

Title: Criminal Injuries Compensation Scheme 2012 (Amendment) Instrument 2019 IA No: MoJ027/2018 RPC Reference No: Lead department or agency: Criminal Injuries Compensation Authority Other departments or agencies:	Impact Assessment (IA)			
	Date: 27/03/2019			
	Stage: Final			
	Source of intervention: Domestic			
	Type of measure: Secondary legislation			
Contact for enquiries:				
Summary: Intervention and Options				RPC Opinion: N/A

Cost of Preferred (or more likely) Option				
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANDCB in 2014 prices)	One-In, Three-Out	Business Impact Target Status
-£2.0m to -£3.6m	N/A	Negligible	N/A	N/A

What is the problem under consideration? Why is government intervention necessary?

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) dictates that an award cannot be made for a criminal injury sustained by a child or adult before 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. In July 2018, the Court of Appeal decided that the pre-1979 SRR had unfairly denied a claimant who was abused as a child by her stepfather the right to compensation (the 'JT Ruling'). The government decided not to appeal the judgment and has decided instead to abolish the rule. Intervention is needed as legislation is required to abolish the rule.

What are the policy objectives and the intended effects?

1. To address the Court of Appeal's decision, and to meet the Secretary of State's commitment to remove the rule as soon as possible.
2. To remove the pre-1979 SRR to provide both new and past applicants (previously refused under the rule) the opportunity to apply for compensation under the terms of the current 2012 Scheme.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

Option 0: Do nothing

Option 1: Remove the pre-1979 SRR to provide both new and past applicants (previously refused under the rule) the opportunity to apply for compensation under the terms of the current 2012 Scheme.

Option 1 is the preferred option as it addresses both the Court of Appeal's ruling, and the government's commitment to abolish the rule.

Will the policy be reviewed? It will not be reviewed. If applicable, set review date: Month/Year				
Does implementation go beyond minimum EU requirements?			N/A	
Are any of these organisations in scope?			Micro N/A	Small N/A
			Medium N/A	Large N/A
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)			Traded: N/A	Non-traded: N/A

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister: Edward Argar _____ **Date** 27/03/2019 _____

Summary: Analysis & Evidence Policy Option 1

Description. Removing the pre-1979 SRR from the Criminal Injuries Compensation Scheme.

FULL ECONOMIC ASSESSMENT

Price Base Year 18/19	PV Base Year 18/19	Time Period Years – 10	Net Benefit (Present Value (PV)) (£)		
			Low: -£2.0m	High: -£3.6m	Best Estimate: N/A

COSTS (£)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low			£56.5m
High			£132.2m
Best Estimate			N/A

Description and scale of key monetised costs by 'main affected groups'

Due to uncertainties around the number of claimants who might come forward, and the proportion of those whom might be successfully awarded compensation, this Impact Assessment presents four assumption-based scenarios (A, B, C and D) to illustrate potential costs and benefits of this measure.

Removing the pre-1979 SRR is estimated to have a 10-year net present cost (NPC) of between £56.5m (scenario A), and £132.2m (scenario D). These cover the costs to CICA of compensation paid out to successful claimants, staff and medical evidence costs associated with investigating claims, as well as First-tier Tribunal costs to HMCTS from claimant appeals.

Other key non-monetised costs by 'main affected groups'

The police will incur costs responding to the higher volume of applications resulting from the revocation of the pre-1979 SRR. Removal of the pre-1979 SRR could potentially result in new reports to police about historical offences that will need to be investigated.

Applicants will need to make their application on the form provided by CICA, and assist their claims officer, as far as reasonably practicable (including providing medical evidence). A claimant may incur an emotional cost when recalling and describing their incident in order to apply, and if their claim is unsuccessful.

The costs of obtaining expert medical reports does not include time costs imposed on General Practitioners, clinical psychologists and psychiatrists who may be involved in the application process.

BENEFITS (£)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low			£53.4m
High			£126.1m
Best Estimate	Not Quantified		N/A

Description and scale of key monetised benefits by 'main affected groups'

Successful applicants would receive a 10-year NPB of between £53.4m in the lower bound of scenario A, and £126.1m in the upper bound of scenario D. These benefits cover the compensation awarded by CICA.

Other key non-monetised benefits by 'main affected groups'

Successful applicants may experience emotional benefits from the recognition of their injuries.

Key assumptions/sensitivities/risks

3.5% Discount Rate Applied

- All previous applicants refused under the pre-1979 SRR (approximately 4,000) will reapply for compensation. Of these, 70 per cent will be successful.
- The minimum number of 'new' successful applications from pre-1979 SRR victims (i.e. those who have not applied to CICS previously) will be 70 per annum over 10 years. The upper bound scenario assumes there will be 350 successful 'new' pre-1979 SRR applications per year over 10 years.
- Average awards for successful applications are assumed to lie between £16,500 and £22,000.
- The vast bulk of costs to CICA associated with this policy are compensation payments. The costs to the taxpayer (via CICA) equal the benefits received by award recipients. Therefore, compensation payments are treated as a transfer, and therefore have a net present value to society of zero.
- Other key assumptions, sensitivities and risks are listed in Section F.

