
STATES OF JERSEY



CRIMINAL INJURIES COMPENSATION BOARD: REPORT AND ACCOUNTS FOR 2013

Presented to the States on 17th April 2014
by the Minister for Home Affairs

STATES GREFFE

REPORT

The Jersey Criminal Injuries Compensation Scheme came into force on 1st May 1991.

Some facts and figures

During the 22 years which the Scheme has been in operation, the number of applications received has varied from year to year, from 44 in 1992 (the first full year of operation) and 34 in 2013, with applications peaking in 2001 at 106. Consequently, 2013 has seen the lowest number of applications received in a full year since the inception of the Scheme. However, compensation paid to applicants increased from £45,840 in 1992 to a ‘high point’ of £478,790 in 2013, with a total of just over £4.8 million now having been paid. Currently, overall, 16% of compensation (representing 36% of applications received) is paid in amounts of up to £3,000; compensation of just over 53% of the total amount has been paid to 6% of applications which have resulted in awards of £10,000 or more; whilst a further 39% of applications result in a nil award. The overall annual average award in 2013 was £6,735 (excluding awards of £10,000 or more, the average award falls to £1,944). Just over 6% of the applications received to date were from Police Officers, the majority of whom were on duty. To date, a total of 121 applications (approximately 8.4% of all applications submitted) have been received for a hearing (‘appeal’). The current minimum award of compensation (before deductions) is £1,500 (set in 2009); and the maximum (set in 1998) remains at £100,000.

Background

1. The States, on 4th December 1990, approved a draft Act (R&O 8143, as subsequently amended by R&Os 8239, 8497, 8769, 9234 and 51/2002) establishing a Scheme to provide compensation for victims of crimes of violence to replace the Scheme set out in the Act of the States dated 12th May 1970 (R&O 5350). On 10th September 2009, the States adopted a revised Scheme (P.113/2009) which consolidated all previous amendments and incorporated a number of further changes recommended by the Board; and most recently – on 2nd May 2012 – the States adopted the current, further revised Scheme. Article 10(a) of the 1990 Act sets out the scope of the Scheme, the essence of which is as follows –

the Board may make *ex gratia* payments of compensation in any case where the applicant or, in the case of an application by a spouse or dependant, the deceased –

- (i) sustained, in the Island or on a Jersey ship, personal injury directly attributable to a crime of violence (including arson or poisoning) or the apprehension or attempted apprehension of an offender or a suspected offender or to the prevention or attempted prevention of an offence or to the giving of help to a police officer who is engaged in any such activity; or

- (ii) sustained personal injury directly attributable to a crime of violence (including arson or poisoning) in respect of which a court in the Island has jurisdiction by virtue of section 686 or 687 of the Merchant Shipping Act 1894 or such enactments as from time to time replace them.
- 2. In 1992, the then Defence Committee, conscious of the limitations of the 1970 Scheme (which provided for compensation only in cases where members of the public came voluntarily to the aid of another member of the public or the police and were injured in so doing), widened the scope of the Scheme to include crimes of violence generally. The 1990 Scheme came into force on 1st May 1991 in respect of injuries suffered on or after that date. Applications in respect of injuries suffered before 1st May 1991 are dealt with under the terms of the 1970 Scheme.
- 3. The current version of the Scheme, as well as the guide to the Scheme (entitled “Victims of Crimes of Violence”), incorporates all the amendments to the Scheme since its inception in the form of the Revised Scheme which was adopted by the States on 2nd May 2012.

Membership of the C.I.C.B.

