

EXECUTIVE SUMMARY

Overview

1. This Report forms part of the Law Reform Commission's Fifth Programme of Law Reform.¹ The purpose of this Report is to propose a statutory basis for a new compensation scheme for victims of crimes of violence that is victim-centred, adopts a rights-based approach, and aligns with EU and Irish legal requirements. Putting the new compensation scheme on a statutory footing will provide a clear legal basis for its functions, powers, and procedures.
2. The recommendations in this Report follow the publication of the Commission's *Consultation Paper on Compensating Victims of Crime*.² The Commission received many submissions from individuals and bodies with an interest in this area. It very much appreciates those contributions. The submissions received greatly assisted the Commission in its deliberations and helped shape the recommendations contained in this Report. The Consultation Paper asked for submissions relating to the following:
 - how the current compensation process operates,
 - the nature of awards of compensation,
 - who should be eligible to receive compensation,
 - who should make decisions on compensation awards, and
 - what a new statutory scheme should look like.
3. The current Criminal Injuries Compensation Scheme was established by administrative decision in 1974, and continues to operate on a non-statutory basis. It was significantly amended in 1986 when its scope was confined to compensation for special damages (financial loss such as medical expenses and loss of earnings) and excluded compensation for general damages (damages for pain and suffering). The current scheme was amended again in 2021 by allowing victims' dependants to claim compensation for general damages in fatal cases, and by increasing the minimum level of an award payable under the scheme.
4. This Report examines how the current scheme operates and how it could be improved. The Commission had particular regard to Ireland's obligation to provide fair and appropriate compensation to victims of violent crime under the

¹ Law Reform Commission, *Report on Fifth Programme of Law Reform* (LRC 120-2019), Project 7.

² Law Reform Commission, *Consultation Paper on Compensating Victims of Crime* (LRC CP 67-2022).

EU Compensation Directive 2004.³ The extent and scope of Member States' obligations under the Compensation Directive have been clarified by the Court of Justice of the European Union in a series of recent cases. In 2020, the CJEU ruled in *Presidenza del Consiglio dei Ministri v BV* that the right to fair and appropriate compensation applies to all victims of intentional violent crimes within the EU, and not just in cross-border cases.⁴ The Court also clarified in *BV* that compensation must respond to the seriousness of the consequences for individual victims and must not be "purely symbolic or manifestly insufficient".⁵ The Court further clarified the scope of the Directive in *LD v Criminal Injuries Compensation Tribunal* in October 2025, finding that national compensation schemes cannot exclude compensation for pain and suffering.⁶ These developments have significant implications for the provision of state-funded compensation in Ireland.

5. Another important consideration for the Commission in developing its recommendations was the EU Victims' Rights Directive 2012,⁷ and the Irish legislation implementing this Directive - the Criminal Justice (Victims of Crime) Act 2017 (Victims' Rights Act). These laws contain minimum standards for the treatment of victims of crime in the criminal justice system, and outline victims' rights to information, support, and protection. They also emphasise the importance of a victim-centred approach for any state interaction with victims. The CJEU has confirmed that the rights outlined in the Victims' Rights Directive must be taken into consideration when implementing the Compensation Directive.⁸
6. The Commission also examines the way in which state compensation schemes for victims of crime operate in a range of comparative jurisdictions, taking particular note of jurisdictions that have recently reformed their schemes in line with a victim-centred approach, such as the Financial Assistance Scheme for victims of crime in Victoria, Australia.⁹
7. In this Report, the Commission recommends a number of significant changes to the provision of state-funded victim compensation in Ireland, including:

³ Directive 2004/80/EC.

⁴ Case C-129/19 *Presidenza del Consiglio dei Ministri v BV* EU:C:2020:566.

⁵ Case C-126/23 *Burdene* EU:C:2024:937.

⁶ Case C-284/24 *LD v Criminal Injuries Compensation Tribunal* ECLI:EU:C:2025:741.

⁷ Directive 2012/29/EU.

⁸ Case C-126/23 *Burdene* EU:C:2024:937.

⁹ See also the Victorian Law Reform Commission, *Report: Review of the Victims of Crime Assistance Act 1996* (2018) for its analysis of Victoria's approach to compensating victims of crime.

