

Criminal Injuries Compensation Authority (CICA) exclusionary rule

What is CICA?

The Criminal Injuries Compensation Authority (CICA) is the government-funded body which exists to provide compensation for victims of violent crime. CICA has an annual budget of over £200m a year for compensation¹. It covers cases that occur in England, Wales and Scotland and pays out over £130m annually.

What is the issue?

The Criminal Injuries Compensation Scheme includes an exclusionary rule. The rule was introduced in 2012, and prevents people with unspent convictions from accessing compensation if they're a victim of a serious crime.

What ought to change?

We believe that the exclusionary rule should be removed. The government launched a consultation on this issue last year following a high court ruling in a case brought by Kim Mitchell, a child sexual abuse survivor who was denied compensation because of a conviction for a minor offence. This consultation closed on 5/8/22. We believe there should be a return to a discretionary system with all cases assessed on their merit and in their own context.

Why is change necessary?

The exclusionary rule discriminates against people who have unspent convictions, setting up a system whereby the rules view some victims as more deserving than others.

- It undermines the principle of rehabilitation. By denying the right to compensation the current system fails to allow for individuals move on from the label of being 'an offender'.
- Links between individuals being a victim of crime and being convicted of offences themselves are not accounted for. For example, individuals who are victims of childhood sexual abuse and related trauma are at increased risk of criminalisation. The system as it exists currently denies these people full victim status on the basis of offences they have

¹ [Cica | The CICA - Cica \(cica-criminal-injury-uk.com\)](https://www.cica-criminal-injury-uk.com/)

committed, which is discriminatory. Indeed, the Independent Inquiry into Child Sexual Abuse (IICSA), recommended that the exclusionary rule be abolished to protect the rights of victims of childhood sexual abuse.

- The exclusionary rule is disproportionate, a blunt instrument. It fails to account for whether the offence an individual has committed is even related to that for which they are claiming compensation. It also takes no account of efforts they've made to move on positively since their conviction.

The government have recently promoted various measures they say are designed to protect the rights of victims and give them greater agency within the justice system. The exclusionary rule is contrary to this, creating a two-tier system whereby some victims are denied the full rights with regards to CICA. Any system that differentiates between people in this way is fundamentally discriminatory and fails to engage with the complexity of the criminal justice system and the people who have had contact with it.

Furthermore, by using unspent convictions as a discriminating factor between applicants for compensation, CICA is open to the idiosyncrasies and loopholes of the criminal record system. For example, someone with a summary motoring offence would be disqualified from CICA compensation for longer than someone who served a six-month sentence for ABH.

Finally, by tying eligibility for compensation to criminal records, existing forms of disproportionality are entrenched. Specifically, disproportionality on the basis of age, gender or race (and the intersections thereof) seep into yet another area of the criminal justice system (compensation), compounding the impact on already marginalised people.

At a time when the government is attempting to pass a Victims Bill through parliament, the exclusionary rule remains as a gap in effective support for victims. The presence of this rule is counter to government claims about supporting victims, as it leaves some victims with notably less support than others and undermines the government's stated aim to support victims to "move forward with daily life and remain engaged with the criminal justice system" and to consider the "distinct needs of child victims"². The government's Victims Code (proposed within the Bill) enshrines the requirement for CICA to uphold victims' rights, but does not explicitly address the existing issues with the exclusionary rule.

Who do people impacted by the exclusionary rule think?

We asked people with criminal records to share their views on this subject with us. A range of their responses can be found on the Unlock website [here](#). People reported feeling as though they were "second classes citizens" about whom "society doesn't care". Notably, some people

² [Fact sheet: Victims measures within the Victims and Prisoners Bill \(publishing.service.gov.uk\)](#)

also said that being viewed in this way by CICA may make them less likely to report crime or engage positively with the justice system in the future.

"I'll always be seen as a criminal despite [my] conviction being directly linked to being sexually abused. It won't make any difference whether or not I report it."

"It makes me feel worthless in the eyes of society"

"I feel myself being on the margins of society...almost a non-citizen because so many doors for me are either closed or only slightly ajar"