

Rights of Women's Response to Rebuilding Lives: supporting victims of crime

Background

Rights of Women is an Industrial and Provident Society, which was founded in 1975 to promote the interests of women in relation to the law. Rights of Women works to attain justice and equality by informing, educating and empowering women on their legal rights. We are a membership organisation and our activities include producing publications, organising conferences and training courses and undertaking policy and research work. We run two national confidential legal advice lines for women (provided by women), one general advice line specialising in family law issues, including domestic violence and another on criminal law and procedures in relation to sexual violence.¹

General Overview

As an organisation which provides legal advice to women who have been subjected to violent crimes, including domestic violence and sexual violence, we welcome the opportunity to be part of this consultation exercise on compensation for victims of crime. As a feminist organisation dedicated to providing services and resources for women by women, we view the issues of victim compensation through a gendered lens. When we refer to the terms domestic violence and sexual violence, we do so in the recognition that all available evidence indicates that the majority of victims of these violent crimes are female. We therefore define such violence as a form of gender-based violence, to be understood within the framework of violence against women. In this regard we endorse the definition of violence against women contained in the United Nations Declaration on the Elimination of Violence against Women which is taken to mean 'any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life' (Article 1).

Observations on the Current Criminal Injuries Compensation Scheme

Before addressing the questions contained within the consultation, we would like to take this opportunity to make some general observations about the current Criminal Injuries Compensation Scheme and in particular its failure to adequately meet the needs of women who have experienced gender based violence.

Paragraph 9: Under paragraph 9 of the Scheme compensation is not payable for mental injury or disease without physical injury. With regard to sexual offences, the scheme provides that compensation for mental injury alone is only payable under certain circumstances, which includes where the applicant 'was the non-consenting victim of that offence (which does not include a victim who consented in fact but was deemed in law not to have consented).' This is a particularly problematic provision. The exclusion of mental injury without physical injury effectively leaves women

¹ Legal Advice Line: 020 7251 6577 (open Tuesdays, Wednesdays and Thursday 2–4pm and 7–9pm and Friday 12–2pm); Sexual Violence Legal Advice Line: 020 7251 8887 (open Mondays 11am-1pm and Tuesdays 10am-12pm).

subjected to significant mental distress and injury without access to this form of redress.

Paragraph 13: Paragraph 13 of the Scheme sets out the circumstances where an applicant's claim for compensation can be withheld or reduced. These are where:

- '(a) the applicant failed to take, without delay, all reasonable steps to inform the police, or other body or person considered by the Authority to be appropriate for the purpose, of the circumstances giving rise to the injury; or
- (b) the applicant failed to co-operate with the police or other authority in attempting to bring the assailant to justice; or
- (c) the applicant has failed to give all reasonable assistance to the Authority or other body or person in connection with the application; or
- (d) the conduct of the applicant before, during or after the incident giving rise to the application makes it inappropriate that a full award or any award at all be made; or
- (e) the applicant's character as shown by his criminal convictions (excluding convictions spent under the Rehabilitation of Offenders Act 1974 at the date of application or death) or by evidence available to the claims officer makes it inappropriate that a full award or any award at all be made.'

Reporting to the Police: There is a real concern over the application of subsection paragraph 13(a) to victims of sexual violence. It is well documented, and often the case with callers to our Sexual Violence Legal Advice Line, that victims of sexual violence may not be able to report their experiences immediately. It can often take years for women to be able to fully disclose their experiences (either as a child or adult) of sexual violence. Further, women that have experienced sexual violence have often told us of their negative experiences in dealing with the criminal justice system, including the Police, which can add to the trauma of their experience.

The applicant's character: References to the applicant's 'character' (paragraph 13(e)) also raise concerns, particularly in relation to their use to exclude women involved in prostitution who have been raped and/or assaulted. This is particularly troubling given the Government's recent publication of the 'Coordinated Publication Strategy', one of the key aims of which is to 'ensure justice' by bringing to justice those that commit violence and sexual offences against those involved in prostitution. We hope that in light of this Strategy, that the women's involvement in prostitution will not affect their ability to claim compensation under the scheme.

Paragraph 14: Paragraph 14 of the scheme states that compensation may be reduced or withheld where it is considered that 'excessive consumption of alcohol or use of illicit drugs by the applicant contributed to the circumstances which gave rise to the injury.' There are real concerns about the application of this paragraph to cases of sexual violence, and the connection between alcohol or drug consumption and the incidence of sexual violence. There must be an explicit statement that the consumption of alcohol or drugs should not be taken to mean that a woman contributed to sexual violence – the perpetrator of sexual violence makes the decision to commit an offence, and stereotypical and non-relevant judgements blaming women should not play any role in the compensation process.

