



Ministry of
JUSTICE

Hardship Fund

Equality Impact Assessment

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Introduction

This Equality Impact Assessment (EIA) is in relation to the introduction of the Hardship Fund ('the Fund') which it is proposed will provide temporary relief from hardship for very low-paid workers who are temporarily unable to work as a result of being a victim of a crime of violence.

Victims of violent crime endure both physical and emotional suffering and, in some cases, financial hardship due to being unable to work as a result of their injuries. Under the Criminal Injuries Compensation Scheme 2012 ('the 2012 Scheme') (as set out in the *Getting it right for Victims and Witnesses: Impact Assessments* - July 2012), around 18,000 victims of violent crime who would previously have been eligible for compensation would no longer receive any financial support as their injuries would not be serious enough.

The Government believes it is right to focus compensation on victims of more serious crime and that for victims with less serious injuries prompt practical and emotional support is a more suitable response than relatively small amounts of compensation. However, in many cases even less serious injuries result in the victim being unable to work for a temporary period and therefore in need of financial support. Some victims receive financial support from employers through Statutory Sick Pay (SSP) or an equivalent employer-provided scheme. In other cases, where the victim is in very low-paid employment, no financial support is available for this temporary period.

Overall, this is a new Fund available to very low-paid workers who are victims of violent crime, who do not fall within the 2012 Scheme tariff and who meet the eligibility criteria, mitigating some of the impact of the CICS reforms. The Fund is expected to come into effect alongside the 2012 Scheme. Further details on the Scheme and its accompanying Equality Impact Assessment can be found at:

<https://consult.justice.gov.uk/digital-communications/victims-witnesses>

The present EIA analyses the potential impact of the Fund on the advancement of equality of opportunity, the fostering of good relations and the elimination of discrimination, harassment, victimisation and other conduct that is prohibited under the Equality Act 2010.

The analysis has been undertaken using data from the Crime Survey for England and Wales (CSEW)¹, looking at the available protected characteristics of victims of violent crime, as defined by the CSEW, by personal income.

This document has two annexes:

¹ The British Crime Survey (BCS) is now known as the Crime Survey for England and Wales to better reflect its geographical coverage. While the survey did previously cover the whole of Great Britain it ceased to include Scotland in its sample in the late 1980s. There is a separate survey – the Scottish Crime and Justice Survey – covering Scotland. Given the transfer of responsibility for the survey to Office for National Statistics, it was decided that the name change would take effect from 1 April 2012.

- Annex A – Definition of Crime of Violence
- Annex B – Characteristics of employed adult victims of violent crime compared to all adults aged 16+, 2006/07 to 2008/09 CSEW

Equality Duties

Under the Equality Act 2010 section 149, when exercising their functions, Ministers and the Department are under a legal duty to have 'due regard' to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other prohibited conduct under the Equality Act 2010;
- Advance equality of opportunity between different groups (those who share a protected characteristic and those who do not); and
- Foster good relations between different groups.

Paying 'due regard' needs to be considered against the nine "protected characteristics" under the Equality Act – namely race, sex, disability, sexual orientation, religion and belief, age, marriage and civil partnership, gender reassignment, pregnancy and maternity.

Summary of Equalities Impact

This EIA relates to the Government's proposed Hardship Fund which will provide relief from financial hardship for very low-paid workers who are temporarily unable to work as a direct result of being a victim of a crime of violence.

We have considered the policy reforms in accordance with the statutory obligations under the Equality Act 2010. The following is a summary of our overall assessment.

Direct discrimination:

By establishing the Fund it is not expected that it will treat anyone less favourably than others because of a protected characteristic. We therefore do not consider that there will be any direct discrimination resulting from the Fund.

Indirect discrimination:

The Fund's eligibility criteria are not considered to put anyone sharing a protected characteristic at a particular disadvantage compared to those who do not share that protected characteristic. We therefore do not expect these proposals to give rise to any indirect discrimination.

Discrimination arising from disability and the duty to make reasonable adjustments:

In so far as the Fund will extend to disabled victims of violent crime the Fund is not considered to put a disabled person at a substantial disadvantage in relation to a relevant matter.

