



Neutral Citation Number: [2025] UKUT 380 (AAC)

**IN THE UPPER TRIBUNAL
ADMINISTRATIVE APPEALS CHAMBER**

Appeal No. UA-2024-000233-CIC

On an application for judicial review from the First-tier Tribunal (Social Entitlement Chamber) (Criminal Injuries Compensation)

Between:

R (ARY)

Applicant

– v –

The First-tier Tribunal

Respondent

and

The Criminal Injuries Compensation Authority

Interested Party

Before: Upper Tribunal Judge L. Joanne Smith

Determination date: 4 November 2025 (Corrected under Rule 42 of the Tribunal Procedure (Upper Tribunal) Rules on 30 December 2025)

Decided on consideration of the papers

Representation:

Applicant: Unrepresented

Respondent: Unrepresented

Interested Party: Mr Louis Browne KC, instructed by CICA

SUMMARY OF DECISION

The decision of the First-tier Tribunal in respect of the Applicant's claim for Criminal Injuries Compensation was made in error of law as it made insufficient findings of fact regarding the allegations upon which the claim was based. The decision is quashed and the matter is remitted to a differently constituted panel of the First-tier Tribunal for re-determination.

Please note the Summary of Decision is included for the convenience of readers. It does not form part of the decision. The Decision and Reasons of the judge follow.

Keywords: (Criminal Injuries Compensation – claims (70.1). Criminal Injuries compensation Scheme 2012 – paragraph 4 – whether Applicant was a victim of a crime of violence

NOTICE OF DECISION ON AN APPLICATION FOR JUDICIAL REVIEW

This application for judicial review succeeds. Under section 15 of the Tribunals, Courts and Enforcement Act 2007 (“the 2007 Act”), I make a quashing order in respect of the decision of the First-tier Tribunal made on 24 November 2023 (reference CI003/23/00044). Under section 17 of the 2007 Act, I remit this matter to the First-tier Tribunal for re-determination in accordance with the directions below.

DIRECTIONS

(1) The First-tier Tribunal must re-determine ARY’s appeal against CICA’s review decision dated 8 March 2023, in relation to her application for compensation under the Criminal Injuries Compensation Scheme 2012;

(2) The tribunal panel that re-determines ARY’s appeal must not include any member of the panel whose decision has been quashed in these proceedings;

(3) The First-tier Tribunal must hold a hearing before determining ARY’s appeal.

REASONS FOR DECISION

The parties to these judicial review proceedings

1. The Applicant is ARY. I refer to her in this judgement, using the initials of her name, simply to protect her privacy and to preserve her anonymity.
2. The First-tier Tribunal (“FtT”) is technically the Respondent to the application. Formally, the Criminal Injuries Compensation Authority (“CICA”) is the Interested Party.

The background to the case

3. ARY applied for criminal injuries compensation on 4 October 2022, citing “sexual assault or abuse” from September 2020 to October 2020. CICA wrote to the Applicant on 23 February 2023 to inform her that her application was unsuccessful as it could not be satisfied, on the balance of probabilities, that a crime of violence had taken place, as required by paragraph 4 of the Criminal Injuries Compensation Scheme 2012 (“the 2012 Scheme”). ARY requested a review on 2 March 2023. A letter was sent by CICA, dated 8 March 2023, to state that the decision had not changed.
4. ARY appealed the review decision to the FtT, and the appeal took place using video conferencing technology on 24 November 2023. It was agreed that the issue to be determined in the appeal was whether the Applicant was eligible for an award of compensation under paragraph 4 of the 2012 Scheme. The appeal

was refused and the review decision of CICA dated 8 March 2023 was upheld. The FtT could not be satisfied, on the balance of probabilities, that the Applicant had been the victim of a crime of violence.

5. The Applicant sought to have the decision of the FtT set aside, but this request was refused by a Principal Judge of the Criminal Injuries Compensation Tribunal on 11 December 2023. She thereafter sought permission to bring judicial review proceedings directly to the Upper Tribunal.

The grounds for judicial review

6. ARY advanced eight grounds in her application for permission to apply to the Upper Tribunal for judicial review of the decision of the FtT dated 24 November 2023. These were considered at an oral hearing. On 13 June 2025, I granted permission on limited grounds as follows:

“I find it arguable that the FtT materially erred in law by failing to establish the precise criminal offences upon which the claim for Criminal Injuries Compensation was made, and therefore making inadequate findings of fact and giving inadequate reasons in respect of any potential crimes of violence which the Applicant may have been a victim of.”

7. Mr Browne KC, for CICA, in a helpful and succinct written submission, acknowledged that this ground for judicial review was made out.
8. The parties are therefore agreed that the First-tier Tribunal erred in law and that I should set aside its decision. Neither party seeks an oral hearing of this appeal therefore I can deal with it on the papers before me.

Why the claim for judicial review is successful

9. This was a complex case involving sensitive matters which the FtT managed well. The Applicant made her application for compensation on the basis of “sexual assault or abuse”. She had not detailed precisely what incidents she was referring to in her claim form but she set out the allegations in a written statement for the purposes of the FtT appeal hearing. These amounted to five allegations: four sexual assaults by penetration (one after having her drink spiked) and a sexual assault by touching at the cinema. The report from the police for the FtT appeal stated that the offences alleged were sexual assault, stalking, harassment (twice) and assault. The papers were not clear as to what each allegation related to and/or how they married up with the allegations in the Appellant’s statement. ARY had also described in her statement, the nature of the contact between her and alleged perpetrator, providing video footage and messages between them (at the appeal hearing) which she said demonstrated controlling and threatening behaviour. It is not clear if this latter behaviour was reported to the police or not.
10. At the hearing of the appeal, the FtT focussed on three assaults by penetration which were common ground between all parties. It did not (fully) explore the

fourth assault by penetration (“spiked drink”) or the sexual touching incident (“cinema”). ARY was cross-examined by the CICA presenting officer on all of the allegations, and there was some questioning about whether the Applicant was fearful of the perpetrator. In closing, the presenting officer submitted that the FtT had to determine, amongst other things, whether the Applicant had been threatened so that she was caused fear of immediate violence, which may have brought her potential crime of violence under paragraph 2(1)(c) of Annex B to the 2012 Scheme.

11. From reading the FtT’s Statement of Reasons as a whole, it is not clear what the FtT made of the spiked drink and cinema incidents, nor is it clear what it made of the potential for the Applicant having been a victim of a threat of immediate violence. Ultimately, the FtT determined that the Applicant’s evidence lacked credibility to allow it to determine that she was a victim of a crime of violence under the 2012 Scheme, and the Statement of Reasons focussed heavily on the reasons for this. However, I find that the FtT failed to make clear and sufficient findings of fact on the precise criminal offences upon which the claim for Criminal Injuries Compensation was made, before considering that the Applicant’s evidence on each of those matters lacked credibility. It is entirely plausible, given the various offences alleged, that the FtT may have found that at least one allegation was proven had it established precisely what those allegations were. Having not set out its findings on the allegations raised at the appeal hearing, and thereafter giving inadequate reasons addressing why it found that ARY was not a victim of any of these potential crimes of violence, I find the FtT materially erred in law.

Conclusion

12. Having determined that the FtT’s decision dated 24 November 2023 was made in error of law, I quash the decision and, in accordance with the Directions given above, I remit ARY’s appeal, against CICA’s review decision on her claim for compensation under the 2012 Scheme, for re-determination.

L. Joanne Smith
Judge of the Upper Tribunal

(authorised for issue on)
4 November 2025