- 4. The Criminal Injuries Compensation Board comprises Advocate C.J. Dorey (Chairman, from June 2006), Advocates R.J. Michel and L.M. Gould (former Chairmen), Advocates A.S. Regal, D.J. Benest, Advocate M.E. Whittaker, together with Advocate C. Hall and Advocate L.K.A. Richardson (both appointed at the beginning of 2013) – these are the members who are “advocates or solicitors of the Royal Court of not less than 5 years’ standing” [Article 4(a) of the Scheme] – and ‘lay’ members Mr. M.A. Payne, Mrs. C.L. Jeune, Dr. G. Llewelin and Mrs. J. Carlin. The Minister wishes to record his appreciation to all members of the Board for the work they have undertaken. The existing Board members were re-appointed by the Minister for further periods ranging from 2 to 5 years from 1st May 2012. Following a review of the method of appointing to the Board, vacancies for lay members are advertised in accordance with Appointments Commission guidelines and expressions of interest considered, leading to candidates being shortlisted, interviewed and selected by a Panel comprising the Jersey C.I.C.B. Chairman and a representative from each of States Human Resources and the Appointments Commission. Two lay members will be appointed during 2014 in order to replace members whose term of office will have expired. Any vacancy which arises for a legally-qualified member is circulated to the Law Society of Jersey for dissemination throughout those in the legal profession with the requisite experience, and thereafter the candidates are interviewed and selected in a similar manner to the lay members. Three vacancies for legally-qualified members will arise in 2015.

Withholding or reducing compensation

5. Under Article 15 of the Scheme, the Board may withhold or reduce compensation if it considers that –

- (a) the applicant has not taken all reasonable steps to inform the police;
- (b) the applicant has failed to give all reasonable assistance to the Board;
- (c) having regard to the conduct of the applicant before, during or after the events giving rise to the claim or to his character and way of life, it is inappropriate that a full award, or any award at all, be granted; and

furthermore, compensation will not be payable –

- (d) if the injury was sustained accidentally, unless the Board is satisfied that the applicant was at the time taking an exceptional risk which was justified in all the circumstances.

Operation of the Scheme in 2013

6. The Board received 46 applications for the award of compensation under the 1990 Scheme during the period 1st January to 31st December 2013. Because of the length of time it sometimes takes to finalize an award, not all applications are concluded in the calendar year they are received. Examples of the nature of applications and awards made in 2013 are as follows –

- (a) The applicant, A, was punched in the face in a completely unprovoked attack when going about his duties at work. He suffered a fractured dislocation of the nasal bone and displaced fracture of the neck of the femur of his hip. The fracture of the hip had to be fixed with screws. There was a lengthy period of recovery; A was off work for one year and was not able to return to working overtime before he retired. The Board awarded £9,800 by way of general damages and £8,926.55 by way of special damages which covered loss of earnings and a broken denture.
- (b) The applicant, B, went to his girlfriend's flat after having been out drinking. An argument ensued. The argument spilled out of the flat into the street where 2 other people became involved. One of them shouted that she was going to stab B; his response (in a fit of bravado) was to do so. The assailant tried to stab B in the stomach (but failed) but managed to cut him on the cheek. The assailant was duly convicted. The cut to the cheek resulted in a scar and certain numbness. The gross figure for general damages was £4,500. Loss of earnings was also awarded in the sum of £280. The total award was reduced by 70% in light of the fact that on the night B was drunk, had acted aggressively and in addition had a criminal record.

- (c) The applicant, C, was a Police Officer. In the course of arresting an individual he sustained injury. Accordingly, he fell within the Scheme since compensation can be paid not only when somebody is the victim of a crime of violence, but also if they sustain injury whilst apprehending an offender. C sustained a soft tissue injury to his thumb, but it was not sufficient to require him to take any time off work and on medical examination little was seen. Accordingly, although C fell within the Scheme, any award of damages fell below the minimum allowed of £1,500 and accordingly there was a nil award.
- (d) The applicant, D, was a Doorman. In the course of his duties he had to eject somebody from the bar where he was working. That person proved aggressive and a number of his friends came up and acted in a similarly aggressive way. D, in attempt to avoid the aggressive actions, fell backwards and injured his left shoulder. The Board accepted that D was in fear of imminent assault, which is a crime of violence. As a result of the fall, D sustained a significant injury to his shoulder, including a fracture of the shoulder socket. Surgery was required. D was awarded £20,000 by way of general damages and loss of earnings of £3,434. Social Security benefits received by D had to be deducted, resulting in a net award of £23,434.
- (e) The applicant, E, was sexually assaulted whilst jogging. The police arrested the assailant, who was duly convicted of an indecent assault. The Board accepted that E was the victim of a crime of violence. E did not suffer any physical injury, but was traumatised. The Board requested medical/psychiatric/psychological evidence, but E did not co-operate with the Board in providing the same. Accordingly, the Board was unable to make any award.
7. The Board received 3 requests for hearings during 2013, (all of which related to claims where the applicant had appealed against the decision of the 2-member Panel's initial award). During 2013, the Board held 3 hearings, and in 2 cases the amounts initially awarded were uplifted, with 1 case remaining unresolved and further information being sought for a hearing to be held at a later date.
8. Of the 1,439 applications received since 1st May 1991 – 1,365 had been resolved as at 31st December 2013. Of the 74 applications in the process of resolution at the end of 2013, 7 related to hearings which remained unresolved, 16 had received awards which included an element of interim payment and 13 others had been determined which awaited acceptance by the applicant. A total of 38 applications awaited reports and/or further information.
9. Alcohol-related incidents. The Board receives many applications in which drink has been a substantial cause of the victim's misfortune. From information available on the 34 applications received in 2013, 20 of those (that is 59%) involved the consumption of alcohol by either the assailant or the victim. Many of these incidents occurred in places and situations which the victims might have avoided had they been sober or not willing to run some

