



**The Upper Tribunal
(Administrative Appeals Chamber)**

**NCN: [2025] UKUT 245 (AAC)
UT Case Number: UA-2024-001780-CIC**

Summary: Criminal injuries compensation – other (70.3)

Criminal Injuries Compensation Scheme 2012 – paragraph 102(b) – whether exceptional circumstances prevented MW from applying for a review within the time limit – First-tier Tribunal overlooked submission that MW had not received CICA’s decision on his claim.

Before

UPPER TRIBUNAL JUDGE JACOBS

Between

R (MW)

Applicant

v

First-tier Tribunal (Social Entitlement Chamber)

Respondent

Criminal Injuries Compensation Authority

**Interested
party**

Decided on 21 July 2025 without a hearing

Representatives

Applicant:	Represented himself
First-tier Tribunal:	Did not take part
Interested party:	E Hannay, Head of Legal, CICA

DECISION OF UPPER TRIBUNAL

On application for judicial review of a decision of the First-tier Tribunal (Social Entitlement Chamber)

Reference: CI020/24/00004

Decision date: 4 September 2024

Hearing: Wolverhampton

The decision of the First-tier Tribunal is quashed under section 15(1)(c) of the Tribunals, Courts and Enforcement Act 2007 and the matter is remitted to the tribunal under section 17(1)(a) of the Act with directions to consider afresh the issue whether there were exceptional circumstances that were relevant to paragraph 102(b) of the Criminal Injuries Compensation Scheme 2012.

REASONS FOR DECISION

1. This case is governed by the Criminal Injuries Compensation Scheme 2012. In particular, it is concerned with paragraph 120(b) and whether MW could not have complied with a time limit due to exceptional circumstances.

A. CICA's decisions

2. I trust that this history is correct. I set it out in my grant of permission with an invitation to correct it if it was wrong. Neither MW nor CICA disagreed with it.

3. MW was attacked in his home by a masked intruder with a meat cleaver. He managed to fight him off and escape from his home into the street, where a passing driver came to his aid and drove him to a hospital. It emerged later than MW's wife had been involved with the attacker.

4. MW made a claim for criminal injuries compensation, which was registered as 14/711805. CICA refused the claim on 16 February 2015 under paragraph 23 of the Scheme on the ground that he had not cooperated as far as reasonably practical with bringing his attacker to justice. CICA's file has been destroyed, in accordance with standard policy. There remain only skeleton digital records, so we do not know the factual basis on which CICA decided that paragraph 23 applied.

5. Paragraph 101 of the Scheme allowed MW 56 days from the date of the written notice of CICA's decision in which to apply for a review.

6. No application was made until 2022, when a solicitor made two applications, on 8 November and 18 December. CICA refused to extend time on 11 January 2023. It then refused to extend time on 27 November 2023, deciding that paragraph 102(b) was not satisfied. This required MW to show that he could not have complied with the time limit due to exceptional circumstances.

7. The solicitor applied for a review under paragraph 117(e). CICA refused this application on 27 November 2023 under paragraph 120(b) on the ground that MW did not satisfy the 'exceptional circumstances' condition.

8. MW appealed against that decision. The tribunal dismissed the appeal, but I gave MW permission to bring judicial review proceedings with a view to quashing the decision.

B. The relevant provisions

9. These are the provisions of the Scheme mentioned in this decision.

23. An award will be withheld unless the applicant has cooperated as far as reasonably practicable in bringing the assailant to justice.

101. Where an applicant has been notified of the determination of their application in accordance with paragraph 99 and the applicant wishes to seek a review of that determination, the application for review must be sent so that it is received by the Authority within 56 days after the date of the written notice of determination.

102. A claims officer may extend the time limit in paragraph 100 or 101 for one further period of up to 56 days where:

- (a) an application to extend that time limit is made in writing, whether before or after expiry of the initial period; and
- (b) due to exceptional circumstances, the applicant could not have complied with the time limit.

117. An applicant may seek a review of:

...

- (e) a decision not to extend a time limit under paragraph 89, 102 or 120;

...

120. A claims officer may extend the time limit in paragraph 119 for one further period of up to 56 days where:

- (a) an application to extend is made in writing, whether before or after expiry of the initial period; and
- (b) due to exceptional circumstances the applicant could not have complied with the time limit.