- establishing a new statutory scheme,
- establishing a new statutory body,
- providing compensation for pain and suffering for victims in both fatal and non-fatal cases,
- providing a contribution to legal assistance costs, and
- increasing the time limits for applying for compensation.

Chapter 1: Background and a Rights-Based Approach

8. In Chapter 1, the Commission examines the frameworks and fundamental principles that generally underpin victim compensation schemes. This Chapter outlines why reform to the law in Ireland is necessary, notes some limitations of the current scheme, and examines key suggestions for change from consultees.
9. The Chapter begins by examining the evolution of victims' rights, the rationale behind state-funded victim compensation, and the development of the right to fair and appropriate compensation for victims of violent crime. The Commission examines what a human-rights based approach to the provision of compensation entails and summarises what it considers are the most relevant rights under the Irish Constitution, the Charter of Fundamental Rights of the EU, and the European Convention of Human Rights, alongside fundamental rule of law principles. In particular, the Chapter addresses the implications of a rights-based approach for the scheme's provisions concerning eligibility and exclusionary criteria, payments of compensation, legal assistance, accessibility, and the sequencing of applications and relevant court proceedings.

Chapter 2: Establishing a Statutory Scheme

10. Chapter 2 outlines why the state-funded victim compensation scheme in Ireland should be put on a statutory basis. Primarily, it would enshrine the right to fair and appropriate compensation in Irish law and provide a clear legal foundation for the scheme. It would also ensure that the scheme's terms are legally enforceable, consistently applied, and easily accessible.
11. The Chapter then addresses objectives and guiding principles for the proposed legislation. The Commission recommends a clear statement of objectives to express the purpose of the statutory scheme, outline its underlying philosophy, and identify its specific aims. Guiding principles for staff and decision-makers are also recommended to ensure that the scheme operates in a victim-centred, trauma-informed manner.

Chapter 3: Funding the Statutory Scheme

12. In Chapter 3, the Commission identifies challenges with the current funding model for the Criminal Injuries Compensation Scheme. At times, financial

constraints faced by the current scheme have hindered its ability to process compensation claims efficiently and make timely awards. Consultees shared with the Commission how consequent delays have exacerbated the stress and financial hardship experienced by victims. The Chapter examines how state-funded victim compensation schemes in other jurisdictions are funded and explores some options that could be considered by the Government. The Commission's key recommendation is that the statutory body should be adequately funded on a multi-annual basis from central Government funds.

Chapter 4: Structure of the Statutory Body and the Application Process

13. In Chapter 4, the Commission recommends that a specialist independent body be established on a statutory basis to administer the victim compensation scheme. The Commission does not recommend a specific form for this body but refers instead to 'the statutory body' throughout the Report. The Commission proposes that the statutory body would be composed of three tiers, each with distinct functions, namely:
 - (1) An information and assistive tier;
 - (2) An assessment and adjudication tier; and
 - (3) An appeals tier.
14. The information and assistive tier would proactively provide direct assistance to victims as they apply for compensation. This would include the provision of information, direct and timely communication, help with accessing other victim support services, and assistance in identifying complex issues in applications.
15. All applications for compensation would be decided by a single decision-maker at the assessment and adjudicative tier. Decision-makers would determine the eligibility of applicants and the appropriate amount of compensation, as well as any other issues that arise, such as requests for contributions to costs.
16. An applicant would be able to appeal a decision to an internal appeals tier. The appeal would be heard by a panel of three members of the appeals tier, who would be able to hear appeals on issues of law and fact. The Commission proposes that there should be an onward appeal on a point of law to the High Court.
17. Chapter 4 also outlines proposals for a victim-centred application process, including incorporating an online application system and ensuring application forms are accessible. The Chapter then outlines a range of detailed information and support that the Commission considers the applicant should be given throughout the application process.

Chapter 5: Administration of the Statutory Body and Statutory Scheme

18. Chapter 5 makes recommendations for the administration of the proposed statutory body and statutory scheme. The Commission recognises that the way the statutory body is administered can significantly influence how applicants experience the compensation process and it recommends that the administration and procedures of the scheme are designed to minimise secondary victimisation and protect victims from retraumatisation.
19. The Chapter outlines the existing procedures under the current scheme, and examines how some other adjudicative bodies are administered in Ireland. The Commission makes recommendations on the composition of the statutory body and what powers it should have. It makes recommendations in relation to the appointment, tenure, and removal of staff and decision-makers, the qualifications that decision-makers should have, and the provision of specialist training for all staff and decision-makers at the statutory body.