kind of risk. In such circumstances the Board may make an award, but only after looking very carefully at the circumstances to ensure that the applicant's conduct "before, during or after the events giving rise to the claim" was not such that it would be inappropriate to make a payment from public funds.

Statistical information

10. **Appendix 1** sets out statistics on activities during the period 1st January to 31st December 2013, relating to claims made under the Criminal Injuries Compensation Scheme.
11. **Appendix 2(a)** shows, in the form of a bar graph, the rate of applications received during 2013 (34); and **Appendix 2(b)** shows in tabular form month by month, the total number of applications received annually from 2003 to 2013.
12. **Appendix 3** shows the range of awards made by the Board during the period 1st May 1991 to 31st December 2013.
13. **Appendix 4** shows the accounts of the Board for the period 1st January to 31st December 2013 and for the years 2005 to 2012, for comparative purposes.
14. The Board was generally satisfied with the working of the 1990 Scheme, as amended. For 2013, funding of the Scheme was provided from the budget of the Home Affairs Department, although Article 6 of the Scheme does state that all payments made and expenses incurred will be paid out of the general revenue of the States. The Board notes that, in relation to its recommendation made in 2002, there should be an increase in the maximum award (which is currently £100,000) to £250,000, in order to bring it closer in line with similar awards made in respect of common law damages, the Minister for Home Affairs – answering an oral question asked of him in the States on 5th April 2011 – indicated that: *"In the present circumstances in which this Assembly has agreed to find cuts in existing public expenditure of the order of £65 million over 3 years and where there are significant pressures to increase public expenditure in a variety of areas, I am not able to recommend to the States an increase in the maximum award of £100,000."* It is worthy of note that, in recent years, a number of substantial awards have been made – some in the maximum sum of £100,000. Had the Board's recommendation that the maximum award payable under the Scheme be increased been implemented, and the necessary budget provided, it is likely that the award payable to some applicants who are presently limited to receiving £100,000 would have been significantly higher. The Board remains concerned that some very deserving applicants are suffering considerable hardship as a result of this failure to increase the maximum award. In relation to Article 43A of the Scheme whereby (w.e.f. 10th September 2009) awards are required to be accepted within 6 months of their notification to applicants, after which time they will lapse, one award (in the sum of £3,316) lapsed during 2012 under that provision.