Applicants will be able to access free, confidential support from Victim Support (England and Wales), the national charity that helps people affected by crime. Victim Support will conduct an initial assessment of eligibility and if appropriate will help applicants to complete the application for payment from the Fund. Victim Support will also liaise directly with the Criminal Injuries Compensation Authority (who will administer the payments) on the applicant's behalf. Applicants will be able to make their applications to Victim Support online or by telephone. Applicants cannot apply to the Criminal Injuries Compensation Authority directly.

Guidance on making a claim under the Fund will also be available online.

Harassment and victimisation:

We do not consider that the Fund will give rise to any harassment and victimisation within the meaning of the Equality Act 2010.

Advancing equality of opportunity:

We consider that the Fund will have the potential to advance equality of opportunity and take steps to meet the needs of certain groups, as groups with protected characteristics who do not receive SSP will be able to apply to the Fund for financial support. We consider that the Fund is particularly likely to benefit victims of violent crime with an income of less than £5,000 per year who are i) in the younger age bracket as defined by the analysis (aged 16-29); ii) male.

Fostering good relations:

We have considered the fostering good relations aspect of the Equality Duty and do not believe that this has any particular relevance to the introduction of the Fund as it does not focus on tackling prejudice or promoting understanding between people from different groups.

Conclusion

Overall the Fund will contribute to relieving the immediate hardship faced by victims of violent crime who are temporarily unable to work and have no recourse to other sources of financial assistance. In particular it can be expected to have mitigating impacts for eligible persons who would now fall outside the Criminal Injuries Compensation Scheme. It will promote fairness and equality by making provisions for very low-earning victims of violent crime who would face great difficulties if put out of work for even a short period. Those victims who need it the most will as far as possible be provided with financial support over the temporary period of inability to work following the criminal injury. We consider that the Fund is particularly likely to benefit victims of violent crime with an income of less than £5,000 per year who are i) in the younger age bracket as defined by the analysis (aged 16-29); ii) male.

We acknowledge there are gaps in the research and statistical evidence we have been able to source regarding the potential impact of our reforms on a number of protected characteristics. We welcome provision of information, evidence and comment which may help to address some of these gaps in any further assessment.

Aims and outcomes for the policy

This is a Hardship Fund available to very low-paid workers or the very low-earning self-employed who are victims of violent crime, are temporarily unable to work, and who do not fall within the tariff of injuries in the 2012 Scheme. It will operate without discrimination on protected characteristics grounds and has potential beneficial impacts on certain groups based on the likelihood of their being a victim of crime and in very low-paid employment.

The Fund seeks to ease the hardship endured by very low-paid victims of violent crime with no recourse to other sources of financial assistance. The intention is to provide financial support for victims with less serious injuries who are temporarily unable to work (up to 28 days). The Fund is consistent with the policy objective of providing fair and appropriate support to those victims who most need it.

Eligibility

The eligibility criteria proposed for the Fund are as follows:

That the applicant is in very low-paid employment and is temporarily unable to work.

We have defined very low paid employment as related to those who earn less than the minimum amount needed to be eligible for Statutory Sick Pay (SSP), i.e. average weekly earnings of less than £107 a week. This criterion will apply to both employed and self employed applicants. Self-employed people should demonstrate that they are low earners (less than £107p/w average) by submitting tax returns.

Applicants must be out of work for 7 consecutive days and, as with SSP, the Fund would be available from the fourth day of absence. As this is a temporary provision for immediate hardship, the Fund will be provided for a maximum of 4 weeks from the first day of absence. The inability to work must be a direct consequence of an injury (physical or mental) sustained as a result of being the victim of a violent crime. This will need to be certified by a doctor.

The Fund will operate from the date the 2012 Scheme comes into force. The first day of absence from work must be on or after that date.

That the applicant is not receiving SSP or an equivalent employer-provided scheme

This criterion can only be satisfied if the applicant earns less than the threshold to qualify for SSP. If the applicant is not self-employed they will need

to provide evidence that they are not in receipt of payment from an employer-provided scheme.

