it.

The Liberal Democrat Tim Farron expressed discomfort at the tariff changes.³⁰

²⁸ Ibid c12

²⁹ Ibid c14

³⁰ Ibid c20

Without going into the detail of individual injuries mentioned by Members, the exclusion of injuries in bands 1 to 5 leaves many of us feeling uncomfortable. I am sure that that is why the first bite at the legislation was not successful. I was not a member of that Committee, but had I been, I would have raised concerns that some of the categories of injury included in bands 1 to 5 have not been recategorised so that people who suffer such injuries can receive some form of compensation. Will the Minister answer those concerns?

The Minister re-emphasised that overall funding for victims would remain the same:³¹

Mrs Grant: I am grateful to hon. Members who have taken part in this debate. I have listened carefully to all the points raised, as I did last time. The reforms that we have discussed today will put the criminal injuries Compensation Scheme on a more secure footing and will achieve our aim of focusing compensation on those most seriously injured as a direct result of deliberate violent crime, as well as reducing future pressure on the public purse. The establishment of the hardship fund will go some way towards supporting those who need some immediate financial help as a result of being a victim of crime and no longer being eligible under the scheme. As I made clear in my opening speech, our aim is that the overall funding for victims will remain the same. The saving to the taxpayer from CICS reforms will be matched by a similar sum raised from offenders, which will be put into victim services.

Mr Andrew Smith: We have heard about the constraints and the inability to raise money from offenders. If there is a shortfall in the money coming in, will the Government make it up?

Mrs Grant: We are confident that we will raise up to £50 million from offenders, but we will have to keep the situation under careful review.

Our reforms aim to ensure that offenders contribute much more to the costs of victim services and will go some way to redressing the current imbalance between the burden on the taxpayer and the burden on offenders.

The Committee divided on the motion, which, as is normal for draft orders subject to affirmative procedure, was that the Committee had “considered the Draft Scheme.”³²

12 Opposition Day debate

The Draft Scheme was the subject of an Opposition Day debate on 7 November 2012. The Shadow Justice Secretary, Sadiq Khan, moved a motion that the House should not approve the Criminal Injuries Compensation Scheme, and accused the Government of “peddling myths” about the changes.³³

Let me say this. What was the reward for the honesty and candour shown by those three Members for speaking up for vulnerable witnesses and for their constituents? They were sacked from the Committee, which subsequently reconvened on 1 November to debate the draft scheme, and now the ministerial team is peddling myths about the scheme. We have heard a couple of them already. I have the letter that the Justice Secretary wrote to Liberal Democrat and Conservative MPs—not to Labour MPs, I hasten to add—on MOJ letter-headed paper claiming that only minor injuries will no longer be covered. That is nonsense: the criminal injuries compensation scheme at the moment makes payments only for injuries that have a disabling effect

³¹ Ibid c23

³² Ibid c25

³³ [HC Deb 7 November 2012 cc936-7](#)

for at least six weeks. No payments are made for cuts and grazes, as has been suggested, unless they are serious enough to leave a permanent and visible scar. (...)

Conservative and Liberal Democrat MPs were also told in the letter that the scheme was financially unsustainable, but the Government's own figures in their impact assessment do not back that up. The average cost of the scheme over the past four years has been £192 million—this out of a departmental budget of more than £8 billion. We also hear that the scheme is too generous and that the taxpayer can no longer afford it. Well, the tariff payments were not generous in 1996, when they were first introduced, and there has only been one 10% increase in the intervening 16 years, even though inflation has reached almost 50%. It is also worth remembering that, in 2010, 79% of all compensation paid out was for awards below £5,000. Nor is it right to accuse the scheme of being poorly policed. In 2009-10, only 57% of applicants received any compensation. Ineligible applicants are weeded out.