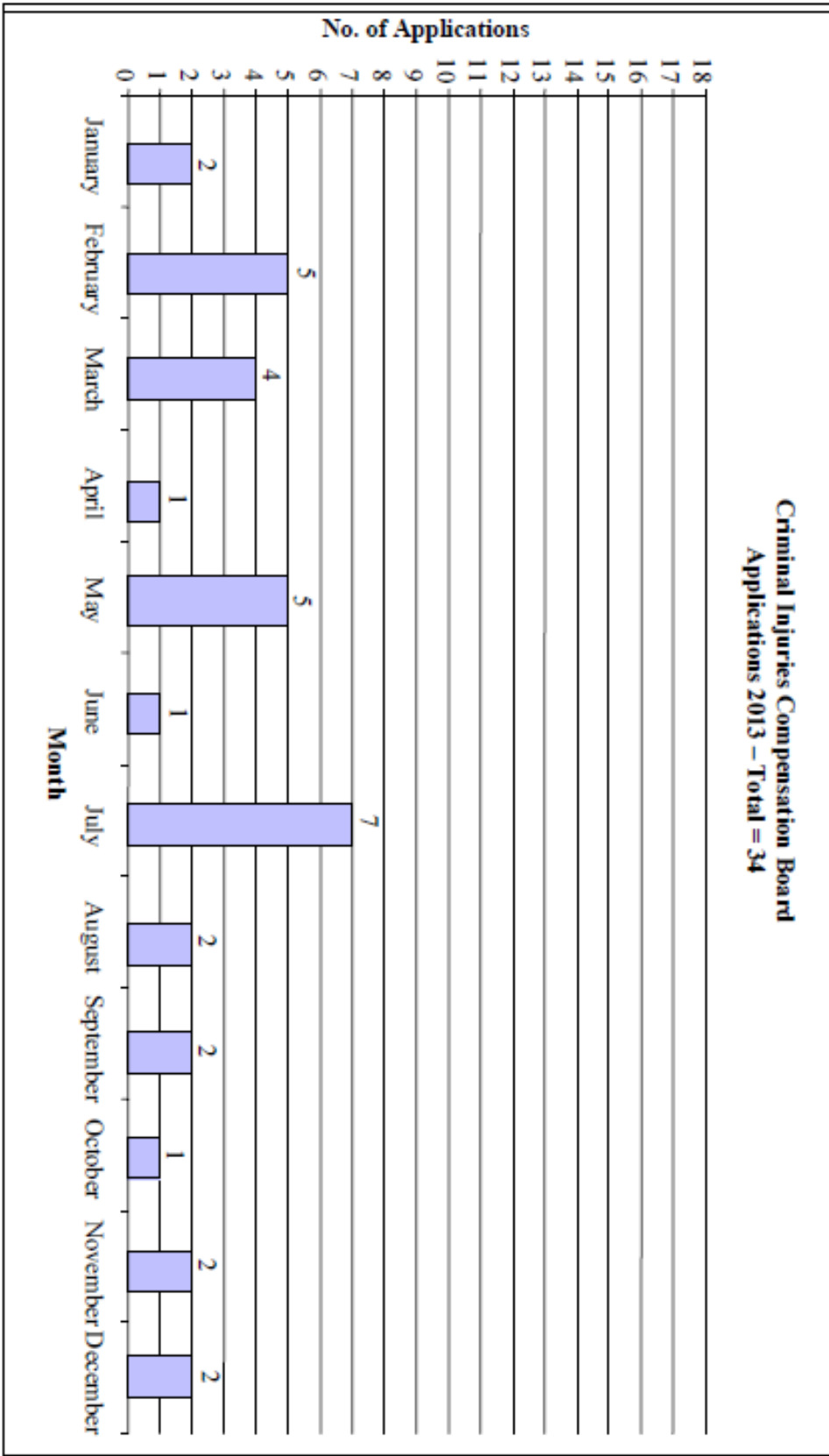
APPENDIX 1

RATE OF APPLICATIONS 1ST JANUARY TO 31ST DECEMBER 2013

Month	Received	Applications on which reports sent to Board	Applications determined	Amount awarded £
2013				
January	2	9	8	67,835
February	5	3	7	13,385
March	4	2	5	114,819
April	1	5	8	40,564
May	5	2	9	47,783
June	1	1	2	6,094
July	7	3	7	13,149
August	2	5	1	56,581
September	2	2	9	75,160
October	1	2	7	11,603
November	2	2	3	1,516
December	2	3	1	1,750
	34	39	67	450,239

NOTE: The figure for the total “Amount awarded” in this Appendix does not match the figure for the total “Compensation paid” in Appendix 4 because some awards are not paid until the following year and/or some payments relate to awards made in a preceding year.