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			In scope of OITO?	Measure qualifies as
Costs: Negligible	Benefits: £0	Net: Negligible	N/A	N/A

Evidence Base (for summary sheets)

A. Background

1. The Criminal Injuries Compensation Scheme¹ 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. The Criminal Injuries Compensation Authority (CICA) administers the Scheme and decides all claims independently on the balance of probabilities rather than beyond reasonable doubt. That is, compensation can be awarded even if an alleged perpetrator has not been convicted of an offence.
2. The rules of the Scheme and the value of the payments awarded are set by Parliament and are calculated by reference to a tariff of injuries². Although the size of the award varies to reflect the seriousness of the injury, it is not intended to fully compensate victims for their suffering or loss.
3. There are a number of rules which prevent someone from being eligible to receive compensation. This Impact Assessment (IA) focuses on the “pre-1979 Same Roof Rule” (paragraph 19 of the 2012 Scheme – see link at Footnote 2). Under the pre-1979 Same Roof Rule (SRR) an award cannot be made for a criminal injury sustained by a child or adult before 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. The pre-1979 SRR was intended to prevent abusive family members from financially benefiting from any compensation that their victim received. This rule was amended for incidents from October 1st 1979 but it remained in place for incidents occurring before then.
4. In July 2018, the Court of Appeal decided that the pre-1979 SRR had unfairly denied a claimant who was abused as a child by her stepfather the right to compensation (the ‘JT Ruling’). The government decided to abolish the pre-1979 ‘same roof’ rule and not to appeal the decision³.

B. Policy Rationale and Objectives

5. The conventional economic approaches to Government intervention are based on efficiency or equity arguments. Governments may consider intervening if there are strong enough failures in the way markets operate (e.g. monopolies overcharging consumers) or there are strong enough failures in existing Government interventions (e.g. waste generated by misdirected rules) where the proposed new interventions avoid creating a further set of disproportionate costs and distortions. The Government may also intervene for equity (fairness) and distributional reasons (e.g. to reallocate goods and services to more needy groups in society).
6. The rationale for intervention is to address the Court of Appeal’s decision, and to meet the Secretary of State’s commitment to remove the rule as soon as possible. Furthermore, there is an equity rationale to allow awards for pre-1979 SRR applicants previously denied access to compensation.
7. The associated policy objective is to remove the pre-1979 SRR and provide both new and past applicants (previously refused under the rule) the opportunity to apply for compensation under the terms of the current 2012 Scheme.

¹ A non-statutory scheme was first introduced in 1964, but statutory schemes were introduced under the *Criminal Injuries Compensation Act 1995*. There have been four schemes under this Act: the original one, which came into force in 1996 and three subsequent ones in 2001, 2008, and 2012.

² https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/243480/9780108512117.pdf

³ <https://www.gov.uk/government/news/justice-secretary-announces-victim-compensation-scheme-review-scraps-unfair-rule>

C. Affected Stakeholder Groups, Organisations and Sectors

8. The groups most affected by the options in this IA are as follows:

- Claimants who are currently ineligible to receive compensation under the pre-1979 SRR including:
 - those who have previously applied and been refused an award for injuries from an incident before 1 October 1979,
 - those whose applications are currently being processed,
 - those who have not previously applied, but will apply in the future.
- CICA
- Taxpayers (who fund CICA)
- The Police
- Claimants' General Practitioners (GPs)
- Clinical Psychologists and Psychiatrists
- HM Courts and Tribunals Service (HMCTS)

D. Description of options considered

9. To meet the policy objectives two options have been considered:

- **Option 0/Base Case: Maintain the current pre-1979 Same Roof Rule in the Criminal Injuries Compensation Scheme.**
- **Option 1: Remove the pre-1979 Same Roof Rule, and allow both new and past applicants (previously refused under the pre-1979 SRR) to apply for compensation under the terms of the current 2012 Scheme.**

10. Option 1 is the preferred option as it best meets the policy objectives.

Option 0: Base Case

11. Under this option, the pre-1979 SRR would be maintained. This would not address the Court of Appeal's decision, nor would it address current litigation risks against CICA and MoJ. It would also not meet the Secretary of State's commitment to remove the pre-1979 same roof rule as soon as possible. Therefore, this would not meet the policy objectives.

Option 1: Remove the pre-1979 Same Roof Rule, and allow both new and past applicants (previously refused under the pre-1979 SRR) to apply for compensation under the terms of the current 2012 Scheme.

12. The option would involve laying a Legal Instrument, an amended 2012 CICS. It would remove the pre-1979 SRR, thereby allowing applications from:

- those previously refused under the rule (approximately 4,000 since 1964);
- the processing of the approximately 200 cases that are currently live, and which might have been refused under the rule;
- those who have not previously applied (potential volumes unknown).