That the applicant is a victim of a crime of violence, that the crime has been reported to the police and that the application to the Fund has been received by the Criminal Injuries Compensation Authority within 4 weeks of the date of incident

Applicants to the Fund will need to demonstrate that they have been the victim of a crime of violence (as defined in Annex B of the 2012 Scheme) and that it has been reported to the police as soon as reasonably practicable but normally within 48 hours of the incident. An applicant will not be eligible if the injury is included in the 2012 Scheme tariff (i.e. they are potentially eligible for CICS funds).

The definition of a Crime of Violence for the purposes of the 2012 Scheme is attached at **Annex A**.

The applicant will be required to report the offence to the police (rather than any other body) as soon as is reasonably practicable and applications to the Fund should be received within 4 weeks of the date of the incident.

In the Equality Impact Assessment on the reform of the CICS the potential equality impacts that the stricter reporting and cooperation requirements would have on those with protected characteristics were considered. For example, it was concluded that the reporting requirements might potentially have an adverse effect on disabled people in that their disability may put them at a disadvantage in comparison to non-disabled people. Were it established that these effects constituted a particular disadvantage, which could have indirect discriminatory effects, we would consider any such impact to be justified on the basis of our policy principle that victims of crime should report their crime to the police, and that the Criminal Injuries Compensation Authority are entitled to take this into account in deciding compensation should be paid. This rationale in relation to the CICS is equally applicable to the Fund.

Claims officers have discretion in the CICS to make awards where due to exceptional circumstances an applicant could not have reported the incident any sooner. As this Fund is to provide relief from immediate hardship the same discretion does not apply here.

Further details of the equality impacts of the reporting requirements are set out in paragraphs 106-145 of the Equality Impact Assessment on the reform of the CICS.

That the applicant does not have an unspent criminal conviction which under the Criminal Injuries Compensation Scheme 2012 would bar them from an award.

An award under the Fund will not be made to an applicant who on the date of application has an unspent conviction which resulted in either a custodial sentence or a community order. In the case of other unspent convictions an

award will be reduced or withheld unless there are exceptional circumstances. Applicants with motoring offences for which the only penalty imposed was one or more of an endorsement, penalty points or a fine under Schedule 2 to the Road Traffic Offenders Act 1988 are exempt from this provision and will not generally have their awards reduced.

We have also for this criterion had regard to the impacts identified in the Equality Impact Assessment supporting the CICS reforms and consider that it is appropriate to attach this condition.

As already noted above, the Fund will be administered by the Criminal Injuries Compensation Authority (who will absorb the administrative costs) following referral based on an initial assessment of eligibility by Victim Support. The Authority will aim to process applications and make payments promptly (normally six days from the receipt of all relevant correspondence), thereby providing timely support to those who face immediate hardship following a criminal injury.

Consultation and Engagement

We have not consulted on the Fund. It is being introduced in response to concerns raised by MPs at the Delegated Legislation Committee on 10 September 2012 about the Government's reforms to the Criminal Injuries Compensation Scheme and, in particular, changes to tariff payments under the Scheme. Some MPs cited criticism by trade unions about the effects of the reforms on shop workers who do not have recourse to other financial support if they have been a victim of violent crime and are unable to work as a result.

In January 2012 we published a consultation document, 'Getting it right for victims and witnesses' which proposed wide-ranging reforms to the support and services available for victims and witnesses, including reforms to the CICS. The Government response to the consultation was published in July 2012 alongside a draft new CICS.

In the 2008 Scheme the tariff of injuries, which is a major component of the Criminal Injuries Compensation Scheme, is made up of 25 bands with the least serious injuries at the bottom (Band 1) and the most serious at the top (Band 25). The 2012 Scheme removes bands 1-5, reduces the amounts payable for bands 6-12, but wholly protects payments under the remaining 13 bands. Payments to victims of any sexual crimes or patterns of physical abuse, even if they are in bands 1 to 12, will also be wholly protected. The Government believes that compensation payments should be focused on victims with more serious injuries and that those with more minor injuries from which recovery is normally rapid should receive prompt support services rather than relatively small amounts of compensation.

