

Scottish Trades Union Congress

3 March 2004

Response to the Home Office Consultation Paper

" Compensation and Support for Victims of Crime "

Introduction

The STUC is Scotland's Trade Union Centre. Its purpose is to coordinate, develop and articulate the views and policies of the Trade Union movement in Scotland and, through the creation of real social partnership, to promote trade unionism, equality and social justice; the creation and maintenance of high quality jobs and the public sector delivery of services.

The STUC represents around 630,000 working people and their families throughout Scotland. It speaks for trade union members in and out of work, in the community and in the workplace. Our affiliated organisations have interests in all sectors of the economy. Our representative structures are constructed to take account of the specific views of women members, young members, black/minority ethnic members, LGBT members, and members with a disability, as well as retired and unemployed workers.

We believe that everyone who is unfortunate enough to be subject to criminal violence in the course of their work should receive adequate compensation to take into account the pain, suffering and financial hardship brought about by injuries inflicted by the criminal actions of third parties.

The STUC notes that, despite the scheme being described as the most generous in Europe within the consultation document, in many instances our society expects higher levels of financial compensation for those who have been subject to more severe acts of criminal violence.

Therefore, we feel the current scheme, as it stands is adequate, although we would not wish to see any deterioration in access to the scheme or the levels of compensation paid, and especially for more serious cases, consideration should be given to reviewing payments upward.

We appreciate the opportunity to respond to the issues within the consultation document and our responses to the questions posed are as follows.

1. Compensation Orders

We believe that compensation orders could be used to recover costs incurred by the Criminal Injuries Authority in making payments to victims. This would quite clearly have a significant financial impact on the perpetrator, over and above the original fine, and would, in return, compensate the scheme for lump sums paid out. The STUC would be strongly against compensation orders being paid directly to the victim on an instalment basis. We see difficulties in perpetrators having the financial means to meet such commitments and be likely to default. We believe that the payment of a lump sum is more beneficial to the victim in that it provides for a single payment, allowing the victim to put the incident behind them, as far as possible aiding the recovery process. We also believe that the responsibility for reclaiming sums should lie with the authority.

Similarly, we would have no objection to the CICA recovering sums through civil actions, taken against the offender, providing they this is done on the basis outlined in the last paragraph with action being taken by the authority and not the victim.

2. Criminal Injuries that occur in the course of duty.

The STUC do not believe it appropriate to alter the existing arrangements and have concerns this would result in many victims being denied compensation, as their employers would not make adequate restitution through their own schemes. The aim of business is to maximise profitability, providing higher bonuses and dividends to directors and shareholders and, at the same time reducing costs. Any suggestion that the employers administer individual schemes would be unworkable and lead to unfairness, with companies introducing schemes that have least impact on their overheads and therefore least impact on profits. We see no benefit in a scheme that would consist of a vast number of individual arrangements with no legal obligation on the employer to make payments to victims.

We believe that to ensure fairness and consistency the CICA should continue to make compensate victims and reclaim the sums from employers in a similar manner outlined for the arrangement to recover costs from offenders.

3. Limitation of the new arrangements for firms employing under 250 people.

We believe that if a scheme was introduced as outlined above then the CICA could recover costs taking into account the employers ability to pay therefore negating any requirement to consider limiting the scheme as suggested.

Similarly recovering costs incurred on the ability to pay basis removes the requirement to exclude any specific private sector industries ensuring all employers are ordered to pay a proportion of the award to the CICA.

4. Additional steps employers can take to reduce the risk of criminal injury occurring while on duty.

The STUC is strongly of the view that if employers genuinely wish to reduce the risk of violent attack the highest standards of health and safety management and risk assessment is required in addition to financial commitment to implement measures to protect workers. The CICA could have powers to reduce the sums recoverable from employers where strong evidence exists that actions had been taken to mitigate the risk of attack. It would have to be demonstrated that these actions exceeded their current obligations under the Health and Safety at Work Act (1974). It is our view that to have any significant impact on incidences of workplace violence employers have to invest in the safety of their workers and put in place preventative strategies and physical interventions that go beyond the current economic justification of such measures.

5. Other course of duty claims – railway trespass and accidental injury.

The STUC is opposed to any proposals that seek to exclude railway workers from access to compensation through the CICS and would strongly urge the Government to continue the present arrangement. Our understanding is that railway workers were given access to the scheme as a result of political and public pressure following acceptance that workers who witness acts of suicide suffer severe and sometimes permanent psychological injury or long- term mental health illnesses. We believe that acts of suicide carried out on the railway are the result of a criminal act of trespass and this should not be seen as being unsympathetic towards the suicide victim's mental state at the time.

We are also disappointed that the Government seeks to justify removal from the scheme on the basis that bus drivers do not have access to compensation through the CICS. This comparison is misleading as it is quite clear that suicide as a result of trespass on the railway is much more frequent than for cases involving other transport workers.

We would suggest, however, that such incidents when they occur are likely to have a similar impact on the worker directly involved and we believe, that in order to be consistent, the current scheme should be extended to cover all groups of workers.

The proposals to exclude railway workers appear to be based on purely cost cutting measures without any thought for the individual. We do not believe that employers will rush to compensate workers if they are removed from the current scheme and we do not see any convincing argument for an alternative sector specific scheme.

We therefore suggest that current arrangements remain in place and are extended to include other workers as outlined above.

Similarly, we do not approve of removing those who suffer accidental injury from the scheme. In many cases accidental injury occur as a direct result of a criminal act, such as willful fire raising, and it would be difficult in many cases to distinguish the extent to which the criminal act contributed to the accidental injury. We see considerable difficulties arising for the administration of the scheme, as many applications would have to go to appeal in order to ascertain whether the injury incurred was directly attributable to the criminal act. This would clearly defeat the purpose of removing accidental injury, as this would place a higher administrative cost on the scheme as outlined in paragraph 99 of the consultation.

The STUC believe that both the above measures are simply designed to cut the costs of the scheme without any thought to the right of the victims to receive compensation for their injuries. Indeed in the case of the latter, removal of accidental injury there is an argument that the proposal might result in a greater financial burden for the scheme.

In view of our comments in relation to including other groups of workers who suffer acts of violence through acts of violence we would not wish to comment on any alternative methods of compensation for transport workers affected by incidences of suicide.

Contribution from industry to supporting victims.

We believe that industry should provide financial support for victims of criminal violence. In relation to compensation payments we would not wish to see industry become involved in the administration of compensation arrangements, as this would have an impact on the credibility and independence of the scheme. We do see a role for industry in providing increased protection and preventative measures, this should, in turn reduce the number of potential claims, as a result of lower volumes of attacks. We would encourage further discussion with all relevant stakeholders including the insurance industry to investigate funding initiatives that seek to change the focus from provision of compensation for attacks on workers to preventing such attacks happening in the first instance.