C. The conduct of the First-tier Tribunal's hearing

10. MW was critical of the way the hearing was conducted. I have a copy of the recording of the hearing in the First-tier Tribunal. Having listened to it, I do not accept those criticisms.

11. The judge conducted the hearing in a calm manner. He was always polite and his questions provided MW with a framework within which he could give his account. The judge intervened only in order to keep MW focused on the issue the tribunal had to decide and to clarify his account. The judge obviously found, as I did at the hearing before me, that MW's evidence was not always clear about dates and the sequence of events - probably that was a result of the attack on him. He did not rush MW and allowed him the chance to take a break, even suggesting at one point that he should do so. At the end, he allowed MW a chance to add anything to what he had already said. I have found nothing to criticise in the way the judge conducted the hearing.

12. MW also told me that the hearing had been too short to investigate his case properly. I do not accept that. The recording lasted for 34 minutes according to the clock. It included the introductory and concluding remarks. It may not have taken the full length of the slot allocated to it, but there is no merit in prolonging a hearing

unnecessarily. The panel would have read the papers before the hearing. The judge's remarks showed that he had done so and he conducted the hearing efficiently. MW was able to tell him what he later told me. After spending an hour with MW, I did not learn anything new that had not come up before the First-tier Tribunal.

D. Matters that have caused confusion

13. There are a number of matters surrounding CICA's decisions that have caused confusion.

14. One factor is that MW was concerned for his own safety pending the trial of his assailant, and also later when he discovered that the assailant had been released from prison so soon after his conviction. This led MW to move several times. The actual number varies with the telling and I am not sure whether he remembers the precise number. If I remember correctly – I have not checked the recording - he also told the First-tier Tribunal that he had gone to the United States around this time. That may have caused some problems with the delivery of mail. The First-tier Tribunal found that when CICA sent its decision notice in 2015, it was sent to MW's original address where he was then living. MW described his mental agitation during this period, although there is doubt around what Dr Tweedie recorded him as saying (see page A49 of the First-tier Tribunal's papers). This may have affected his understanding of what was happening. Although he told the First-tier Tribunal that he was able to make a living as a music promoter, he says he relied on help from friends.

15. Another factor is MW's decision to move to the Midlands. The men who agreed to help turned on him, stole his camper van and record collection, and threatened him with a gun and a flick knife, demanding money from his account. MW has never claimed criminal injuries compensation for this assault. He fled to the United States, where he was able to track down his collection. This incident badly affected his mental health and possibly his ability to recall now what happened around 2013-2015.

16. On his return to this country, MW engaged a solicitor. The solicitor was not aware of the earlier claim and made a second claim for the original assault. CICA realised that this was a duplicate claim. It was only then that the solicitor made the applications for reviews.

E. Why I have quashed the First-tier Tribunal's decision

17. At pages A43-A44 of the First-tier Tribunal's papers, there is a document from MW's solicitor. I am not sure when it was written, but it is an application to CICA for an out of time review. In it, the solicitor wrote that 'The applicant never received the rejection of claim 14/711805 – this was due to moving home as he was being interrogated in relation to the incident on which he was claiming.' MW did not mention this to me at the hearing. When I asked him directly if he had received the letter, he said that he had not.

18. This issue was never discussed at the hearing in the First-tier Tribunal. From beginning to end, the hearing was based on the assumption that MW had received the letter. One possibility is that he was never aware of the letter. If so, he would not have been aware of the time limit or of any need to take any action. Another possibility is that he did receive and, maybe, even read it, but failed to appreciate its significance given his mental state and the later attack described at [15] above.

19. If the letter was never delivered or for some reason did not come to MW's attention, that would be relevant to whether there were exceptional circumstances. If his mental health and personal circumstances prevented him understanding its significance, that could also be relevant. I accept, by the way, that the tribunal investigated MW's mental state and his ability to function by finding new accommodation and tracking down his record collection.

20. It is, though, possible that MW's knowledge and understanding of the decision letter were potentially relevant factors that the tribunal should have investigated and considered, especially given the express mention in the papers. That is why I gave permission to bring these judicial review proceedings.

21. Having considered my grant of permission, CICA has accepted that the First-tier Tribunal's decision should be remitted for the reasons I have just set out. MW has agreed with that proposal.

22. Accordingly, I quash the First-tier Tribunal's decision and remit the matter to the tribunal for reconsideration.

**Authorised for issue
on 21 July 2025**

**Edward Jacobs
Upper Tribunal Judge**