The Fund is intended as a means of addressing MPs' concerns about those with less serious injuries who will no longer receive compensation under 2012 Scheme, some of whom will face financial hardship as a result. The Fund is not intended to provide compensation nor to procure services but is meant to ease immediate financial hardship.

Evidence sources

The analysis uses data from the 2006/07, 2007/08 and 2008/09 CSEW, looking at the available protected characteristics of victims of violent crime² by personal income to assess whether people with certain protected characteristics will be more affected by the proposals. This analysis of CSEW data has not previously been published.

Data limitations

Limitations with the data collected via the CSEW, as it has been used in this bespoke analysis, are summarised below:

- The CSEW is conducted face-to-face with people resident in households in England and Wales who are asked about their experiences of a range of household and personal crimes. It excludes a number of types of crime such as fraud, crimes against commercial premises, homicide and those crimes termed as victimless (e.g. possession of drugs). The main CSEW includes those aged 16 years and over.
- Data from the 2006/07 to 2008/09 CSEW have been combined in order to provide an increased sample size to conduct this analysis. These data sets have been used due to the inclusion of a personal income variable³, which has not been included in later surveys, however, variation between years may be obscured by combining survey years.
- The base sample size for the personal income of less than £5,000 per year group is low (N = 272) and when broken down by protected characteristic categories, becomes very small (and therefore the confidence intervals around the estimates can be large).
- The violence measure from the CSEW used here may not necessarily meet the eligibility criteria for the Fund (e.g. the violence may not result in an injury, which will be a prerequisite criteria for applications to the Fund). Additionally, the Fund will be available for those earning below £107 per week, however the analysis of the CSEW has used the available proxy of a (gross) personal income of under £5000 per annum, which is equivalent to a maximum mean average of approx. £96 per week. Therefore the figures do not relate directly to those who are eligible for the Fund.

² The analysis refers to victims of violent crime (in the year prior to their interview, excluding snatch theft) who were in employment at the time of interview, and is presented for the broad categories of age, sex, disability status and ethnicity. It has not been possible to include analysis on other protected characteristics of marriage and civil partnership, pregnancy and maternity, gender reassignment, religion/belief and sexual orientation due to very small cell sizes and/or availability of data.

³ Income refers to personal earnings before tax in the year prior to interview.

- Within the CSEW the protected characteristics themselves are highly interrelated. For example previous research⁴ has shown that age and ethnicity are interrelated, with the proportion of young people in the mixed ethnic group found to be large in comparison to other ethnic groups.
- Percentages calculated from the CSEW are subject to a margin of error, and apparent differences may not be statistically significant. The CSEW analysis commented on in this EIA focuses on where statistically significant differences were found in the data: this means we can be more confident that these represent real differences between groups, rather than artefacts of the particular sample.
- See the Office for National Statistics User Guide to Crime Statistics for England and Wales for further details:
<http://www.ons.gov.uk/ons/guide-method/method-quality/specific/crime-statistics-methodology/user-guide-to-crime-statistics.pdf>

The limitations of the data (as outlined above) need to be borne in mind when considering the analysis presented here, and these findings should be read and applied only within the specific context of this policy proposal. However, the findings are considered our best equalities assessment based on the available data.

Data gaps

The data collected via the CSEW does not include information on the protected characteristics of marriage and civil partnership, gender reassignment and pregnancy and maternity. It has not been possible to include analysis on the protected characteristics of religion/belief and sexual orientation due to very small cell sizes and/or availability of data.

Due to these data gaps we have not presented a comprehensive picture in relation to all the protected characteristics.

⁴ Home Office Statistical Bulletin 07/08: Crime in England and Wales 2007/08: Findings from the British Crime Survey and police recorded crime.

Methodology

In order to identify whether people sharing a protected characteristic may be put at a particular advantage or disadvantage from the Fund, we have compared available characteristics of victims of violent crime as defined by the CSEW, who are in employment and whose personal income is less than £5,000 per annum (our best available estimate of the characteristics of those in the 'pool' of victims affected by the proposals), with the characteristics of the adult general population covered by the CSEW.