The Government also claim that the scheme is not needed, because people can get compensation elsewhere—we heard that said by the former Justice Minister—but that is also wrong. The scheme only makes awards to those who cannot receive compensation from any other source—for instance, if no assailant has been apprehended or claims on insurance are not possible. Also, we should not believe the propaganda claim—I am not sure whether you received the letter, Mr Deputy Speaker—that the scheme is collapsing under the weight of ever-growing numbers of applications. The data are clear: over the past 10 years, the number of eligible applications has remained broadly stable, at about 38,000 to 39,000 a year. Nor is it right when Ministers claim that this is about refocusing resources on the most serious injuries. There is no refocusing. This is a plain and simple cut.

Opposing the motion, the Policing and Criminal Justice minister, Damian Green set the context for the changes in terms of the additional help the Government would be giving generally to victims of crime. He then went on to challenge the claim that 90% of current beneficiaries would not qualify under the new scheme:³⁴

Yasmin Qureshi: I thank the right hon. Gentleman. As we understand the criminal injuries compensation scheme, 90% of people who could currently qualify for compensation will no longer do so under the proposed regulations. If that is not correct, will he assure us that all the people who can gain compensation currently will still be able to do so?

Damian Green: Certainly not all of them will, but I am distinctly dubious about the 90% figure. Let me explain why. There are two problems with the scheme as it stands: the policy rationale, which is flawed, and the scheme's affordability. The policy problem is that the scheme is not currently clear just what a crime of violence is. It allows awards to be paid to people, for example, who have themselves committed violent crimes and to people who, perhaps many months previously, had already recovered from the minor injuries they had received. The Government are clear that in some circumstances where someone has, through no fault of their own, been a victim of a violent crime, it is right to provide financial assistance. That is, I think, something that Governments of all parties have maintained over recent years; we certainly want to do so. We also need to be clear, however, that where people have sustained relatively minor injuries, from which they will recover fairly quickly, small sums are not the best way to help them. Our investment in services, which I set out at the start of my speech, means that quality provision will be available to support victims at the point of need. (...)

³⁴ HC Deb 7 November 2012 c941, c944 and c945

Tariff payments will continue to be available to those who are most seriously affected by their injuries, and to the victims of the most distressing crimes. What that means in practice—(...)

What that means in practice is that bands 1 to 5 of the current tariff, which contain the more minor injuries such as short-term sprains, will be removed. Bands 6 to 12 are to be subject to a graduated reduction of between 60% and 24%, but bands 13 to 25 are to be protected in their entirety at existing levels.

There has been much talk about injuries in bands 1 to 5 possibly not being minor. However, many injuries already appear more than once in the existing tariff and are ranked according to their seriousness and recovery time. Those injuries in bands 1 to 5 that we are removing may, therefore, appear again in band 6 or above, if the recovery time is longer or the injury is more complex. Where an injury has an ongoing impact, therefore, it will generally still be included in the draft scheme.

Mr Green also said that a Written Ministerial Statement would be issued shortly giving details of the hardship fund.³⁵

Crispin Blunt, who had been a Prisons and Probation minister at the Ministry of Justice until September 2012, gave further context.³⁶

Mr Crispin Blunt (Reigate) (Con): The speech we just heard from the right hon. Member for Oxford East (Mr Smith) in many ways mirrored the shadow Secretary of State's rather narrow speech and failed to look at the context in which the Government have had to assess the scheme. As I was the junior Minister responsible at the time, I can explain the problems we were presented with. The scheme was £750 million in debt and it was taking years to get people paid properly.

The right hon. Member for Oxford East referred to some of the payments that have been made to address the backlog. Those payments could be made because other savings were found in the Ministry of Justice, under the excellent director of finance, Ann Beasley—one of the ways we can spend money quickly within the departmental budget is to take any left at year-end and put it into the criminal injuries compensation scheme to address the backlog. That was a priority because victims of crime are a priority for this Government.