Chapter 6: Defining Eligible Applicants and Crimes of Violence

20. Chapter 6 outlines the Commission's proposals regarding who may be eligible for a compensation payment under the statutory scheme.
21. The Chapter begins by proposing a definition for 'a victim' under the scheme. It considers what threshold of harm should be required to entitle an applicant to apply for compensation. The Commission acknowledges that the harm caused by violent crimes does not always reach the threshold of physical or psychological injury. Recognising that part of the pain and suffering inflicted by violent crime on victims is the violation of their dignity and personal integrity, the Commission recommends that harm should be defined more broadly than injury. It recommends that harm should include physical, mental, or emotional harm or distress which was directly caused by a criminal offence.
22. In line with the current scheme, the Commission recommends that other categories of persons who have suffered harm or loss should be entitled to apply for compensation under the statutory scheme. This includes the family members of a victim who has died as a result of the crime of violence, who will be entitled to receive a bereavement payment which will be shared between them. The Commission recommends a broader definition of 'family member' than the current scheme. The proposal would align the scheme with the definition of 'family member' in the Victims' Rights Act, and, in the Commission's view, reflect the reality of social connections in modern Ireland.
23. The other categories of eligible applicants that the Commission proposes are individuals responsible for the maintenance of the victim who may have incurred

expenses as a result of the death, and dependants for 'loss of dependency'. A new category, not in the current scheme, that the Commission proposes is family members who witness a crime of violence. This reflects the understanding that witnessing a crime of violence against a loved one can be deeply traumatising, especially for children.

24. Chapter 6 then proposes a definition for a 'crime of violence'. The Chapter examines recent developments in law and policy in Ireland and at EU level, in particular in relation to efforts to combat domestic, sexual, and gender-based violence. The Commission recommends that certain offences that may not ordinarily be understood to be crimes of violence because they may lack the element of physical harm should be expressly included in the scheme. This includes crimes of a sexual nature like intimate image abuse and various forms of domestic violence, including coercive control. To provide clarity, the Commission proposes a non-exhaustive list of specific offences that can constitute a 'crime of violence', as well as a definition of 'crime of violence' to assist decision-makers in assessing eligibility.

Chapter 7: Other Eligibility Requirements

25. Chapter 7 outlines other eligibility requirements that applicants must meet in order to access compensation under the proposed statutory scheme. For example, the Commission recommends that the relevant harm must have occurred in Ireland, or aboard an Irish registered ship or aircraft.
26. On time limits, the Commission recommends that an applicant should have two years from the crime of violence to make an application. The Commission considers that this time limit reflects the fact that many victims may be too traumatised in the aftermath of a crime of violence to engage with the compensation scheme and may need recovery time first. The Commission proposes that the statutory body may accept out-of-time applications up to ten years after the crime of violence, but only where there is good reason justifying the delay and the application can be dealt with fairly. The Chapter also outlines how time limits should be dealt with in the context of continuing acts of violence, children, and mental incapacity.
27. Like the current scheme, the Commission recommends that a victim should be required to report the crime and provide reasonable assistance to the statutory body, the Gardaí and the Director of Public Prosecutions. The Commission considers that these obligations would help ensure that the statutory body has sufficient evidence to make a payment of compensation, and would support the State in the administration of justice. However, the Commission recognises that fulfilling these requirements may be very difficult for some victims, due to their personal situation or the circumstances of the crime. The Commission therefore

recommends that the statutory body may waive these requirements in certain specified circumstances.

Chapter 8: Well-meaning Intervenor

28. In Chapter 8, the Commission proposes that ‘well-meaning intervenors’ may apply for compensation where they come to the aid of a member of an Garda Síochána to assist in the prevention of a crime or in the apprehension of a perpetrator, or of others in saving a life, and suffer harm as a result. A similar provision can be found in the current scheme. The Commission sees a value to society in promoting and rewarding this positive behaviour.