APPENDIX 2(a)



APPENDIX 2(b)

CRIMINAL INJURIES COMPENSATION BOARD

Applications received for the period 1st January to 31st December 2013
 (and comparative figures for 2003 to 2012)

	2013	2012	2011	2010	2009	2008	2007	2006	2005	2004	2003
January	2	3	3	4	2	7	5	2	5	3	6
February	5	8	2	4	3	7	9	4	3	8	2
March	4	4	7	7	6	4	3	5	6	4	6
April	1	4	2	6	8	2	4	5	3	11	4
May	5	3	9	6	3	3	5	7	4	5	10
June	1	2	8	2	5	2	2	3	5	9	3
July	7	4	2	10	4	1	4	11	3	10	1
August	2	3	6	4	3	6	3	5	4	2	10
September	2	2	5	8	4	2	6	6	8	5	4
October	1	6	2	3	3	4	9	8	2	4	2
November	2	6	7	4	7	3	5	7	5	5	3
December	2	1	–	1	3	3	5	7	2	6	3
	34	46	53	59	51	44	60	70	50	72	54

APPENDIX 3

RANGE OF AWARDS 1ST MAY 1991 TO 31ST DECEMBER 2013

Total number of applications received = 1,439

Total number of applications determined = *1,365

nil	£1 to £999	£1,000 to £1,999	£2,000 to £2,999	£3,000 to £3,999	£4,000 to £4,999	£5,000 to £9,999	£10,000 and over	TOTAL
1991	£	£	£	£	£	£	£	£
–	–	1,706	–	–	–	–	–	1,706
(–)	(–)	(1)	(–)	(–)	(–)	(–)	(–)	(1)
1992								
–	3,901	8,160	5,452	3,886	–	5,899	–	27,298
(7)	(6)	(6)	(2)	(1)	(–)	(1)	(–)	(23)
1993								
–	3,919	8,985	17,444	6,641	–	11,500	53,084	101,573
(5)	(6)	(7)	(7)	(2)	(–)	(2)	(3)	(32)
1994								
–	10,411	8,728	14,735	9,678	17,900	28,121	–	89,573
(11)	(16)	(6)	(6)	(3)	(4)	(4)	(–)	(50)
1995								
–	10,000	8,095	2,438	10,254	17,346	13,690	–	61,823
(16)	(17)	(5)	(1)	(3)	(4)	(2)	(–)	(48)
1996								
–	13,485	18,183	28,131	20,289	9,232	48,573	131,248	269,141
(28)	(19)	(13)	(11)	(10)	(3)	(7)	(9)	(100)
1997								
–	6,608	10,557	18,216	6,825	4,500	33,178	–	79,884
(28)	(9)	(7)	(8)	(2)	(1)	(5)	(–)	(60)
1998								
–	11,896	27,984	16,412	22,338	9,047	50,272	53,320	191,269
(48)	(20)	(19)	(7)	(7)	(2)	(7)	(2)	(112)
1999								
–	10,897	16,829	19,312	9,938	–	37,360	34,744	129,080
(34)	(16)	(12)	(8)	(3)	(–)	(6)	(2)	(81)
2000								
–	11,874	14,080	15,904	20,157	13,112	35,361	180,491	290,979
(46)	(18)	(11)	(6)	(6)	(3)	(5)	(8)	(103)
2001								
–	16,035	17,367	11,920	21,084	4,612	77,468	141,400	289,886
(42)	(23)	(13)	(5)	(6)	(1)	(11)	(4)	(105)
2002								
–	11,930	13,533	19,772	6,437	13,829	27,177	38,995	131,673
(29)	(16)	(10)	(8)	(2)	(3)	(5)	(2)	(75)
2003								
–	6,465	11,133	20,390	7,612	8,485	33,883	65,715	153,683
(43)	(9)	(8)	(8)	(2)	(2)	(5)	(2)	(79)
2004								
–	4,783	10,669	19,784	13,919	31,581	67,240	93,294	241,270
(34)	(7)	(7)	(8)	(4)	(7)	(11)	(7)	(85)