We were faced with a situation in which the scheme was massively in debt, payments were horrendously late and, as the right hon. Member for Oxford East might have spotted, there was no money. The Ministry of Justice is trying to cut its budget by £2 billion a year over the course of the comprehensive spending review period. I noted the shadow Secretary of State's opening comments about wanting to work with Ministers to help to look for savings, which he agreed have to be made. I listened, but I am afraid that I heard not a single suggestion for where other savings might be made in order to deal with the backlog.

The challenge for Ministers was to put the scheme into financial order, which meant taking some difficult decisions, and that, of course, is what we did. We had meeting after meeting to look at the bands, reductions that could be made and different ways of assessing it. That received the highest attention, including from the Prime Minister, who took an interest in it, because it is extremely important to get it right. But we are faced with the fact that savings have to be made, so the scheme proposed here is the one that has come forward. Of course uncomfortable decisions have to be made, as

³⁵ c943

³⁶ cc950-951

the right hon. Member for Oxford East acknowledged, but it is a pity that the Opposition never try to suggest what those difficult decisions should be or explain what they would do.

The Conservative David Burrowes pointed to the Scheme's "historic underfunding":

Mr Burrowes: I am a very patient man, but this issue has dragged on too long and people's patience has been exhausted as they have waited for some compensation from the criminal injuries compensation scheme. The reality is that the scheme cannot be afforded. Last year, the authority was provided with additional funding and a total of £449 million was paid to victims, the largest amount in a single year. Despite the cash injection, total liabilities currently stand at some £532 million. This Government will not ignore the historic underfunding of the scheme. We will not hide behind administrative efficiencies. We are facing up to this difficult issue. We want to express solidarity, but we are not jumping on the bandwagon. We cannot simply have a sustainable scheme if it has to go cap in hand to the Treasury every year asking for a top-up. That does not do justice to the cause of victims. It must be sustainable and on a stable footing. We need a decent, open and transparent way to deal with compensation.

Labour's Katy Clark challenged this:³⁷

Katy Clark (North Ayrshire and Arran) (Lab): It is interesting to follow the hon. Member for Enfield, Southgate (Mr Burrowes), because it is clear that he does have an understanding of the historical background of the scheme. However, yet again, he has chosen to conflate the figures for the Criminal Injuries Compensation Authority, which was introduced in 1998, with the Criminal Injuries Compensation Board, the previous scheme, which was introduced by previous Governments. I attended both delegated legislation Committees on this matter, and I am here today. I have listened carefully to the financial arguments that have been put forward by those representing the Government.

It is clear that the finances of the Criminal Injuries Compensation Authority are stable—it costs just under £200 million a year. In trying to justify the proposed change—the draft scheme has still not been put before all MPs—Government Members have used historical figures from the Criminal Injuries Compensation Board, which ran the previous scheme. However, the CICB awarded far higher levels of compensation because it calculated compensation in a similar manner to civil cases. Instead of the tariff system used by the CICA, it attempted to work out the losses to the victim.

Winding up the debate for the Opposition, Robert Ffello talked about the impact of the changes on individuals:³⁸

We have heard plenty of contributions about the real impact of these cuts, so let me explain simply to the House what Justice Ministers are proposing. Let us suppose a thug mugs the little old lady who lives on our street. If the thug breaks her finger, her jaw or her ribs, or puts out a cigarette on her, or if she suffers impairment to her speech from the callous battering the thug metes out—or if she endures all of those—under this scheme she will be entitled to zero criminal injuries compensation. Is that really what Government Members came into politics to do?

What happens to the have-a-go hero Dad who races out of his home to protect his son from being beaten up—or worse—by the local louts but instead finds himself on the receiving end? He may be stabbed in the ensuing scuffle and be rushed to hospital,

³⁷ c959

³⁸ cc967-8

where dedicated NHS staff save his life. When he applies for financial compensation to cover the lost wages while he has been off work, he will find that, because he has been made redundant a few times during the past three years and has had a few weeks out of work while seeking a new job, he will receive no compensation for loss of earnings from the scheme. Is that what Government Members came into this House to do?