E. Cost and Benefit Analysis

13. This IA follows the procedures and criteria set out in the IA Guidance and is consistent with the HM Treasury Green Book.
14. Where possible, IAs identify both monetised and non-monetised impacts on individuals, groups and businesses in the UK with the aim of understanding what the overall impact on society might be from the proposals under consideration. IAs place a strong focus on the monetisation of costs and benefits. There are often, however, important impacts that cannot sensibly be monetised. These might be impacts on certain groups of society or some data privacy impacts, positive or negative. The costs and benefits of each proposal are compared to option 0, the do nothing or 'baseline' case. As the 'baseline' option is compared to itself, the costs and benefits are necessarily zero, as is its Net Present Value (NPV).
15. In light of uncertainty around key cost drivers relating to the removal of the pre-1979 SRR, the IA considers four assumption-based scenarios (A-D) in the primary analysis. All four scenarios vary in terms of the number of successful new applications per annum over ten years, and include a lower and upper average compensation award. Potential associated costs are presented where data permits.
16. In line with HM Treasury Green Book guidance, CICS compensation payments to pre-1979 SRR applicants have been excluded from the overall NPV estimate in this IA. This is because these payments have been treated as a transfer between two parties, as the cost of any award paid for by CICA is equal to the benefit received by the recipient of that award. However, to demonstrate the scale of estimated costs incurred by CICA due to the removal of the pre-1979 SRR these compensation costs have been included in the net present cost associated with this policy measure. Likewise, the scale of estimated benefits to pre-1979 SRR claimants is included in the net present benefit associated with this policy measure.

Option 1: Remove the pre-1979 Same Roof Rule, and allow both new and past applicants (previously refused under the pre-1979 SRR) to apply for compensation under the terms of the current 2012 Scheme.

17. There is limited information on the volume of applications that will be received by CICA as a result of removing the pre-1979 SRR. According to CICA Monitoring Information (MI):
 - Around 4,000 applications have been refused under the rule since 1964, with an average of 70 refusals per year for the past five financial years.
 - CICA currently have approximately 200 live cases that might otherwise have been refused under the rule.
 - For the purposes of this IA, it is conservatively assumed that all 4,000 previous applicants reapply, and the 200 live cases are also investigated.
18. The volume of applications that may be made by individuals who have not previously applied because they were ineligible under the pre-1979 SRR cannot be estimated. For the purpose of this IA, four assumption-based hypothetical scenarios (A-D) are used in which the number of 'new' claims (from people who have not previously applied) varies from between 100 to 500 per year on average, over a period of ten years as illustrated in Table 1.
19. The proportion of these applications that will successfully result in compensation is not known because cases previously refused under the pre-1979 rule were not reviewed in any detail once they had been deemed ineligible. Therefore, the proportion of previous refusals that would have otherwise been successful or refused under different criteria is not known.
20. However, CICA MI shows that over the past five financial years, 94 per cent of the 340 applications refused⁴ under the pre-1979 SRR were for sexual assault against a child. CICA MI also shows that (between 1 April 2015 and 14 January 2018) 72 per cent of sexual assault claims related to a minor

⁴ 351 applications were refused over five years under the pre-1979 SRR, but there was no data available on the offence for 11 of these.

under 16 years old were successful. Therefore, 70 per cent of applications are assumed to be successful⁵.

21. This rate has been applied to the total volume of applications expected over a 10-year period in the final column of Table 1.

Table 1: Volumes of applications assumed in Scenarios A to D

Hypothetical scenario	Volume of reapplications	Volume of applications currently on hold	Annual volume of new claims (every year for 10 years)	Total volume of applications over 10 years	Total volume of successful applications over 10 years
Scenario A	4,000	200	100	5200	3640
Scenario B	4,000	200	200	6200	4340
Scenario C	4,000	200	300	7200	5040
Scenario D	4,000	200	500	9200	6440

22. 30 per cent of applicants are assumed to require assessment by a clinical psychologist or psychiatrist to assess Disabling Mental Injury (DMI) claims. Likewise, 3.5 per cent of applicants are assumed to reach a First-tier Tribunal (FTT) in their claims process. These assumptions result in the volumes of applicants requiring medical assessment and those reaching FTT over 10 years as illustrated in Table 2.

Table 2: Volumes of applicants requiring medical assessment and FTT in Scenarios A to D

Hypothetical scenario	Volume of applicants requiring medical assessment over 10 years	Volume of applicants reaching FTT over 10 years
Scenario A	1,560	182
Scenario B	1,860	217
Scenario C	2,160	252
Scenario D	2,760	322

23. The size of compensation payments for successful applicants is not known. Instead, CICA provided average upper and lower bounds of expected compensation awards. The lower bound is £16,500 and the upper bound given is £22,000. It should be noted that not all awards will fall within these boundaries⁶. These average compensation figures have been used to generate a cost range for each of the hypothetical scenarios.

24. For the purposes of this IA:

- Costs and benefits are rounded to the nearest £1,000 or £100,000 according to their order of magnitude.
- Percentages quoted are rounded to the nearest 0.5 percentage point, unless they are lower than 1 per cent in which case they are rounded to the nearest 2 decimal places.
- The costs represent the annual impacts once the rule change has taken effect from April 2019.

