

19 July 2017

Rt. Hon. David Liddington MP
Secretary of State
Ministry of Justice
102 Petty France
London
SW1H 9AJ

Our Ref: AG/GUES01001/01170351
Your Ref:

Dear David

I am writing to you regarding the rules governing the Criminal Injuries Compensation Scheme. I am concerned that the scheme is unfair and inconsistent with the law.

As you will be aware, the rules of the scheme classify sexual assault as a violent crime only in circumstances where 'a person did not in fact consent'. As you will also be aware, where a person is under the age of 16, sexual activity is automatically criminal, unless the victim is over 13 and the defendant reasonably believed he or she was over 16.

The scheme contains no minimum age for the application of this rule. As a result, child victims of sexual assault can be denied compensation if there is any evidence to suggest that they 'complied' with their abuse, regardless of whether this supposed 'compliance' was through fear, coercive control or lack of understanding.

A freedom of information request from Victim Support has revealed that almost 700 children have been denied compensation under this rule, on the grounds that they consented to their own abuse.

I believe this to be grossly inconsistent with the law, which is clear that a child cannot consent to sexual activity. Information provided by Victim Support has highlighted cases where vulnerable victims of child sexual exploitation, who have been subjected to prolonged and depraved acts of abuse, including rape, have been denied compensation because the Criminal Injuries Compensation Authority (CICA) has deemed that they consented to the acts. This is despite the fact that the victims in question were not of an age where they could legally consent and were manipulated and coerced by much older men.

I am appalled that victims of child sexual exploitation may be denied compensation due to these erroneous rules. I consider it to be wholly inconsistent with the law, which is clear that consent only exists where a person 'agrees by choice and has the freedom and capacity to make that choice.' The age of consent makes it abundantly clear that a child is incapable of meeting that threshold. As such, it is abundantly clear that no circumstances can exist in which a child can be deemed to have consented to sexual activity and I am appalled that CICA rules suggest otherwise.

Furthermore, the scheme contains no guidance on what 'consent' actually is. This leaves recognised victims of abuse subject to CICA's own expectations of their behaviour and capacity, expectations that are decidedly opaque. I believe that such judgements on 'consent' represent clear victim blaming and a gross inconsistency with the law.

I am also concerned that despite wide recognition of the long-term psychological damage that can be inflicted upon victims of child sexual exploitation, compensation remains conditional upon having been forced to have sex. Much progress has been made in better understanding child sexual exploitation in recent years and I am worried that the Scheme is lagging behind.

The Scheme also contains provision to deny compensation to victims with criminal convictions of their own. Given the greater

understanding of the methods used by abusers to groom children that has developed in recent years, I am again concerned that this may disbar victims and survivors of abuse. In my work as a Member of Parliament, I have met with a great many survivors of abuse. Many of these survivors were forced by their abusers to commit criminal acts, which resulted in convictions and criminal records. This is closely connected to grooming and coercive control and in fact represents another facet of their abuse, and indeed one that causes lasting damage to their lives. That this would also prevent them from receiving compensation for their abuse again strikes me as profoundly unjust.

The Scheme also stipulates that where victims of abuse lived in the same household as their abuser and the abuse was committed prior to 1979, they are ineligible for compensation. This so-called 'Same Roof Rule' is particularly concerning, as in many cases, familial abuse only comes to light after many years have passed. It is fundamentally unjust that compensation would be denied solely on the basis of when that abuse occurred. I am aware that the Government has previously stated that it has no intention to change this rule and I acknowledge that previous governments have also declined to do so. However, I believe that by failing to update the eligibility to fully abandon this outdated and arbitrary rule, the Government is denying compensation to abuse survivors for no real practical reason beyond a desire to minimise costs.

The Scheme as it stands fails absolutely to recognise the long-term and devastating impact of child abuse. It contains both anachronisms and gross inconsistencies with the law. I believe that significant changes are essential to ensuring that the Scheme is fit for purpose. I would therefore urge the Government to commit to:

- Updating the Scheme to ensure it is consistent with the legal position that a child cannot give consent and that they therefore cannot be a willing party to their own abuse.

- Ensure that the Scheme recognises the long-term psychological harm that can be inflicted by child abuse, not just physical harm.
- Abolish the 'Same Roof Rule'.
- Ensure that the Scheme recognises patterns of behaviour and instruments of coercive control, including the committing of criminal acts by abuse victims, that are often associated with grooming and ensure that these are not used to disallow claims.

I would be grateful for your comments on these matters and look forward to hearing from you.

Yours sincerely

Sarah Champion MP
Member of Parliament for Rotherham