



Criminal Injuries Compensation Scheme 1990

General Case Management Practice Guidance – “Pre-Tariff” Cases issued by the First-tier Tribunal (Applicant not professionally represented)

To which cases does this Guidance apply?

1. This Guidance is applicable to all current “pre-tariff” cases*, other than medically re-opened cases, where an application under Criminal Injuries Compensation Scheme 1990 (the pre-tariff Scheme):
 - has not yet been finally determined;
 - which will be finally decided at an oral hearing before the First-tier Tribunal, and;
 - where the applicant is not professionally represented.

*A “pre-tariff” case is one where the application for compensation under a Criminal Injuries Compensation Scheme was made on or before 31 March 1996.

What is the purpose of this Guidance?

2. The purpose of this Guidance is to ensure that the applicants are aware of the requirements of the First-tier Tribunal in the preparation and readiness for hearings.
3. Adherence to this Guidance should:
 - ensure that all relevant issues have been properly investigated and addressed well in advance of the hearing;
 - avoid postponements and adjournments;
 - ensure that a final and agreed hearing bundle of papers is prepared and supplied in good time before the hearing date to the First-tier Tribunal Judges who will hear the cases;
 - allow a fair and efficient hearing and outcome.

Administration

4. Responsibility for administration and receiving and collating of all documents relating to these cases lies with the Criminal Injuries Compensation Authority, Pre-Tariff Department, Tay House, 300 Bath Street, Glasgow G2 4LN (CICA), pursuant to paragraphs 67 and 69 of the 2008 Scheme.
5. CICA has the day to day responsibility for administration and conduct of the case. A lawyer appointed by CICA attends all hearings as advocate to the First-tier Tribunal.
6. Responsibility for fixing dates for telephone/oral directions and for the listing of hearings lies with CICA.

Lead Tribunal Judge

7. A “Lead Tribunal Judge” will be appointed by the First-tier Tribunal for each case; the Lead Tribunal Judge will be responsible for issuing all future directions prior to the hearing.

Clarification, Case Management Directions

8. This Guidance is supplemental to case specific previous and future directions issued by the First-tier Tribunal (the successor to Criminal Injuries Compensation Appeals Panel since 3 November 2008).

9. It is expected that in the first instance, applicants will seek to clarify points of concern and resolve issues regarding the administration and preparation of cases for hearing directly with CICA.
10. Where a case requires a direction from the Lead Judge, prompt written application for directions should be made to the Lead Tribunal Judge – applications by applicants must be routed via CICA. Direct communication between the First-tier Tribunal and applicants is not permitted.

Disclosure of documents

11. With immediate effect, applicants who wish to rely on documents in support of their case must promptly disclose to CICA a copy of all such documents; the Tribunal may decide not to take account of documents that are not promptly disclosed to CICA. Applicants should assume that the Tribunal will not take into account documents produced for the first time at the hearing.

Evidence to be considered by the Tribunal

12. With immediate effect, applicants are required promptly to send to CICA:-
 - o their own witness statements, i.e. written details of the up to date evidence they will personally give at the hearing (which can be expanded on at the hearing); and
 - o statements of other witnesses whose evidence they will rely on in support of their claim or any part of it.

Expert evidence

13. Where reports from experts (e.g. medical experts) are required, CICA will inform applicants of its intention to instruct the particular expert and CICA will be responsible for payment of the experts' reasonable fees.
14. Applicants who consider that CICA's choice of a particular expert is not appropriate must promptly inform CICA in writing of reasons for concern, otherwise applicants are expected to attend appointments made and generally give full co-operation to experts instructed to provide reports.
15. Applicants who wish to provide their own expert evidence must notify CICA immediately of their intention to do so and supply CICA with the written report/letter from the expert promptly after receipt, and in any event no later than 4 weeks before the hearing date.
16. **Save in exceptional circumstances, the Tribunal will not allow applicants to provide evidence from an expert at the hearing where no written report from the expert has been supplied to CICA in accordance with the previous paragraph.**

Claim for financial loss

17. Applicants who claim financial loss (e.g. loss of earnings) must promptly provide to CICA full details of such claims together with copies of all documents required to support the claims and co-operate with CICA's enquiries.

Pre-hearing review

18. When CICA considers that the case is ready to be listed for final hearing, CICA will send to the Lead Tribunal Judge a draft hearing bundle with a time estimate.
19. Where, on review of the draft hearing bundle, the Lead Tribunal Judge:
 - considers that a telephone conference between him/her,, CICA's representative and applicant is required, he/she will contact CICA to direct that one be set up; or
 - considers that the case is not ready for a hearing and that a telephone conference is not appropriate, he/she will issue further case management directions and send them to CICA who will issue them to the applicant; or

- considers that the case is ready for hearing, he/she will inform CICA accordingly and CICA will be responsible for fixing the hearing date.

Hearing bundle

20. The First-Tier Tribunal requires to be provided with an agreed paginated hearing bundle which all concerned (Tribunal Judges, the advocate to the Tribunal, applicant) will use at the hearing. The hearing bundle (to include arithmetical calculations of claims for past and future financial loss, benefits to be deducted under paragraph 19 of the 1990 Scheme) must be agreed and finalised between CICA and the applicant no later than 6 weeks before the hearing date; a failure to comply may result in the First-tier Tribunal postponing the hearing.
21. The hearing bundle must include, in orderly and paginated sections and avoiding duplication, the following documents:-
 - (a) CICA's Hearing Summary;
 - (b) the application form;
 - (c) previous Decision and Directions Notices;
 - (d) witness statements, in chronological order for each witness;
 - (e) reports from medical experts, in chronological order for each expert;
 - (f) (where applicable) reports from other experts, in chronological order;
 - (g) medical records;
 - (h) (where applicable) employers personnel and occupational health records;
 - (i) the applicant's claim for financial loss and supporting documents;
 - (j) relating to all social security and other benefits to be taken into account under paragraph 19 of the 1990 Scheme;
 - (k) other documents;

Note that all claims are subject to the scrutiny and final decision of the Tribunal.

Hearing date

22. Once a hearing date has been fixed, the case will not be postponed without reference to and agreement of the Tribunal.

Requirement to comply with Directions and give all reasonable assistance

23. Applicants who fail promptly to comply with Directions or otherwise fail to give all reasonable assistance to CICA and the Tribunal are reminded that the Tribunal may strike out the claim or part thereof and/or withhold or reduce compensation under paragraph 6(b) of the 1990 Scheme.

Dated 4 September 2009

Roger Goodier
Principal Judge
First-tier Tribunal – criminal injuries compensation