Analysis

Due to limitations in the available evidence, we are unable to rule out the potential impacts of these reforms on any of the protected characteristics of gender reassignment, marriage and civil partnership, pregnancy and maternity, religion or belief and sexual orientation. However, our analysis has suggested the following:

We do not think there is the potential for direct discrimination arising from the proposals. The Fund does not discriminate against persons because of any relevant protected characteristic. Nor can we see that the introduction of the Fund indirectly discriminates against any protected groups.

In considering our equality duties we have however estimated the proportion of victims who might be negatively impacted by the proposals out of all those who might be positively or negatively impacted, for people with and without each of the available protected characteristics shown (see Annex B).

Victims of violent crime who are in very low-paid employment and temporarily unable to work as a result of that crime will potentially be positively affected by the proposals as they will be able to apply to, and receive compensation from, the Fund. Other victims will be unaffected by the proposals to introduce this Fund.

We have compared the characteristics of victims of violent crime, who are in employment and whose personal income is less than £5,000 per annum (our best available estimate of the characteristics of those in the 'pool' of victims affected by the proposals), with the characteristics of the adult general population covered by the CSEW.

This indicates that younger people (defined in this analysis as aged 16-29) and men are over-represented amongst victims of violent crime who are in employment and whose personal income is less than £5,000 per year, compared to the CSEW general population of that age group and sex. There was no statistically significant difference between those in the two ethnic groups that were considered in the analysis (amongst victims of violent crime who are in employment and whose personal income is less than £5,000 per year) compared to those ethnic groups in the CSEW general population. Those who had a disability that limited their activities were not over-represented amongst victims of violent crime who are in employment and whose personal income is less than £5,000 per year, compared to the CSEW general population of that disability status.

People aged 16 to 29 account for 84 per cent of employed victims of violent crime with a personal income of less than £5,000 per year, compared to 22 per cent of the general population aged 16 to 29. Males account for 56 per cent of employed victims of violent crime with a personal income of less than

£5,000 per year, compared to 48 per cent of the CSEW general population aged 16 and over who are male (see Annex B).

Our assessment is therefore that there is the potential for positive differential impacts in relation to age and sex. We have assumed there may be a greater (positive) impact of the proposals on these groups that are over-represented amongst victims. It should be noted that the figures do not relate directly to those who are eligible for the Fund and therefore the assessment should be treated with caution.

Mitigation and Justification

We have not identified any potential adverse effects through our analysis. As such, we consider the Hardship Fund to be justified as a means of providing temporary relief from financial hardship for very low paid workers who are temporarily unable to work as a result of being a victim of a crime of violence.

We consider that eligibility for payments under the Fund strikes the right balance between the aim that those who are of good character receive payment, and not barring those with more minor convictions from the possibility of receiving payments altogether.

Consistent with the 2012 Scheme, we consider that the reporting requirements support the principle that victims of crime should report their crime to the police. The Government considers that state-funded payments should only be made to those who take this step. The Fund aims to make prompt payments in respect of immediate hardship, and a delay in reporting to the police would not be consistent with this.

A police report also provides claims officers with the best possible evidence on which to determine whether the applicant has, on the balance of probabilities, been the victim of a crime of violence, and to examine the circumstances of the case. Without that report it can be very difficult to determine whether compensation or a hardship award should be paid.

Monitoring

Applicants to the Fund will be invited to provide information about all the protected characteristics. The Criminal Injuries Compensation Authority will monitor these responses to help identify whether any group of applicants consider themselves disadvantaged by the Fund.

The Criminal Injuries Compensation Authority will work with Victim Support to establish feedback opportunities and reporting mechanisms to monitor the effect of the new Fund on applicants.