Note 13: This note of the scheme deals with the physical abuse of adults and provides that where they have been subjected to 'a series of assaults (sexual and/or physical) over a period of time, it may be that an applicant will qualify for compensation only for the single most recent incident, if in relation to the earlier incidents she/he failed to report them to the police without delay and/or failed to co-operate with the police in bringing the assailant to justice. Where the applicant is entitled to compensation for the series of assaults, she/he will qualify for an award as the victim of a pattern of abuse, rather than for a separate award for each incident.' Rights of Women is concerned about the application of this provision to women who have experienced domestic violence (including sexual violence). For example, in one study it was shown that before women seek help they will have experienced, on average, 35 incidents of violence. Clearly note 13 not only ignores the reality of violence for many women, its application to women in this situation may be considered discriminatory.

Consultation Questions

Question 1 – Deduction of court-ordered compensation from benefits

Rights of Women supports the theory of court-ordered compensation to be deducted directly from the benefits of the perpetrator, as this will help ensure that women who have been subject to violent crime receive their compensation payments. However, we have some concerns about how this will be implemented in practice, and in particular the need to secure women's safety. Several studies and risk assessment models (as for example used by the Metropolitan Police Service) have shown that women leaving a violent relationship are at high risk of being subjected to further violence, including being murdered, by former or current partners. Therefore, we think it is essential that any benefit-deduction system does not place women's safety (and that of any children they have) at risk.

In addition, we are keen to ensure that receiving compensation via deductions from the perpetrator's benefits should not impact on the woman's entitlement to social security benefits.

Question 2 - increasing the maximum award limit

Whilst Rights of Women believe that the maximum award limit for homicide (£11,000) is insufficient, we do not adhere to the consultation's proposed strategy to increase awards. Removing 'loss of earnings' and 'care costs' from compensation is likely to be extremely damaging to women that have been subjected to violent and sexual crimes. Research and experience within the women's sector has shown that sexual and domestic violence can have a long-term impact on women, including through the manifestation of anxiety and post-traumatic stress disorder, which can make it difficult to work.

We are also critical of removing so called "less serious" injuries from the compensation scheme in order to fund higher maximum awards. This readjustment of the scheme is likely to exclude the harm suffered by women who have experienced violence, including for example those that have been subjected to harassment or verbal or emotional abuse.

Question 3 – refocusing the scheme around the concept of “seriousness”

Rights of Women welcomes the Government’s commitment not to change the scheme in relation to sexual offences including those against children. However, we oppose refocusing of the compensation scheme around the concept of ‘seriousness’. The term ‘serious’ is highly subjective, and there is a concern, particularly in the case of domestic and sexual violence, that this concept will create a hierarchy of harm that minimises or marginalises violence against women. The focus on the seriousness of an incident also fails to consider the cumulative impact of violence and in particular the combined ‘seriousness’ of a succession or pattern of violence (including intimidation) for the victims. This disregards mental health impairment and trauma caused by such violence and fails to view the reality of the violence – it is therefore foreseeable that many experiences of gender-based violence could be excluded under the concept of ‘seriousness’.

Question 4 – appropriateness of current payments for fatal cases and how to devise a different basis for compensation

Rights of Women believe that the current compensation in fatal cases is extremely low (£11,000 for the first dependent and £5,500 for each dependent thereafter) and have particular concerns in relation to dependents that are not able to support themselves, such as children or those with disabilities or injuries that prevent them from working. In such cases we would like to see a long-term scheme which supports dependents on an annual basis.

Question 5 – should changes to the scheme apply from the date of the incident or the date of the application

Drawing on the precedent established in employment discrimination law, we believe that the changes to the scheme should apply from the date of the incident. This position also reflects the reality that any injury or harm resulting from the crime, and the consequences of this, are attributable to the incident.

Question 6 - making interim awards should become the norm

Rights of Women believe that interim awards should be the norm. This recognises that having financial worries following violence can intensify the trauma of the experience. Interim awards may also go some way to meeting the financial burden placed on victims that are called to court as witnesses in the cases against their perpetrators.

Question 7- determining compensation for persons with unspent convictions

As noted above (Observations on the Current Criminal Injuries Compensation Scheme) Rights of Women are critical of the use of women’s unspent convictions to exclude them from compensation. In particular we would condemn the use of this provision to exclude vulnerable women that have been subjected to violent and sexual crimes, such as those involved in prostitution.

