



Prison Reform Trust response to the Criminal Injuries Compensation Scheme Review: Supplementary Consultation – July 2022

The Prison Reform Trust (PRT) is an independent UK charity working to create a just, humane and effective penal system. We do this by inquiring into the workings of the system; informing prisoners, staff and the wider public; and by influencing Parliament, government and officials towards reform. The Prison Reform Trust provides the secretariat to the All Party Parliamentary Penal Affairs Group and has an advice and information service for people in prison.

The Prison Reform Trust's main objectives are:

- reducing unnecessary imprisonment and promoting community solutions to crime
- improving treatment and conditions for prisoners and their families
- promoting equality and human rights in the criminal justice system.

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Response

PRT welcomes the opportunity to respond to this consultation. We endorse in full Unlock's response¹ and have chosen to submit our own answers to questions 7 and 9.

7. What are your views about removing the exclusionary part of the rule?

We would support the removal of the exclusionary part of the rule as the only solution that would allow the Criminal Injuries Compensation Scheme to properly compensate all victims of crime. A custodial sentence, or indeed the imposition of any other form of criminal justice sanction, ought not to be an automatic bar to individuals receiving compensation if they have been a victim of serious crime. There are often complex and interconnected factors behind an individual's history of involvement in the criminal justice system and victimisation. Decisions on whether to award compensation, and the correct level of compensation to award, can only ever be decided fairly on a case-by-case basis. We would support a return to the approach adopted by the pre-2012 scheme, where decisions on compensation for those with unspent convictions were made on a discretionary basis, with decision making supported by accompanying guidance to avoid arbitrary outcomes.

¹ Unlock. (2022). *Criminal injuries compensation: respond to the consultation now*. <https://unlock.org.uk/priority-issue/fair-treatment-in-the-criminal-justice-system/cica-consultation/>

9. Do you agree that we have correctly identified the range and extent of the equalities impacts for no change and each of the potential reforms set out in this consultation? (Yes/No) Please give reasons and supply evidence of further equalities impacts as appropriate.

No.

While the current policy of exclusion discriminates against all people serving a custodial sentence, it has a particularly disproportionate impact on women in prison, a high proportion of whom are victims of domestic violence and sexual abuse. There are around 3,200 women in prison in England and Wales, making up around 4% of the total prison population, the majority of whom are serving short sentences for non-violent offences. Many women in prison will have been victims of more serious crime than the offence for which they have been convicted. A large proportion of women in prison have been victims of domestic violence and sexual abuse:

- It is estimated that nearly 60% of women who offend have experienced domestic abuse.² Research by The Disabilities Trust found that of 173 women screened at HMP Drake Hall, 64% reported a history indicative of brain injury and for most this was caused by domestic violence.³
- In research by Muslim Hands with Muslim women in prison, 71% of interview participants reported experience of domestic abuse.⁴
- Women with learning disabilities are particularly vulnerable to domestic abuse.⁵

PRT research found that there is limited support for women in prison affected by domestic abuse, particularly those serving short sentences, and that the patchy availability of support on release from prison, including suitable housing, health and social care services and welfare benefits, leaves women even more vulnerable to abuse and offending.⁶ The denial of compensation to these women simply adds to their exclusion from mainstream services and support.

The equality impact statement accompanying the consultation claims that “we have no data” on numbers of women with unspent convictions who are also victims of abuse. The evidence presented above shows that some data is available; furthermore, the onus ought to be on the Ministry of Justice to collate and publish relevant data to ensure a proper analysis of the equality impact of its proposals can be conducted.

² Ministry of Justice. (2018). *Female Offender Strategy*. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/719819/female-offender-strategy.pdf

³ The Disabilities Trust. (2019). *Making the link: Female offending and brain injury*. <https://www.thedtgroup.org/media/163444/making-the-link-female-offending-and-brain-injury.pdf>

⁴ Muslim Hands. (2018). *(In)visibility: Female. Muslim. Imprisoned*. [https://muslimhands.org.uk/ui/uploads/lk2ki4/\(In\)Visibility_Web.pdf](https://muslimhands.org.uk/ui/uploads/lk2ki4/(In)Visibility_Web.pdf)

⁵ Hammond, T., Talbot, J., Earle, J., & Murray, A. (2019). *Out of the Shadows: Women with learning disabilities in contact with or on the edges of the criminal justice system*. Prison Reform Trust. <https://prisonreformtrust.org.uk/publication/out-of-the-shadows>

⁶ Prison Reform Trust. (2017). *“There’s a reason we’re in trouble” Domestic abuse as a driver to women’s offending*. <https://prisonreformtrust.org.uk/publication/theres-a-reason-were-in-trouble/>

Another issue highlighted by Unlock in its response to the consultation is the lack of consideration given to age or age-related discrimination:

The victim's age is distinct from a person's age when they apply to the scheme, but the existing rules do not acknowledge this.

The Criminal Injuries Compensation Scheme is structured so that, in general, claims must be made relatively quickly following victimisation. There are certain exceptions to this, the most common being where applicants were victimised as children. However, there is no consideration of this important difference in the exclusionary rule. Both historic and recent victims follow the same rules regarding automatic rejection.

This means that most applicants to the Criminal Injuries Compensation Scheme do so with the criminal record that existed at the time that they were victimised. This is not true for people who were victimised as children. Instead they are judged based on whatever criminal record they have subsequently acquired as an adult.⁷

This issue is particularly pertinent to people in prison, a large proportion of whom have been childhood victims of physical and sexual abuse. The Ministry of Justice 2012 study Prisoners' childhood and family backgrounds Results from the Surveying Prisoner Crime Reduction (SPCR) longitudinal cohort study of prisoners⁸ reveals that:

- Twenty-nine per cent of SPCR prisoners stated that they had experienced emotional, physical or sexual abuse as a child. Women (53%) were more likely to report having experienced some sort of abuse than men (27%), as were prisoners from a non-BAME background (31%), compared with prisoners from a BAME background (20%).
- Those serving short-term sentences were more likely to state that they had experienced abuse as a child than those on longer-term sentences (29% compared with 24%).
- Female prisoners who had experienced abuse as a child were more likely to report suffering sexual abuse (67%) than male prisoners who had experienced abuse (24%).

We agree with Unlock that “the exclusionary rule discriminates against young victims who are not able to make claims at the time that they are abused. They are treated differently to adult victims and have a higher standard to be accepted by the scheme.” We would urge a return to a discretionary scheme as a means of overcoming this discrimination against childhood victims.

⁷ Unlock. (2022). *Criminal injuries compensation: respond to the consultation now*. <https://unlock.org.uk/priority-issue/fair-treatment-in-the-criminal-justice-system/cica-consultation/>

⁸ Williams, K., Papadopoulou, V., & Booth, N. (2012). *Prisoners' childhood and family backgrounds Results from the Surveying Prisoner Crime Reduction (SPCR) longitudinal cohort study of prisoners*. Ministry of Justice. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/278837/prisoners-childhood-family-backgrounds.pdf