⁵ SRR applicants are expected to face difficulties in providing evidence of criminal injuries suffered before 1979 relative to the average CICS applicant claiming under child sexual abuse. As such, the 70 per cent assumed success rate is conservative and may be an overestimation.

⁶ Under the 2012 Scheme, the highest sexual assault tariff for a child (someone under 18) is £44,000. This is where there has been non-consensual penile penetration of the vagina, anus or mouth that results in serious internal bodily injury with permanent disabling mental illness that is severe.

Costs of Option 1, Scenarios A to D

Monetised Costs

CICA

Compensation costs

25. The cost of compensation to successful claimants represents the vast majority of costs associated with this option. Given the uncertainty around key cost drivers (such as the volume of successful claims and the size of the average award), potential compensation costs under the four hypothetical scenarios are illustrated in Table 3.
26. For each scenario A-D, both a lower bound and upper bound cost has been estimated. The lower bound estimate uses an average compensation award of £16,500, while the upper bound estimate uses an average compensation award of £22,000.

Table 3: Monetised costs to CICA of compensation payments (£m)

Hypothetical scenario	Lower average compensation award of £16,500	Higher average compensation award of £22,000
	10-year Net Present Cost in 18-19 real prices	10-year Net Present Cost in 18-19 real prices
Scenario A	53.4	71.3
Scenario B	63.7	85.0
Scenario C	74.0	98.7
Scenario D	94.5	126.1

Figures rounded to the nearest £100,000.

Staff costs

27. To deal with the increase in volume of applications generated by the removal of the pre-1979 SRR, CICA expects to increase its number of operational roles. The increase in full time equivalent (FTE) case working and customer support contact positions required would vary by the expected volume of pre-1979 SRR applications under each of the four hypothetical scenarios. Full costs of FTE employment for the various roles are used as unit costs⁷. These are then multiplied by the number of additional FTE positions required. The number of additional roles required is generated by fixed staff-to-application volume ratios applied to the expected volume of pre-1979 SRR applications under the four respective hypothetical scenarios⁸. These cost estimates are illustrated in Table 4 below.

Table 4: Staff costs to CICA associated with application uplift from pre-1979 SRR cases (excluding review costs) (£'000s)

Hypothetical scenario	10-year Net Present Cost in 18-19 real prices
Scenario A	599
Scenario B	729
Scenario C	859
Scenario D	1,081

Figures rounded to the nearest £1,000.

28. If a claimant disagrees with the decision made by their appointed CICA claims officer, they can request to have the decision reviewed. Reviews are carried out by CICA and involve the appointment of a different CICA claims officer to scrutinise the original decision by reassessing the available evidence. This increases the required quantity of operational staff. CICA expect 20 per cent of pre-1979 SRR applicants to request a review of the decision made by their assigned claim officer. As such, the total

⁷ This includes salary, employer pension and national insurance contributions, training costs, and all other costs associated with employment.

⁸ For instance, under Scenario A, 1.2 band C roles are generated, while under Scenario D, 2.1 band C roles are generated.

impact of the policy measure on staff costs is expected to be 120 per cent of those presented in Table 4. This is shown in Table 5.

Table 5: Total staff costs to CICA associated with application uplift from pre-1979 SRR cases (£'000s)

Hypothetical scenario	10-year Net Present Cost in 18-19 real prices
Scenario A	719
Scenario B	875
Scenario C	1,031
Scenario D	1,297

Figures rounded to the nearest £1,000.

29. It should be noted that the circumstances of each application to CICA is unique. Some will be resolved by a CICA claims officer within a short period of time, while others may take longer. For instance, while CICS does not require that an incident giving rise to a claim has resulted in a criminal prosecution, if one exists then obtaining evidence is likely to be faster than a situation where, for instance, the suspect has died or the police have incomplete records. A distribution of application complexity has not been available for the purposes of this analysis. As such, it has been assumed that all applications take an equal amount of time, and as such have equal operational staff costs.

Medical evidence costs

30. 30 per cent of pre-1979 SRR applicants to CICS are assumed to claim a DMI. While this is significantly higher than the 4 per cent seen across all applications in CICA MI, the nature of pre-1979 SRR claims (which are predominantly those for historic child sexual abuse) would make mental injuries far more likely among this group. To verify a DMI claim, CICA would refer a claimant to clinical psychologist or psychiatrist, who would produce a medical report.

31. CICA has a contract with a private firm for clinical psychologists and psychiatrists to produce these reports⁹. CICA expect the average cost of these reports to fall within the range of £800 to £1000. Report costs may reach the upper end of this range if there is a particularly large quantity of reading required by the medical practitioner when assessing DMI claims. Modelling reflects this by incorporating a lower average cost of £800 and a higher average cost of £1000. These are then multiplied by the share of applicants claiming a DMI to produce estimates of costs associated with obtaining DMI evidence. The results are illustrated in table 6 below.