Question 9 – widening the Victims Fund to include other serious crime types (referring to the examples of families of homicide victims or victims of hate crime)

It is important to note that the Victims Fund is not part of the Criminal Injuries Compensation Scheme. The Victims Fund is a specific source of funding, which for

the years 2004-2007 has a focus on the development of support services for victims of sexual crime. This funding is crucial – it is well recognised that funding for the sexual violence services sector is in crisis. The Victims Fund is the only dedicated sexual violence source of funding; we therefore oppose the widening of this fund to other areas. The examples listed in the consultation document, such as families of homicide victims or victims of hate crime, are able to seek funding from a wider variety of sources. Rights of Women therefore strongly opposes the expansion of the Victims Fund to other areas, and also strongly urge the Government to continue increasing the level of funding to the Fund.

Question 10 - services for adult and child victims of crime

Rights of Women welcome the Government's acknowledgement that victims of crime often require emotional and practical support services. Callers to our Sexual Violence Legal Advice Line - which includes women that have been raped and sexually assaulted as women and children, and the parents of child victims - often report that they have not received this kind of help, despite needing it. However, we believe that these emotional and practical support services should be provided irrespective of whether financial compensation is provided. We urge the Government to ensure that these support services are available and are independent from the compensations scheme. Victims of violent and sexual crimes and women in particular, have many needs, which may include emotional and practical support as well as financial support.

We are keen to highlight the need for the delivery of services, particularly in the context of domestic and sexual violence, to be gender sensitive and specialist, drawing on the experience and best practice of the voluntary sexual violence service sector. Callers to our Sexual Violence Legal Advice Line have reported dissatisfaction with the service provided by general victim support services, the lack of specialist knowledge, and in particular the lack of women-only services. The latter is particularly important to the women that contact Rights of Women and as such we urge the Government to provide long-term funding for independent, women-only, specialist sexual violence services.

Questions 11 and 12 – delivering needs assessments for victims and options for Victim Care Units

The needs assessment process must be victim-centred. Victims of crime will have diverse needs, and victims of gendered based violence, including domestic violence and sexual violence, are more than likely to have specialist needs. However, the consultation makes no reference to the history, experience and value of independent specialist services in addressing violence against women. This is a particularly worrying omission given the lack of funding that is available for voluntary sector services in this area. It is vital that any future Victim Care Units are not developed in isolation of the experience of voluntary sector in providing these specialist services.

Rights of Women is not fully convinced by any of the options set out in the consultation document. In relation to Option 1, we are not convinced by the proposal to have Victim Support as the leading provider of Victim Care Units. There are a range of other specialist service providers, particularly those in the women's sector that have the experience and expertise to deliver services through voluntary-sector led Victim

Care Units. Callers to our Sexual Violence Legal Advice Line have expressed the desire to have such specialist women-only assistance. In addition, such women's and specialist services would be able to provide advocacy, an issue that women frequently raise.

Option 2, which proposes voluntary sector and Police partnerships, is the option we are most open to, albeit with certain caveats. These making provision for specialist services, and partnerships with voluntary sector organisations that already have the expertise in dealing with these areas.

We are particularly unconvinced by Option 3, which proposes Police-led Victim Care Units. The Police are first and foremost agents of the criminal justice system. There is therefore likely to be confusion - both within the Police and among service-users - over the role of the Police. Whilst we accept that the Police do have a (important) role in referring victims to service providers, they are not equipped to provide the breadth and depth of support which victims of crime may require, especially victims of gender-based violence.

We are equally unconvinced by Option 4, which proposes a National Victim Care Helpline. A central helpline may be useful, but would be subject to the same caveats on specialist service provision. However, we would question the Government thinking that expected a helpline to adequately address the needs of victims of crime in absence of a well resourced and tangible support service infrastructure, particularly in context of proposals to limit the availability of financial compensation.

One a general note, the consultation refers to Victim Care Units developing and maintaining a directory of services. Whilst it is important for victims of crime to have this information, the reality is that it is not enough for the Government to signpost. Such a directory should include women's support services. However given the chronic under-funding in this section, and particularly for specialist services, many organisations cannot meet the demands they already face, and victims are likely to have to wait to access the support they need. This is clearly not an appropriate response to the needs of victims, and serves to highlight the need for improved long-term Government funding of independent women's services.

Rights of Women
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