Annex A: Crime of Violence

1. This Annex applies in deciding whether a crime of violence has been committed for the purposes of the Criminal Injuries Compensation Scheme 2012. Where a claims officer is satisfied that a crime has been committed it is still necessary for that crime to constitute a crime of violence in accordance with this Annex.
2. (1) Subject to paragraph 3 of the Criminal Injuries Compensation Scheme 2012, a “crime of violence” is a crime which involves:
 - (a) a physical attack;
 - (b) any other act or omission of a violent nature which causes physical injury to a person;
 - (c) a threat against a person, causing fear of immediate violence in circumstances which would cause a person of reasonable firmness to be put in such fear;
 - (d) a sexual assault to which a person did not in fact consent;or
 - (e) arson or fire-raising.

(2) An act or omission under sub-paragraph (1) will not constitute a crime of violence unless it is done either intentionally or recklessly.
3. In exceptional cases, an act may be treated as a crime of violence where the assailant:
 - (a) is not capable of forming the necessary mental element due to insanity; or
 - (b) is a child below the age of criminal responsibility who in fact understood the consequences of their actions.
4. (1) A crime of violence will not be considered to have been committed for the purposes of this Scheme if, in particular, an injury:

(a) resulted from suicide or attempted suicide, unless the suicidal person acted with intent to cause injury to another person;

(b) resulted from the use of a vehicle, unless the vehicle was used with intent to cause injury to a person;

(c) resulted from an animal attack, unless the animal was used with intent to cause injury to a person;

(d) was sustained in the usual course of sporting or other activity to which a person consented by taking part in the activity; or

(e) was sustained *in utero* as a result of harmful substances willingly ingested by the mother during pregnancy, with intent to cause, or being reckless as to, injury to the foetus.

(2) In this paragraph, “vehicle” means any device which can be used to transport persons, animals or goods, whether by land, water or air.

ANNEX B

Table B1: Characteristics of employed adult victims of violent crime compared to all adults aged 16+ ⁽¹⁾, 2006/07 to 2008/09 CSEW

England and Wales		Victims of violent crime ²			Adults aged 16 and over
	Personal income less than £5,000	Personal income between £5,000 and £29,999	Personal income £30,000 or more	Employed adults who were victims of violent crime	All adults
Sex					
Men	56% (+/- 7%)	68%(+/-3%)	83% (+/-4%)	68% (+/- 2%)	48%
Women	44% (+/- 7%)	32% (+/-3%)	17% (+/-4%)	32% (+/- 2%)	52%
Age					
16-29	84% (+/- 5%)	55% (+/-3%)	24% (+/-5%)	53% (+/- 2%)	22%
30-59	15% (+/- 5%)	43% (+/-3%)	71% (+/-5%)	45% (+/- 2%)	51%
60+	1% (+/- 2%)	2% (+/-1%)	5% (+/-2%)	3% (+/- 1%)	27%
Long-standing illness or disability					
Long-standing illness or disability that limits activities	7% (+/- 4%)	8% (+/-2%)	5% (+/-2%)	8% (+/- 1%)	16%
No long-standing illness or disability that limits activities	93% (+/- 4%)	92% (+/-2%)	95% (+/-2%)	92% (+/- 1%)	84%
Ethnic group					
White	92% (+/- 4%)	90% (+/-2%)	93% (+/-3%)	91% (+/- 1%)	90%
Non-White	8% (+/- 4%)	10% (+/-2%)	7% (+/-3%)	9% (+/- 1%)	10%
Unweighted base	272	1440	491	2513-2515³	140151-140472³

1. Based on combined CSEW data from years 2006/07, 2007/08 and 2008/09. These data sets have been used due to the inclusion of a personal income variable, which has not been included in later data sets.

2. For those with an income under £5000 per year results should be treated with caution due to small cell sizes for individual groups as well as the overall low base number (n = 272). 95% confidence intervals around the estimates within which the true value is considered to lie are presented in brackets by each estimate. Based on those respondents who were in employment at the time of interview, and a victim of violent crime (excludes snatch theft) during the year prior to interview. Income refers to personal earnings before tax in the year prior to interview.

3. The base will vary due to missing data on individual variables, but is within the stated range.

4. It has not been possible to include analysis on other protected characteristics of marriage and civil partnership, pregnancy and maternity, gender reassignment, religion/belief and sexual orientation due to very small cell sizes and/or availability of data.