Table 6: Medical costs to CICA associated with application uplift from pre-1979 SRR cases (£'000s)

Hypothetical scenario	Lower average medical report cost of £800	Higher average medical report cost of £1000
	10-year Net Present Cost in 18-19 real prices	10-year Net Present Cost in 18-19 real prices
Scenario A	1,111	1,389
Scenario B	1,325	1,657
Scenario C	1,539	1,924
Scenario D	1,966	2,458

Figures rounded to the nearest £1,000.

CICA First-tier Tribunal costs

32. If a claimant disagrees with the decision made by their appointed CICA claims officer, they can request to have the decision reviewed. Reviews are carried out by CICA and involve the appointment of a different CICA claims officer to scrutinise the original decision. This may result in a higher or lower level of compensation, or no compensation given at all. Should the claimant then disagree with the decision taken at the review stage, they can request for an appeal to be taken to a First-tier Tribunal administered by HMCTS.

⁹ Whilst CICA do have their own employed psychologist resource, CICA expects additional DMI assessment work generated by this policy to be covered by the private firm.

33. 3.5 per cent of all pre-1979 SRR applications are assumed to reach the appeal stage. This reflects the average appeal rate across all applications to CICS. This is significantly above the average appeal rate for child sexual abuse claims (0.24 per cent¹⁰). However, it is likely that many pre-1979 SRR applicants will face difficulties in obtaining evidence of offences committed several decades ago. Accordingly, a higher rate of appeals is expected to result from a higher rate of claims being initially rejected due to a lack of evidence.
34. CICA estimate that the average uplift in compensation to applicants as a result of appealing is £7,000¹¹. This average cost is then multiplied by 3.5 per cent of the volume of applications assumed under the respective scenarios to generate the cost estimates in Table 7.

Table 7: Appeal costs to CICA associated with application uplift from pre-1979 SRR cases (£m)

Hypothetical scenario	10-year Net Present Cost in 18-19 real prices
Scenario A	1.1
Scenario B	1.4
Scenario C	1.6
Scenario D	2.0

Figures rounded to the nearest £100,000.

HMCTS

HMCTS First-tier Tribunal Costs

35. HMCTS incur various costs when hosting Criminal Injuries Compensation First-tier Tribunals. Therefore, the removal of the pre-1979 SRR, which is expected to increase the number of CICS appeals heard at a Tribunal, is likely to generate additional costs for HMCTS. To estimate these, 3.5% of pre-1979 SRR applications are assumed to reach the appeal stage (as discussed in paragraph 33).
36. HMCTS unit costs are taken from a cost per sitting day estimate of £1,636¹² provided by HMCTS. This is then divided by 5, the average number of hours of hearings per sitting day, as advised by HMCTS, to produce a cost per hour (£327) of First-tier Tribunal hearing.
37. CICA estimates the average hearing length for a child sexual abuse (CSA) appeal to be 1 hour, though there may be considerable variance between cases, with some hearings lasting much longer. Modelling has attempted to capture this potential for lengthier hearings by employing a range of hearing lengths. The lower bound uses an average hearing length of 1 hour, while the upper bound uses an average hearing length of 3 hours.
38. These bounds are then multiplied by the expected volume of hearings under the respective hypothetical scenarios to produce estimated volumes of tribunal hours. These volumes are then multiplied by the £327 hourly unit cost to produce a low and high cost estimate for each of the hypothetical scenarios. The sums of these over 10 years are presented in Table 8 below.

¹⁰ CICA MI shows that since 2013, of all the CSA cases resolved (13,974), 0.24 per cent (34) were resolved at the appeal stage.

¹¹ There is considerable variance, however. Appeals can result in no additional compensation or a much larger uplift than £7,000.

¹² This is the average cost of a sitting day within the Social Entitlement Chamber (SEC), of which the Criminal Injuries Compensation Tribunal is a part. HMCTS expects the average cost for CICS tribunal hearings to be close to those of the SEC average.

Table 8: Costs to HMCTS associated with First-tier Tribunal uplift from pre-1979 SRR cases (£'000s)

Hypothetical scenario	Lower average tribunal length (1 hour)	Higher average tribunal length (3 hours)
	10-year Net Present Cost in 18-19 real prices	10-year Net Present Cost in 18-19 real prices
Scenario A	53	159
Scenario B	63	190
Scenario C	73	220
Scenario D	94	282

Figures rounded to the nearest £1,000.

Applicants

39. CICA requires CICS applicants to contribute towards the cost of their medical evidence bills, up to a maximum of £50. The costs to applicants have been modelled by multiplying the volumes of applicants requiring an assessment by a clinical psychologist or psychiatrist (30 per cent of all pre-1979 SRR applicants) by the £50 maximum applicant contribution. Applicant costs associated with assessment of other medical evidence has not been modelled for the purposes of this IA, as costs associated with other medical evidence assessment are not known. This means that the estimates presented in Table 9 may not capture all costs faced by applicants.

Table 9: Costs to applicants of having medical evidence recorded and assessed (£'000s)

Hypothetical scenario	10-year Net Present Cost in 18-19 real prices
Scenario A	69
Scenario B	83
Scenario C	96
Scenario D	123

Figures rounded to the nearest £1,000.

