

LF/0222/07

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SIR KENNETH BLOOMFIELD'S REPORT OF CRIMINAL INJURIES COMPENSATION IN NORTHERN IRELAND

June?

You may be aware that Sir Kenneth Bloomfield recently published his review of the Criminal Injuries Compensation Scheme in Northern Ireland. A copy is attached for your information.

While the recommendations major on the detailed provisions of the Compensation Scheme and their implementation, Sir Kenneth has again referred to "wider support systems for victims" (pages 12 and 13). Recommendation 5 in particular, is relevant to those Departments and Agencies which have professional contact with victims, and I would hope to discuss this at the next meeting of the Interdepartmental Group.

likely to derive on contracts guidance
Dr B. Stevenson
4.8.99
28-2

An agenda and papers will be issued before the next meeting, and again I would offer bi-lateral briefings on victims initiatives to date.

William Stevenson

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- cc PS/Mr Ingram (B&L)
- PS/Mr McFall
- PS/Mr Semple
- Mr Jeffrey
- Mr Maccabe
- Ms Johnston
- (all without attachment)

NB. New file re. Bloomfield Report II opened. Follow up action will be taken on it in due course.
(SP 2124/99)

R 28.7

KM/VLU/884

We show that there is concern from some quarters not just about what the law provides, but how it is operated in practice by the various interests concerned.

11. In Chapter 8 (CONCLUSIONS AND RECOMMENDATIONS) we set out the conclusions of the Review, with the following specific recommendations.

Fitness for purpose in the light of the experiences of victims of terrorist violence

Past cases of financial hardship

1. We are of the opinion that there is a strong case for assisting some of the people inadequately dealt with by the legislation prior to the introduction of the 1988 Order, and accordingly strongly recommend that certain cases are looked at within the context of the work being carried out in the victim arena by the Victims Minister and the Victims Liaison Unit, with a view to providing some form of financial assistance by way of mitigation of the inadequacy of the original award of compensation. [Paragraph 8.21]
2. In order to keep such cases within manageable limits we further recommend that a victim should qualify for such consideration only in certain defined circumstances. We have therefore come to the conclusion that, within any available funding for retrospective provision, the highest priority should attach to those who were bereaved as a result of a violent crime but who received no bereavement award as their claims for compensation were made before the 1988 legislation was enacted, and who received less than £10,000 in respect of any other award of criminal injuries compensation, eg for pecuniary loss, arising out of the same incident. Within that category special attention should be given to surviving spouses or life partners and the parents of children under 18 years at the time of their death. [Paragraphs 8.22 - 8.25]

The 'disappeared'

3. We recommend that a sum of up to £10,000 should be payable to the family of any person who has 'disappeared' where it can be shown on a balance of probability that that person has been murdered by members of a terrorist organisation. [Paragraph 8.26]

Wider support systems for victims

4. We envisage a role for a new unit to act as an independent 'victims' champion' and to provide a central access point for victims as services are developed and become more

sensitive to the distress in our community which is evident today and likely to persist for some considerable time into the future. [Paragraphs 8.28 - 8.34]

5. We feel that awareness training into the psychological impact of becoming a victim should be an integral part of the basic training of all those who in their professional role are likely to encounter victims. [Paragraph 8.37]

Our detailed recommendations

Eligibility for compensation

The definition of a violent offence

6. Some of those who gave evidence to us contended that the approach to the definition of 'violent offence' taken in the 1988 Order is too restrictive, and we agree. It would be possible to add some additional offences to the existing list. But in our view the better approach would be to allow for a degree of flexibility, so that a person who suffers injury or death directly attributable to a criminal offence which can reasonably be considered a 'violent' offence may be awarded compensation even if that offence is not specifically included in the definition of that term, and we so recommend. [Paragraphs 8.42 - 8.46]

Domestic violence

7. We note that the scheme in Great Britain provides that the eligibility requirement in domestic violence cases that the offender must cease living in the same household as the victim before compensation can be awarded applies only in the case of violence between adults in the family, and we recommend that this should also be the case in Northern Ireland. [Paragraph 8.47]

The definition of 'injury'

8. We recommend that some special restrictions should continue to be applied to claims for criminal injuries compensation for psychiatric illness where the victim has not suffered any physical injury, and in the following paragraphs we suggest what these restrictions should be. [Paragraphs 8.48 - 8.49]

