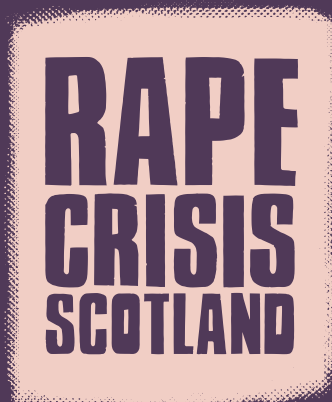




CONSULTATION

Criminal Injuries
Compensation Scheme
Review

Supplementary
Consultation Response
(2022)



Criminal Injuries Compensation Scheme Review

Supplementary consultation 2022

Submission from Rape Crisis Scotland

Question 1: What are your views about the exclusionary part of the rule being retained unchanged?

Rape Crisis Scotland RCS are in support of the exclusionary part of the rule being removed and can see that there are many victims of crime who are currently excluded from being able to claim criminal injuries compensation.

As an organisation we support all survivors of rape and sexual violence regardless of whether they have unspent convictions or not. We are conscious that for some survivors, the trauma they have experienced from sexual violence has been a contributing factor in their own involvement in offending activity. We believe that the exclusionary part of the rule should not be retained in its current form and that there should be a discretionary system adopted to allow claims to be heard from individuals with unspent convictions based on the individual facts and circumstances of their case.

We also recognise that there may be some exceptional cases where a survivor had been involved in offending, leading to a relevant unspent conviction for these purposes, prior to experiencing sexual violence and there is no direct link between the unspent conviction and the sexual violence. We see that this condition may preclude vulnerable women from compensation. It was highlighted in the Angiolini Commission findings that most women offenders, in this case those who merited imprisonment, had very complex issues and needs, many experienced domestic abuse, sexual abuse, mental health problems and drug/ alcohol addictions. Precluding all survivors who have unspent convictions means pushing some of the most vulnerable survivors from justice.

We note that the Victims Commissioner for England and Wales have said that there should be an element of discretion applied when reviewing an individual eligibility for the scheme.¹ As the consultation document states, this was the case with the scheme prior to 2012 when the exclusionary rule was applied. We agree with this position.

¹ [VC-Criminal-Injuries-Compensation-Report-2019.pdf](#)

We are not submitting that there be an absolute right to access to the scheme, a clear set of criteria and guidance should be applied, and eligibility should be treated on case-by-case basis depending on the individual circumstances of the case. There should be sufficient training given to those who are assessing these cases to properly allow them to consider the criteria and apply these principles in a consistent manner across all cases.

Question 2: What are your views on the recommendation of the Independent Inquiry into Child Sexual Abuse that the unspent convictions rule be revised so that awards are not automatically rejected in circumstances where an applicant's criminal conviction is likely to be linked to their child sexual abuse, and that each case be considered on its merits?

We strongly agree with the recommendation of the review chair Professor Alexis Jay and Panel that the unspent conviction rule should be revised. Survivors should not automatically be rejected based on unspent convictions. We recognise that childhood sexual abuse can have profound and life changing implications for children and young people. This may make the survivor at greater risk, not only, of offending behaviour in adulthood but also mental and physical health problems, poverty and addiction. All these factors serve to make survivors more vulnerable, and we strongly believe that they should not be excluded from the compensation scheme automatically.

Again, detailed training needs to be given to decision makers in order to ensure their understanding of the impact of sexual violence and all consistency in their application of the principles.

We submit that each case should be considered on its merits and the exclusionary rule removed.

Question 3: Do you consider that exemptions should be considered only for some applicants? If so, what should the basis of the exemptions be and when should discretion be available?

We do not seek to provide an absolute list of potential applicants but submit that the following groups of survivors should specifically not be excluded;

- Adult and child survivors of rape and sexual violence or abuse
- cases of domestic abuse and coercive control

- Where the victim experienced traumatic brain injury (where victims' capacity for decision-making may be impaired).