Total Monetised Costs to all Agencies

- 40. The estimated monetised costs to all agencies are combined¹³ to generate “lower” and “higher” cost estimates for each of the scenarios A-D for option 1, which is illustrated in table 10.
- 41. For the lower cost estimates, an average compensation award of £16,500, medical report cost of £800 and First-tier Tribunal length of 1 hour are assumed. This provides lower boundaries for costs under each of the scenarios of pre-1979 SRR applicant volumes.
- 42. For the higher cost estimates, an average compensation award of £22,000, medical report cost of £1000 and First-tier Tribunal length of 3 hours are assumed. This provides upper boundaries for costs under each of the scenarios of pre-1979 SRR applicant volumes.

¹³ Costs to applicants of having medical evidence recorded and assessed are excluded, to avoid double counting medical evidence costs.

Table 10: Total monetised costs of the removal of the pre-1979 SRR to all agencies (£m)

Hypothetical scenario	Lower average compensation award of £16,500, average medical report cost of £800, and average tribunal length 1 hour	Higher average compensation award of £22,000, average medical report cost of £1000, and average tribunal length 3 hours
	10-year Net Present Cost in 18-19 real prices	10-year Net Present Cost in 18-19 real prices
Scenario A	56.5	74.7
Scenario B	67.4	89.1
Scenario C	78.3	103.5
Scenario D	100.0	132.2

Figures rounded to the nearest £100,000.

43. The 10-year net present cost of the removal of the pre-1979 SRR to all agencies is expected to be between £56.5m and £132.2m.

Non-Monetised Costs

Police

44. CICS require that the crime giving rise to a criminal injury is reported to the police as soon as is reasonably practicable¹⁴. Removal of the pre-1979 SRR may result in new reports to police about historical offences that will need to be investigated. The volume of new cases could not be estimated, nor could the costs to police of investigating historical offences.

45. The police will have to respond to the higher volume of applications resulting from the revocation of the pre-1979 SRR as a result of the following:

- CICA have a longstanding arrangement with the police to obtain information relating to claims for criminal injuries compensation.
- The CICA application form completed by all applicants provides information about the circumstances of the crime. This information is provided to the police so that they can identify the crime and provide CICA with relevant information.
- Where available, the police provide information relating to the incident, its investigation and disposal. They also provide the applicant's witness statement and information about any unspent criminal convictions belonging to the applicant¹⁵.
- CICA would usually expect the police to respond within 30 days.
- Although CICA do not have statistics, they advise that in a high proportion of CSA cases (compared to non-CSA cases) a follow-up request for further information is required from the police for more information to confirm whether a crime of violence has taken place.
- Given that the pre-1979 SRR cases are historical, police may either very quickly indicate that they have records, or they may have to search and retrieve information from archived records (if still in existence).

General Practitioners

46. Both applicants and CICA interact with individual doctor surgeries and hospitals in relation to applicants' injuries. For injuries that are difficult to immediately verify using photographic evidence, an applicant would normally need to ask their GP to complete a bespoke medical report to support their claim. As such, the revocation of the pre-1979 SRR may impose some time costs on GPs.

¹⁴ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/243480/9780108512117.pdf. Note that CICS does not require that the incident giving rise to the claim has resulted in a criminal prosecution (decisions are made on the balance of probabilities rather than beyond reasonable doubt).

¹⁵ Information provided by the police to CICA is the most important means of ensuring that the applicant satisfies the eligibility criteria regarding: Whether a crime of violence has been committed; Whether the applicant has reported the crime to the police; Whether the applicant has co-

Applicants

47. Paragraphs 91 and 92 of the 2012 Criminal Injuries Compensation Scheme¹⁶ outline what is required of any applicant who applies for compensation. For example, this includes:
- Making their application on the form provided by CICA;
 - Assisting the claims officer, as far as reasonably practicable in relation to their application;
 - Providing the claims officer with any change in their address as soon as reasonably practicable.
 - Providing information in connection with their application (e.g. medical evidence).
48. In completing an application to CICA, claimants face several considerable but non-monetisable costs:
- A claimant may incur an emotional cost when recalling and describing their case to a claims officer and when supplying evidence of their injury.
 - While CICA state that making an application should take 20 minutes¹⁷, this does not account for the time taken by a claimant to gather the required evidence, which may be considerable depending on the complexity of their injury. For example, if police information is unavailable, it is also open to the applicant to provide any other corroborating information that may assist the deliberation of their application. This could be where they have contemporaneously confided their abuse with a relevant health professional or social worker¹⁸.
 - Claimants who have only recently reported the criminal incident to the police are likely to face time costs associated with supporting a police investigation.