Wider support systems for victims

- 8.28 Throughout the process of our Review we were constantly reminded from the evidence which we received from victims or victim organisations, that while compensation was a significant issue it was only part of the aftermath experience for victims. Many saw it as the only way in which society sought to recognise their pain or loss. This made the perceived difficulties of quantum, eligibility and the actual process of the compensation scheme more pertinent to their total victim experience.
- 8.29 As previously identified in relation to victims of criminal injuries generally, and, in particular, to the victims of terrorist violence, both the compensation scheme and the understanding of the psychological trauma of victimisation have developed. While we welcome such developments we are still conscious that in spite of these developments many victims still report a lack of information on how to access appropriate support services or indeed basic information on what resources are available.
- 8.30 We are aware that as a result of the report of the Victims Commissioner 'We Will Remember Them', and the Social Services Inspectorate Report 'Living with the Trauma of the Troubles', structures are being instigated within the Health and Social Services Trusts to establish easier access to services, to promote an emphasis on training for all staff on the effects of trauma, to create local directories of services and publication of information leaflets on statutory, voluntary and community group support services. Multi-agency advisory panels, including victim representation, are to be established at Board level and a more collaborative approach encouraged between such agencies at local Trust level.
- 8.31 We are also aware of the role of the Victims Liaison Unit and their contact with victims of the Troubles.
- 8.32 We discussed at length the need to provide a robust system for victims which could incorporate the existing resources but develop the concept of a central access point where such victims would feel they had one person who could provide access to all the multiple organisations and systems which are necessary to provide practical and psychological support to their changing needs following any traumatic incident.
- 8.33 We were impressed by the model of the Assistance to the Victims of Terrorist Office (AVTO) which we visited in the Basque region of Spain (see Chapter 6). This Government body could assist victims in resourcing the support they needed no matter what statutory or voluntary agency was involved. This they did through utilising

and co-ordinating local resources on behalf of the victim. The system meant that a proactive approach was made to each victim, on receipt of an initial report from the police, and then they could choose to use the AVTO or not. This had the distinct advantage of dealing equally with violent incidents involving a single victim and the multiple victim incidents. In our Review, we encountered many single victims who felt aggrieved by the lack of a proactive response to their needs in the light of other well publicised responses to multiple victim incidents. The HSS Trusts have long recognised this problem although some such victims found their way into systems through a GP, MP, trade union or by their church connections.

8.34 We envisage a role for such a unit to act as an independent 'victims champion' and provide a central access point for victims as services are developed and become more sensitive to the distress in our community which is evident today and likely to persist for some considerable time into the future. In light of the experience of other countries, such as the United States, the methodology which such a unit would establish, could in the future be applied to other victims of criminal injury.

8.35 We know from our experience and from the evidence presented to us that traumatised people have difficulty in dealing with any form of bureaucracy at a time of their victim experience. Some reported that they tried to get advice or support but the many 'hurdles' barring their way into the system became too formidable and they 'gave up'.

8.36 We would want to stress that the establishment of such a unit should not diminish the role of local services, but merely improve the sense of overall care to victims by having an identified person who will maintain contact with them at a level which is consistent with their wishes, will ensure that their changing needs are known and, if possible, met. We feel that any Review into the 'fitness for purpose' of the Criminal Injuries Compensation Scheme must see this recommendation as a practical way of raising the profile of the victims of 30 years of terrorism.

8.37 We also noted that we received evidence of a degree of insensitivity and lack of understanding by those who interface with victims. No professional group was immune from these criticisms. **We feel that awareness training into the psychological impact of becoming a victim should be an integral part of the basic training of all those who in their professional role are likely to encounter victims.**

8.38 We noted that in the training schedule of the staff in the Compensation Agency this element was missing. Such an input is provided by Victim Support to the Compensation Authority staff in GB.

8.39 Since a considerable number of terrorist victims had clearly found legal, and in particular court procedures uncomfortable, forbidding or even humiliating, we have looked for means to have as many cases as possible determined without recourse to the courts. Thus we have argued (see paragraphs 8.124 - 8.127) for development of a capacity within the Compensation Agency in the future not only to review 'first instance' case decisions but through processes of mediation and negotiation to bring a higher proportion of cases to agreed settlement without recourse to the courts or to the rough and ready processes of bartered settlements 'at the door of the court'. And we have also recommended (in paragraphs 8.133 - 8.135) some improvements to court arrangements and court procedures which we believe could make the inevitable presence of some victims in court a much more user-friendly experience than at present.

Our detailed recommendations

General considerations

8.40 We accept the view consistently adopted by Government both in Great Britain and Northern Ireland that the State is not legally liable for injuries caused by the criminal acts of a third party for whom the State has no direct or vicarious responsibility. We accept that a distinction is to be drawn between the provision of compensation by the State for such injuries and the payment of damages by the State in respect of criminal and other unlawful acts carried out by servants of the State (such as the armed forces and the police); in such cases there is a clear legal liability which is now enshrined in a number of international covenants which the United Kingdom has signed and ratified. We took the view that such covenants have no direct application to our considerations. But in the separate field of criminal injuries compensation, the United Kingdom has signed and ratified the European Convention on the Compensation of Victims of Violent Crimes, and it is important that any new statutory provisions are consistent with the requirements of that Convention. With the enactment of the Human Rights Act in 1998, it is also vital that the legal provisions for dealing with criminal injuries compensation are compatible with that Act, and through it, with the European Convention on Human Rights and Fundamental Freedoms.

8.41 Given that we are inevitably dealing in some cases with losses (such as the death of a loved one, or the physical and emotional effects of a permanent injury) which are not