

## Officer Non Key Executive Decision

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| <b>Relevant Chief Officer (Decision Maker):</b>             | Victoria Gent, Director of Children's Services                   |
| <b>Relevant Cabinet Member (for consultation purposes):</b> | Councillor Jim Hobson, Cabinet Member for Children's Social Care |
| <b>Report Author (Officer name and title):</b>              | Dawn Goodall, Head of Legal                                      |
| <b>Implementation Date of Decision:</b>                     | 12 September 2022  |

### CRIMINAL INJURY COMPENSATION CASES FOR LOOKED AFTER CHILDREN

#### 1.0 Purpose of the report:

- 1.1 To agree to send to an external solicitor all Criminal Injuries Compensation cases. (CICA) on behalf of Looked After Children.

#### 2.0 Recommendation(s):

- 2.1 To enter into a retainer agreement with GLP Solicitors Maple House 8 Haymarket Street Bury BL9 0AR.

#### 3.0 Reasons for recommendation(s):

- 3.1 The Criminal Injuries Compensation Scheme is a government-funded scheme to compensate victims of violent crime, administered by the Criminal Injuries Compensation Authority (CICA). Where a looked after child appears to qualify, legal advice must always be sought as to whether or not an application should be made.

The Council when acting as a Corporate Parent, has a responsibility to do the best for the children that are under its care. This would include seeking where appropriate to pursue Criminal Injuries Compensation which would be held in trust and used to mitigate the impact of their injuries in their future as Care Leavers.

Many other Councils use experienced outside solicitors like GLP Solicitors as they have a level of specialist expertise to ensure that the correct level of compensation would be received benefitting the young person and minimising the risk to the Council.

The Local Authority has a *power* but not (in most cases) a *duty* to pursue CICA claims

on behalf of its looked after children. As the law currently stands the Local Authority is not legally *obliged* to pursue such claims.

It follows that as the Local Authority is not under a legal duty to pursue such claims there is no legal impediment to it 'outsourcing' the conduct of such claims to a private firm of solicitors; and

The Local Authority is not *legally required* to fund such work; I consider that the fees of any private firm of solicitors pursuing a claim on behalf of a looked after child can lawfully be met from any award of compensation under a 'no win, no fee' arrangement.

3.2a Is the recommendation contrary to a plan or strategy adopted or approved by the Council? No

3.2b Is the recommendation in accordance with the Council's approved budget? Yes

3.3 Other alternative options to be considered:

Keep in-house.

The Council's legal team does not have the resource or specialism to meet best practice and act in the best interests of the child.

#### 4.0 Council Priority:

4.1 The relevant Council Priority is

- "The economy: Maximising growth and opportunity across Blackpool"
- "Communities: Creating stronger communities and increasing resilience"

#### 5.0 Background Information

5.1 Criminal Injury Compensation Scheme is intended to compensate blameless victims of crimes of violence. The CICA will take into account the circumstances surrounding the incident and the claimant's character.

A child/young person may be eligible if they:

- Were a direct victim of a crime of violence;
- Were not to blame for the incident;

- Sustained an injury while taking an exceptional and justified risk, while trying to remedy or prevent a crime;
- Sustained a mental injury as a result of witnessing or being involved in the immediate aftermath of an incident in which a loved one is injured; or
- Are a qualifying relative of a victim who has died from injuries caused by a crime of violence.

A 'crime of violence' may include:

- A physical attack;
- Any other act or omission of a violent nature which causes physical injury to a person;
- A threat against a person, causing fear of immediate violence in circumstances which would cause a person of reasonable firmness to be put in such fear;
- A sexual assault to which a person did not in fact consent; or
- Arson or fire-raising.

The Local Authority has a *power* but not (in most cases) a *duty* to pursue CICA claims on behalf of it's looked after children. As the law currently stands the Local Authority is not legally *obliged* to pursue such claims although this is balanced with the moral obligation to achieve the best for children in our care.

Historically these cases were under taken within the litigation department however a reduction in staffing levels means that over the course of the last two years this work has not taken place on a consistent/proactive basis. Although it has been monitored the Council would not appear to have the specialist knowledge to get the best possible awards for these children. There is also the cost of the money management if an award is granted and the child is under 18 or is incapable of managing an award.

GLP Solicitors are a specialist firm and only undertake these types of cases. They have extensive experience in dealing with the most complex of cases those involving sexual abuse and post-traumatic stress disorders. The conditional fee arrangement minimises risk but also ensures that the solicitor is motivated to ensure that

We have developed a pro forma document which can be completed with the relevant information that GLP Solicitors would need to allow them to assessment the case and decide if a child may have suffered a criminal injury. Those forms would be sent to a specific in-box held in the legal department and are then sent to GLP by the practice manager and monitored on a monthly basis by the head of legal and GLP to ascertain if the process works effectively.

Wherever possible claims are settled by a single lump sum payment. The money can be used for education, welfare or to help the child in later life to live independently.

The money can only be used for the child's sole benefit.

Does the information submitted include any exempt information?

No

**5.2 List of Appendices:**

None.

**6.0 Legal considerations:**

6.1 Statutory duties under the Children Act 1989 to act in the best interests of the child.

**7.0 Human Resources considerations:**

7.1 None.

**8.0 Equalities considerations:**

8.1 None.

**9.0 Financial considerations:**

9.1 None.

**10.0 Risk management considerations:**

10.1 Monitor the cases sent to GLP Solicitors and maintain regular review meetings with the direct of the firm and the head of legal.

**11.0 Ethical considerations:**

11.1 None.

**12.0 Internal/ External Consultation undertaken:**

12.1 Children's services  
Counsel advice  
Voice of the child  
Other local authorities who use GLP services

### **13.0 Decision of Chief Officer**

- 13.1 To enter into a retainer agreement with GLP Solicitors Maple House 8 Haymarket Street Bury BL9 0AR.

### **14.0 Reasons for the Decision of the Chief Officer**

- 14.1 The Criminal Injuries Compensation Scheme is a government-funded scheme to compensate victims of violent crime, administered by the Criminal Injuries Compensation Authority (CICA). Where a looked after child appears to qualify, legal advice must always be sought as to whether or not an application should be made. The Council when acting as a Corporate Parent, has a responsibility to do the best for the children that are under its care. This would include seeking where appropriate to pursue Criminal Injuries Compensation which would be held in trust and used to mitigate the impact of their injuries in their future as Care Leavers.

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It follows that as the Local Authority is not under a legal duty to pursue such claims there is no legal impediment to it 'outsourcing' the conduct of such claims to a private firm of solicitors; and

The Local Authority is not *legally required* to fund such work; I consider that the fees of any private firm of solicitors pursuing a claim on behalf of a looked after child can lawfully be met from any award of compensation under a 'no win, no fee' arrangement.