I recall the Justice Secretary talking about the young soldier beaten up by hoodlums. What happens to serving soldier Mr Kent who suffered a fractured jaw with a single punch from a job after a disturbance last year in York and required repeated hospital surgery? Under the Justice Secretary's new scheme, Mr Kent would be entitled to zero financial recompense following the mindless attack he suffered—so much for the Justice Secretary's concerns about our soldiers. Surely Government Members must be starting to realise that what Justice Ministers are doing is wrong.

What happens to the young child savaged by a neighbour's dog? Children under the age of 10 are more likely than any other age group to suffer severe injuries after being attacked and to require plastic surgery. What happens to six-year-old Rebecca who was mauled by a dog while playing near her home in Byker, Newcastle? She was left terrified and pouring with blood. She was rushed to hospital and had surgery for wounds around her eyes, nose, cheek and mouth. Under the new scheme, irrespective of the seriousness of the injuries—even if the victim dies—there is no financial help from the scheme for victims of dog attacks, unless the dog was used deliberately. Perhaps that is what Conservative and Lib Dem Members came into politics to do.

Helen Grant wound up the debate for the Government:³⁹

Mrs Grant: In the Delegated Legislation Committee last week, I said that, although we saw no merit in making further changes to the scheme, we were nevertheless persuaded that something ought to be done for certain low earners who were temporarily unable to work due to their injuries and who would no longer fall within the scheme. I announced a hardship fund that aims to meet a pressing need for people who might well find themselves in real financial difficulty.

Opposition members of the Committee were critical of the lack of detail I provided on that occasion. However, the Minister for Policing and Criminal Justice provided details today in his opening speech, and it is a great shame that the shadow Secretary of State, the hon. Member for Stoke-on-Trent South (Robert Flello) and the hon. Member for Edinburgh East (Sheila Gilmore) seem unable to acknowledge the fairness and decency of the fund and recognise that it will help some of the very poorest people in our country.

(...)

Moving on, we have defined eligibility for the scheme more tightly so that only the direct and blameless victims of crime who fully co-operate with the criminal justice process obtain compensation under the scheme. That is surely right. Those with unspent convictions will not be able to claim if they have been sentenced to a community order or been imprisoned, and those with other unspent convictions will be able to receive an award of compensation only in exceptional circumstances. Not only that, but applicants will need to be able to demonstrate a connection to the UK through residency or other connections.

The hon. Member for North Ayrshire and Arran (Katy Clark) and many others have been critical of our approach to dangerous dogs, because in future the Criminal Injuries Compensation Authority will pay only where the dog was set upon the victim by its

³⁹ cc972-3

owner. A similar approach already applies to injuries caused by motor vehicles; in order for the applicant to be eligible, a car has to have been deliberately driven at him or her. Contrary to our critics' assertions, that will not have much of an impact on claimants because awards for dog attacks are few. That said, aggressive dogs of course present a serious and growing problem, which is why the Government are active in that area, with work going on at the Home Office, the Department for Environment, Food and Rural Affairs and elsewhere.

The last major element of the scheme is special expenses. As is consistent with our policy of focusing payments on the most seriously affected, we have retained the vast majority of those payments in their entirety. However, we have made it clear that the scheme should be one of last resort in relation to special expenses and that payments will be made only if the claim is reasonable.

Finally, we have made some changes to the process of applying for compensation in order to make the scheme easier for applicants to understand. For the first time, for example, the evidence required to make a claim is being included in the scheme, which is a simple but plainly very helpful change.

The Opposition motion was defeated by 289 votes to 209.

13 Implementation

The Draft Scheme was approved in the Commons without any further debate on 12 November 2012 by 275 votes to 231.⁴⁰ The revised scheme will come into force on 27 November 2012. From that date all new applications will be dealt with under the new 2012 scheme whether the injury was sustained before or after 27 November 2012.

⁴⁰ HC Deb 12 November 2012 cc141-3