nil	£1 to £999	£1,000 to £1,999	£2,000 to £2,999	£3,000 to £3,999	£4,000 to £4,999	£5,000 to £9,999	£10,000 and over	TOTAL
2005								
–	4,909	17,889	19,115	10,698	12,142	51,997	74,650	191,400
(28)	(7)	(13)	(8)	(3)	(3)	(7)	(4)	(73)
2006								
–	6,570	9,608	14,698	3,972	26,214	45,029	334,241	440,332
(27)	(9)	(7)	(6)	(1)	(6)	(6)	(8)	(70)
2007								
–	3,022	5,815	9,829	19,819	13,327	75,558	110,246	237,616
(23)	(4)	(5)	(4)	(6)	(3)	(12)	(4)	(61)
2008								
–	3,345	19,642	24,306	6,359	12,921	73,454	137,956	277,983
(23)	(6)	(15)	(10)	(2)	(3)	(11)	(9)	(79)
2009								
–	1,550	12,531	22,196	10,071	4,000	17,000	242,209	309,557
(19)	(3)	(9)	(9)	(3)	(1)	(3)	(9)	(56)
2010								
–	1,376	12,537	10,844	22,355	4,526	55,111	305,886	412,635
(25)	(2)	(8)	(5)	(6)	(1)	(8)	(5)	(60)
2011								
–	1,685	6,213	17,902	10,093	43,755	44,889	94,286	218,823
(20)	(2)	(4)	(8)	(3)	(10)	(7)	(7)	(61)
2012								
–	750	14,084	7,694	19,079	14,439	42,260	112,542	210,848
(27)	(1)	(9)	(3)	(6)	(3)	(7)	(3)	(59)
2013								
–	–	14,414	12,443	13,555	18,126	38,665	354,037	451,240
(30)	(–)	(9)	(5)	(4)	(4)	(5)	(10)	(67)
TOTALS								
–	145,411	288,742	348,937	275,059	279,094	913,685	2,558,344	4,809,272
(593)	(216)	(294)	(143)	(85)	(64)	(137)	(98)	(1,540)*
[–]	[3%]	[6%]	[7%]	[6%]	[6%]	[19%]	[53%]	[100%]
[(39%)]	[(14%)]	[(13%)]	[(9%)]	[(6%)]	[(4%)]	[(9%)]	[(6%)]	[(100%)]

N.B. The lowest award to date (other than nil) was £120, and the highest £100,000.

(Numbers in brackets represent numbers of applications. *The two figures for the total number of applications determined do not match because some applications receive elements of an award in different calendar years.)

[Numbers in square brackets represent the percentage, by amount, of the total awards made; and the square bracketed brackets represent, by category, the percentage of awards made of the total number of awards made.]

APPENDIX 4**ACCOUNTS FOR THE PERIOD 1ST JANUARY TO 31ST DECEMBER 2013**

(AND COMPARATIVE FIGURES FOR 2005 TO 2012)

	2013 £	2012 £	2011 £	2010 £	2009 £	2008 £	2007 £	2006 £	2005 £
Publications	372	259	–	373	245	409	–	261	251
Printing and stationery	–	–	–	–	–	–	323	–	–
Payment to members of the Board	30,992	25,703	16,277	20,488	16,421	25,562	17,352	19,264	22,624
Medical reports	2,548	2,872	2,609	2,944	755	2,321	565	669	1,730
Hearing costs	–	397	6	429	–	–	–	–	–
Compensation paid	478,790	305,002	208,778	375,282	323,628	315,486	182,842	418,763	180,767
Administration	28,147	28,147	28,147	28,147	27,595	–	25,955	–	25,000
TOTALS:	540,849	334,234	255,817	427,663	368,644	343,778	227,037	438,957	230,372

Notes:

- From 1995, payment to members of the Board in respect of their time spent on applications has been made at a rate of £50 an hour. Comparative figures from 2000 to date are as follows –

Year	2013	2012	2011	2010	2009	2008	2007	2006	2005	2004	2003	2002	2001	2000
Hours	581	453	397	376	400	499	290	392	432	457	209	435	495	372

- The figure for the total “Compensation paid” in this Appendix does not match the total “Amount awarded” in Appendix 1 because some payments relate to awards made in a preceding year and/or some awards are not paid until the following year.

3. The heading “Administration” was introduced in 2004, as a consequence of the decisions made during the 2004 Fundamental Spending Review process, in order to reflect the payment by the Home Affairs Department to the States Greffe of a sum representing the cost incurred by the States Greffe in servicing the Board’s administrative needs. In 2006 and 2008, in view of the pressure upon the Home Affairs budget at the time, this cost was not passed on for those years.
4. The years 2006, 2009, 2010, 2012 and 2013 saw a number of awards being made at or near the maximum permitted under the Scheme (£100,000). This led to higher than usual calls on the Scheme and necessitated a significantly increased allocation of funding to meet the awards made in those years.