Other Entities

49. There are several other bodies that may face some new costs due to the revocation of the pre-1979 SRR, although these are all considered to be minimal.
50. CICA will not pay the costs of an applicant to use a lawyer, claims management company or any other paid representative. Instead, CICA suggest applicants contact charities (or their trade union should they be a member of one) for advice. This may impose a small time cost on charities and trade unions.
51. If a claimant seeks to claim a loss of earnings due to their injury, they must provide some form of proof they were in work such as pay slips or a P60 for the period immediately before they were injured, unless they had a valid reason for not being in employment at that time. This would ordinarily impose some verification costs on HMRC. While the majority of pre-1979 SRR applicants would probably not have been in employment at the time of their injury (due to being below the age of 16), CICA may still provide loss of earnings compensation as being under age would be a valid reason for not being in employment. To claim for loss of earnings in these cases, applicants would have to prove that while their injury did not result in immediate losses of income due to not then being in employment, their injury resulted in lost earnings over the course of their adult life. Therefore, few pre-1979 SRR applicants are expected to claim for this due to the difficulty of proving such a claim. Accordingly, additional costs imposed on HMRC are expected to be minimal.
52. Finally, if a claimant does not have a sufficient level of income to cover the maximum £50 medical evidence fee, they are able to claim medical evidence costs back from CICA. This will require proof of low income¹⁹, which would need to be verified by the Department for Work and Pensions (DWP). Verification will impose some time costs for DWP staff, but these are expected to be minimal as only a fraction of pre-1979 SRR applicants are expected to qualify for low income status.

¹⁶ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/243480/9780108512117.pdf

¹⁷ <https://www.gov.uk/guidance/criminal-injuries-compensation-a-guide>

¹⁸ Claimants may also have to gather: medical evidence from their General Practitioner; evidence proving eligible residency or nationality; evidence that they have attempted to claim compensation via alternative routes (e.g. via an employer insurance scheme); evidence of current or historical earnings if applying for loss of earnings.

¹⁹ For instance: receiving Job Seeker's Allowance; receiving certain tax credits; earning less than the minimum amount required for statutory sick pay.

Benefits of all Scenarios

Monetised Benefits

Successful Applicants

53. Successful applicants will benefit from the from the removal of the pre-1979 SRR. Given the uncertainty around the number of successful claims and the size of the average award, the potential benefits for hypothetical scenarios A to D are illustrated in Table 11. These include CICS compensation payments to applicants, minus costs to applicants associated with obtaining medical evidence.

Table 11: Monetised Net Benefits to Successful Applicants (£m)

Hypothetical scenario	Lower average compensation award of £16,500	Higher average compensation award of £22,000
	10-year Net Present Benefit in 18-19 real prices	10-year Net Present Benefit in 18-19 real prices
Scenario A	53.4	71.3
Scenario B	63.7	85.0
Scenario C	74.0	98.7
Scenario D	94.5	126.1

Figures rounded to the nearest £100,000.

Clinical Psychologists and Psychiatrists

54. Clinical psychologists and psychiatrists used by CICA will benefit from the removal of the pre-1979 SRR. They will gain revenue when providing medical reports for the 30 per cent of applicants applying under a DMI. Table 12 presents the total benefits that will accrue psychologists and psychiatrists under the various scenarios.

Table 12: Monetised Benefits to Clinical Psychologists and Psychiatrists (£'000)

Hypothetical scenario	Lower average payment of £800	Higher average payment of £1,000
	10-year Net Present Benefit in 18-19 real prices	10-year Net Present Benefit in 18-19 real prices
Scenario A	1,111	1,389
Scenario B	1,325	1,657
Scenario C	1,539	1,924
Scenario D	1,966	2,458

Figures rounded to the nearest £1,000

Non-Monetised Benefits

Successful Applicants

55. Successful applicants will potentially experience emotional benefits through recognition of the injuries they suffered.

Summary of Costs and Benefits of Option 1

	Scenario A		Scenario B		Scenario C		Scenario D	
	Lower bound	Upper bound	Lower Bound	Upper Bound	Lower Bound	Upper Bound	Lower Bound	Upper Bound
10-year NPC to CICA, HMCTS and applicants	£56,500,000	£74,700,000	£67,400,000	£89,100,000	£78,300,000	£103,500,000	£100,000,000	£132,200,000
10-year NPB to successful applicants	£53,400,000	£71,300,000	£63,700,000	£85,000,000	£74,000,000	£98,700,000	£94,500,000	£126,100,000
10-year NPB to clinical psychologists and psychiatrists	£1,100,000	£1,400,000	£1,300,000	£1,700,000	£1,500,000	£1,900,000	£2,000,000	£2,500,000
10-year NPV	-£2,000,000	-£2,000,000	-£2,400,000	-£2,400,000	-£2,800,000	-£2,900,000	-£3,500,000	-£3,600,000

Figures rounded to the nearest £100,000.

