

Equality Statement: Removal of the pre-1979 Same Roof Rule from the Criminal Injuries Compensation Scheme 2012

The Criminal Injuries Compensation Scheme (CICS) provides compensation to people who have been physically or mentally injured because they were a victim of a violent crime in England, Scotland or Wales. Under paragraph 19 of the 2012 Scheme, the 'pre-1979 Same Roof Rule' (SRR), an award cannot be made for a criminal injury sustained by a child or adult on/after 1 August 1964 and before 1 October 1979 if, at the time of the incident giving rise to that injury, the applicant (as a child or an adult) and the assailant were living together as members of the same family.

This equalities statement relates to the amendment of the CICS 2012 to remove the pre-1979 SRR, and should be read in conjunction with the associated Impact Assessment.

Equality Duty

Section 149 of the Equality Act 2010 (EA) places a duty on Ministers and the Department, when exercising their functions, to have 'due regard' to the need to:

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

In line with our responsibilities under the EA we have paid early consideration to the nine protected characteristics of the target groups:

- 1) race;
- 2) sex;
- 3) age;
- 4) disability;
- 5) sexual orientation;
- 6) religion or belief
- 7) pregnancy and maternity;
- 8) gender reassignment; and
- 9) marriage/civil partnership

Equality considerations

Direct discrimination

Removing the pre-1979 SRR is not directly discriminatory within the meaning of the EA as it applies equally to all previously ineligible victims irrespective of which protected characteristic they have; we do not consider that removal of this rule would result in people being treated less favourably because of any protected characteristic.

Indirect discrimination

Removing the pre-1979 SRR will redress the existing imbalance between those who were injured pre-1979 and those who were injured post 1 October 1979. Due to a lack of data we cannot be sure which groups of people with protected characteristics are likely to be affected by the change. However, over recent years refusals under the pre-1979 SRR have been predominantly cases of sexual assault of a child (which would have taken place sometime between 1 August 1964 and 1 October 1979). If subsequent applications continue to reflect this pattern, then the rule change may be more likely to impact on (and benefit) women and

those aged between 40 and 70. It therefore tackles an existing anomaly in the CICS 2012 by bringing such cases into scope and mitigates against the potential for indirect discrimination against women and those aged between 40 and 70.

We do not, however, consider that the changes are likely to result in any unlawful indirect discrimination since claimants with protected characteristics will not be put at a particular disadvantage compared with those who do not share the protected characteristic. Furthermore, in the unlikely event that in some cases these changes might constitute a particular disadvantage, removal of the pre-1979 SRR is considered to be a proportionate means of achieving the legitimate policy aim of making a scope adjustment to CICS 2012 to ensure the availability of compensation for all victims of violent crime.

Harassment and victimisation

We do not consider there to be a risk of harassment or victimisation as a result of the change to the CICS.

Discrimination arising from a disability and duty to make reasonable adjustments

We do not consider that the change will result in any unlawful discrimination on the grounds of disability. Reasonable adjustments will continue to be made for claimants with disabilities in line with existing current CICS practice.

Advancing equality of opportunity

The removal of the pre-1979 SRR redresses an existing imbalance between victims injured before 1 October 1979, and those injured afterwards. In doing so, the change is likely to advance equality of opportunity for victims of violent crime through removing the disadvantage suffered by claimants most likely to be impacted (women and claimants aged between 40 and 70).

Fostering good relations

Consideration has been given to this objective that indicates it is unlikely to be of particular relevance to the change.