Chapter 9: Exclusionary Criteria

29. Chapter 9 considers the circumstances in which a payment of compensation may be reduced or refused by the statutory body. Exclusionary criteria are a common feature of compensation schemes. They aim to maintain the integrity of compensation schemes and to ensure financial resources are not spent on applicants who have engaged in some form of relevant misconduct, such as fraud.
30. The Commission examines the exclusions contained in the current scheme and concludes that they are too broad in the context of the right to fair and appropriate compensation. It makes recommendations for more precise exclusionary criteria for the proposed statutory scheme. The Commission proposes exclusions that are underpinned by the requirement that the victim’s conduct or behaviour must have directly or indirectly contributed to the harm suffered by them and it would be appropriate to reduce or refuse compensation on that basis. It provides some specific exceptions to the criteria it proposes for sexual offences and domestic violence.
31. The Commission also proposes that the statutory body should have an exceptional public interest discretion to reduce or refuse compensation for conduct not related to the crime of violence where necessary in the interests of justice. The Chapter then discusses specific instances where the statutory body will be required to refuse compensation, such as in the case of collusion or fraud. The Chapter concludes with the Commission’s recommendation that the statutory body should be permitted to make a payment directly to a person charging the victim for verifiable expenses, if it is concerned that the perpetrator will benefit from a compensation payment made to the victim.

Chapter 10: Types of Compensation

32. Chapter 10 examines what types of compensation payments are required to ensure that compensation under the proposed statutory scheme is capable of being “fair and appropriate”, as required by the EU Compensation Directive. The

Commission recommends that applicants may claim for verifiable expenses (such as medical expenses, care needs, transport costs, or funeral expenses) and for loss of earnings suffered as a result of the crime of violence.

33. The Chapter then addresses compensation for non-financial loss, which may include pain and suffering, loss of life expectancy, loss of amenities, and mental distress. Payments for such loss are referred to by the Commission as general compensation payments (where a victim is applying) or bereavement payments (where a family member is applying in a fatal case).
34. The current scheme does not compensate applicants for pain and suffering, with the exception of a victim's dependants in fatal cases. However, following the CJEU decision in *LD*, it is clear that compensation schemes for victims of violent crimes must be capable of including compensation for pain and suffering in order to be considered fair and appropriate. The Commission therefore recommends that the statutory scheme should provide for general compensation payments in non-fatal cases.
35. In relation to family members in fatal cases, the Commission recommends that there should be one lump sum payment divided among family members and this should be known as a bereavement payment. This reflects the approach in the current scheme and in civil proceedings.
36. The Commission recommends that in clearly defined and exceptional circumstances the statutory body may consider an interim payment. In relation to periodic payments, it acknowledges that the law is developing in this area and recommends that the statutory body could align with any future proposals for periodic payments in court proceedings.

Chapter 11: Determining Fair and Appropriate Compensation

37. Chapter 11 addresses how the statutory body should determine the amount of compensation to be paid to applicants under the statutory scheme. It addresses compensation for reasonable, verifiable expenses and loss of earnings, and proposes a framework for assessing general compensation payments for victims. It also addresses how the bereavement payment for family members may be assessed and divided between eligible family members.
38. The Commission's main recommendation in this Chapter is that the statutory body should use a band scheme to assist in determining the amount of general compensation to pay to a victim. The Commission considers that a band scheme offers the flexibility to respond to the actual impact of a crime of violence on an individual victim, and permits a case-specific approach to determining fair and appropriate levels of compensation.

39. The Commission also recommends that payments for reasonable, verifiable expenses and loss of earnings should be uncapped and should not be subject to a minimum threshold in the statutory scheme.

Chapter 12: Legal Assistance

40. Chapter 12 addresses the issue of whether applicants may require legal assistance when applying for compensation under the statutory scheme. It first considers whether access to legal assistance may be necessary in some cases to fulfil the right to effective access to justice and a victim's right to fair and appropriate compensation under the Compensation Directive. The Commission considers that the statutory body should operate in a manner that permits most applicants to apply for compensation without legal assistance. However, the Commission concludes that there may be cases where applicants require legal assistance because of the complexity of the legal issues in their case, or because of their personal circumstances.
41. The Chapter then examines two potential models for funding necessary legal assistance: legal aid, or a direct contribution to an applicant's legal costs. The Commission ultimately recommends that the statutory body should be able to make a contribution towards the costs of legal assistance where a legal practitioner is necessary because of either the complexity of the case or the circumstances of the applicant.
42. Chapter 12 also outlines the Commission's recommendations concerning advance decisions on legal costs, appealing a decision on legal costs, and the reimbursement of reasonable costs incurred during the application process.