F. Data, Assumptions, Risks and Sensitivities

Data

Primary data and admin costs

56. The primary data that has informed this IA is CICA Monitoring Information.
57. Historical data outlining the number of refusals under the pre-1979 SRR during the periods: 1964-1987, 1,254 refusals, or 55 per year; 1996-2013, 1,861 refusals, or 109 per year; 2013-2018, 351 refusals, or 70 per year. This is a total of 3466 refusals over the 45 years for which data is available, which averages 77 refusals per year. If a similar annual rate is assumed for the period 1987 to 1996 (for which no data exist), then approximately 4,000 refusals are estimated under the pre-1979 SRR since 1964.
58. Data from CICA indicates there are currently 213 live cases which would potentially be refused under the pre-1979 SRR.
59. CICA MI showed that of the 351 pre-1979 SRR cases refused over the past five financial years, the majority (94 per cent) were for sexual assault against a child.
60. CICA MI showed that of applications that were received after 1 April 2015 and resolved (finally determined by CICA or following an appeal) as at 14 January 2018:
- 8,378 (70 per cent) of the sexual assault claims were successful, and
 - 8,013 (67 per cent) of the sexual assault claims related to a minor aged under 16 years, and 72 per cent were successful.
61. CICA MI showed that of applications that were received after 1 April 2015 and resolved (finally determined by CICA or following an appeal) as at 14 January 2018:
- The average award for injuries relating to sexual offences against a minor aged under 16 was approximately £11,500. However, most pre-1979 SRR cases are expected to involve multiple incidents of abuse over an extended period of time. CICA suggest £16,500 as a more reasonable lower bound. This is the tariff payment for repeated non-consensual penile penetration over a time period of up to 3 years.
 - In contrast, CICA's tariff banding for the most serious sexual offences against a child (below the age of 18) that is not linked to a mental injury is £22,000. This figure has been used for the upper bound of the hypothetical scenarios.
62. Separate data from HMCTS indicate that the average cost of a sitting day within the Social Entitlement Chamber (in which the Criminal Injuries Compensation Tribunal sits) is £1,636. HMCTS also estimate the average sitting day length is approximately 5 hours.

Key assumptions

63. For the purposes of this IA, the following assumptions have been made:
- All previous applicants refused under the pre-1979 SRR (approximately 4,000) will reapply for compensation.
 - 70 per cent of the 4000 reapplications will be successful, which reflects the proportion of all sexual offence cases that were successful over the past three years (and is rounded down from the 72 per cent of sexual offence cases against a minor that were successful over the past three years).
 - The minimum number of 'new' successful applications (i.e. those who have not applied previously) will be 70 per annum over 10 years, which is in line with the average number of annual refusals

over the past five financial years. The upper bound scenario assumes there will be 350 successful 'new' applications per year over 10 years.

- The profile of applications in the scenarios is 40 per cent in the first year, 20 per cent in the second year, and then 5 per cent thereafter.
- Average awards for successful applications are assumed to be £16,500 in the lower bound, and £22,000 in the upper bound.
- CICA are expected to seek expert medical opinion on DMI claims in 30 per cent of applications, at a cost of between £800-£1000 per case.
- Costs incurred by the Legal Aid Agency as a result of appeals are expected to be negligible, as CICS claimants are not eligible for legal aid at First-tier Tribunals¹⁹.
- 20 per cent of pre-1979 SRR applicants will request for their claims decision to be reviewed by a different CICA claims officer. 3.5 per cent of pre-1979 SRR applicants will appeal their claim at a First-tier Tribunal. (It should be noted that the appeal rate is expected to be above the CICS appeal rate of 0.24 per cent for CSA. This is because historic cases may be harder to evidence and therefore more contestable than recent ones, and therefore more often result in appeals.)
- This is due to the expected difficulties of obtaining historical evidence associated with pre-1979 SRR cases.
- The average uplift in compensation awarded to a claimant following a review will be £7,000.

Risks and Sensitivity Analysis

64. All the costs considered in this IA are directly related to the volume of claims investigated and/or the volume of claims that are successful. There is a great deal of uncertainty about both of these volumes, and the potential size of the population of individuals who are now eligible to apply for compensation. Increases or decreases in the volumes of (successful) applications will have concomitant impacts on the associated costs.
65. The IA assumes that 60 per cent of pre-1979 SRR applications will be made over the first two years, and then assumes a steady-state (5 per cent of applications per year) from year three onwards. However, the actual profile may be different. If pre-1979 SRR applications are distributed more evenly across the ten-year period, overall net present costs will be lower as the impact of discounting would be more pronounced.
66. The success rate of 70 per cent may be lower given the fact it may be harder to evidence historical offences, which would reduce the amount paid out by CICA in successful awards. However, it could potentially be higher, which would increase the amount paid out.
67. The average award may be higher than the upper bound in the scenarios presented. This would lead to an increase in the amount paid out by CICA.
68. The additional CICA staff required to manage and investigate the claims may be greater than that presented in the scenarios above.
69. It is not possible to monetise the cost to the police of investigating the additional claims.
70. This IA does not consider the potential cost implications of legal challenge from applicants previously refused (or deterred to apply by the pre-1979 SRR) under the 2008 scheme (or earlier iterations) who wish to have their award considered in line with 2008 (or earlier) tariffs.

¹⁹ Other than victims of modern slavery or human trafficking, which CICA do not anticipate making up a meaningful share of SRR applicants. A condition for the SRR to apply is that the victim and assailant were living together as members of the same family, which is unlikely to be relevant to human trafficking victims and most modern slavery victims.

G. Wider Impacts

71. An equalities statement will be published separately to this IA.