



## **Criminal Injuries Compensation Scheme 1990**

### **General Case Management Practice Guidance – “Pre-Tariff” Cases**

issued by the First-tier Tribunal

*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 professionally represented.

*What is the purpose of this Guidance?*

2. The purpose of this Guidance is to ensure that the applicants' representatives are aware of the requirements of the First-tier Tribunal in the preparation, readiness for and presentation at hearings in these cases.
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' representatives 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' representatives must be routed via CICA'. Direct communication between the First-tier Tribunal and applicants' representatives is not permitted.

#### *Expert evidence*

11. Henceforth, the Tribunal expects single experts to be instructed jointly by applicants' representatives and CICA and, subject to agreement on the need for such reports, on the identity of the expert to be instructed and the co-operation of and on behalf of applicants, responsibility for payment of the experts' reasonable fees will lie with CICA.
12. Henceforth, where applicants' representatives commission expert reports unilaterally, they must promptly inform CICA from whom the report has been commissioned, provide CICA with a copy of the letter of instruction and, upon receipt of the report, promptly disclose it to CICA.
13. 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.
14. Unless, pursuant to an application for a direction made in accordance with paragraph 10 above, there has been a specific case management direction from a Tribunal Judge providing for the admissibility of oral expert evidence, applicants' representatives should assume that the Tribunal will not admit oral expert evidence.
15. It is unlikely that the Tribunal will treat sympathetically requests for reimbursement of fees or part of them due to experts who have been instructed unilaterally by applicants' representatives.

#### *Scott Schedule*

16. Applicants' representatives must provide to CICA and update as appropriate a "Scott schedule" which must be finalised and included in the final agreed hearing bundle.

#### *Pre-hearing review*

17. When CICA and the Applicant's representative agree that the case is ready to be listed for final hearing, CICA will send to the Lead Tribunal Judge the agreed draft hearing bundle with an agreed joint time estimate.
18. 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's representative 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 issue further case management directions and send them to CICA who will issue them to the Applicant's representative; 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*

19. 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's representative) will use at the hearing. The hearing bundle (to include arithmetical calculations of claims for past and future loss, benefits to be deducted

under paragraph 19 of the 1990 Scheme and a fully completed "Scott schedule" calculated as at the fixed hearing date) must be agreed and finalised between CICA and the Applicant's representative no later than 4 weeks before the hearing date; a failure to comply may result in the First-tier Tribunal postponing the hearing.

20. 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 Schedule of financial loss and supporting documents;
- (j) relating to the claim for loss of earnings and pension;
- (k) relating to all social security and other benefits to be taken into account under paragraph 19 of the 1990 Scheme;
- (l) a "Scott schedule" detailing the amount of each claim (i) to date of hearing and (ii) in the future, references to them in the bundle, further columns in respect of each claim for (iii) CICA's observations, (iv) a blank column for submissions at the hearing, (v) a blank column for the Tribunal's decision;
- (m) other documents;

Note that (i) all claims are subject to the scrutiny and final decision of the Tribunal; (ii) a failure to comply with paragraphs 19 and 20 above may result in the First-tier Tribunal postponing the hearing.

#### *Hearing date*

21. Once a hearing date has been fixed, the case will not be postponed without reference to and agreement of the Tribunal. Applicants' representatives are reminded that unavailability of a particular solicitor or Counsel is not a good reason for a postponement.

#### *Requirement to comply with Directions and give all reasonable assistance*

22. Applicants and their representatives 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