Chapter 13: Interaction with Court Proceedings

43. Chapter 13 examines the potential interaction between the operation of the statutory body and court proceedings. The current practice of the Criminal Injuries Compensation Tribunal is to wait until the conclusion of related court proceedings before it makes a decision on an application for compensation. This results in significant delays for some victims, which the Commission understands has impacted some victims' ability to access necessary supports and may have contributed to secondary victimisation. The Commission examines an EU level imperative for making upfront compensation payments before court proceedings are concluded and expresses its view that a victim-centred approach requires this approach. In making its recommendation that the statutory body should not await the conclusion of court proceedings before making decisions on compensation payments, the Commission considered the balancing exercise required between the rights of a victim and the rights of a defendant, the risk of double compensation and other implications for court proceedings.

44. Chapter 13 considers the practical implications the proposed change in sequencing may have, such as a potential increase in requests to the statutory body for discovery in civil proceedings or disclosure in criminal proceedings. The Commission recommends that the statutory body should not share documents without the voluntary, informed consent of victims in writing, or a court order. The Commission sets out its view on how the introduction of compensation evidence in court through examination or cross-examination may be dealt with in a victim-centred manner, and makes certain recommendations on these issues.

Chapter 14: Offender Compensation

45. Chapter 14 addresses the issue of offender compensation. The Commission expresses its view that offender compensation for a victim is preferable to state-funded compensation because the offender is the wrongdoer. The Chapter begins by outlining how offender compensation operates within the criminal justice process, and the benefits to the victim, and to society, that follow from the offender bearing some or all of the costs of compensating the victim. Payments to victims of crime by offenders may be either voluntary or court-ordered. Both types of payment are considered in the Chapter as are their advantages and disadvantages.
46. Court-ordered offender compensation is provided for under section 6 of the Criminal Justice Act 1993. Under section 6, the court may on conviction order an offender to pay the victim compensation for any personal injury or loss resulting from the offence. The Commission decided to consider section 6 compensation orders in the context of this Report for two reasons. First, there appears to be a developing EU imperative for victims to receive a decision on compensation from the offender in the course of criminal proceedings, in order to reduce the burden on a victim and avoid the situation where a victim has to apply for compensation through multiple different processes. Second, the Commission is firmly of the view that the State compensation body should be a payor of last resort. This means that if compensation is available from any other source, including the offender, that other source should be the primary source of compensation for a victim.
47. There are currently a number of issues with section 6 compensation orders which contribute to such orders not being used regularly in practice. The Commission proposes reforms in Chapter 14 that are aimed at addressing these issues. The Commission's primary recommendation is that courts should be required to consider making a section 6 compensation order in all criminal cases where the victim has suffered any personal injury or loss as a result of the offence. Judges should give reasons where they decline to make a section 6 compensation order and the Commission outlines a non-exhaustive list of reasons that may make a section 6 order inappropriate.

Chapter 15: Preventing Double Compensation

48. Double compensation arises where applicants to the scheme also seek payments from other sources covering the same expenses, losses, or harm. This may include compensation from a known offender, benefits from different state bodies, sick leave benefit from employers, or insurance payments. Chapter 15 examines when double compensation might occur and how it may be avoided. As the Commission considers that the statutory body should be a payor of last resort, it recommends that the statutory body should reduce compensation by the amount of any payment already issued to the applicant in respect of that expense, loss, or harm. This is similar to the approach in the current scheme.
49. The Commission also recommends that if a payment for the same expenses, losses, or harm is made by another source after the statutory body issues a compensation payment, the State should be entitled to recoup those funds. The Chapter explores different models for recouping double payments, and the Commission recommends that the Government should set up a specific body to recover double compensation from applicants to the scheme.
50. Finally, Chapter 15 considers the circumstances in which the State may take on (subrogate) the right of an applicant to take a claim against an offender or other body for the expenses, losses, or harm incurred as a result of the crime of violence when the statutory body has made a payment and the victim decides not to pursue the offender through the courts.