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# STATES OF JERSEY



## CRIMINAL INJURIES COMPENSATION BOARD: REPORT AND ACCOUNTS FOR 2012

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Presented to the States on 21st June 2013  
by the Minister for Home Affairs

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STATES GREFFE

## REPORT

The current Jersey Criminal Injuries Compensation Scheme came into force on 1st May 1991. Consequently, 2012 saw its 21st anniversary.

### Some facts and figures...

During that 21 year period the number of applications received has varied from year to year, from 44 in 1992 (the first full year of operation) and 46 in 2012, with applications peaking in 2001 at 106 [see Appendix 2(b)]. Compensation paid to applicants increased from £45,840 in 1992 to a 'high point' of £418,763 in 2006, with a total of just over £4.3 million now having been paid. Currently, overall, 17% of all compensation (representing 37% of applications received) is paid in amounts of up to £3,000; compensation of just over 50% of the total amount has been paid to 6% of applications which have resulted in awards of £10,000 or more; whilst a further 38% of applications result in a nil award. Just under 6% of the applications received to date were from Police Officers, the majority of whom were 'on duty.' To date, a total of 118 applications (approximately 8.5% 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 and Advocate M.E. Whittaker – 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. Llewellyn and Mrs. J. Carlin. Advocate P.deC. Mourant – who had been a Board member since 1999 – and Mrs. B.M. Chiang – a lay member since 1997 – retired during the year. The Minister wishes to record his appreciation to all members of the Board for the work they have undertaken. The existing Board members were reappointed 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 short-listed, interviewed and selected by a panel comprising the C.I.C.B. Chairman and a representative from each of States Human Resources and the Appointments Commission. 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. Two new legally-qualified members will be appointed early in 2013.

#### **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 2011**

6. The Board received 46 applications for the award of compensation under the 1990 Scheme during the period 1st January to 31st December 2012. 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 2012 are as follows –

- (a) The applicant was involved in an altercation with 2 others in a car park. The incident started because of ill feeling between the individuals. What started as a verbal argument became a fight with the various individuals slapping and hitting one another. It was not possible to conclude who was the instigator of the altercation and the Board took the view that the applicant had involved himself in a situation in which he was as much the aggressor as he was the victim. It was not possible to determine with certainty who cast the first punch. Accordingly the Board concluded that the applicant was not a victim of a crime of violence and therefore was not entitled to compensation under the Scheme;
- (b) The applicant was in a bar when a fracas occurred. The applicant believed that matters were getting out of hand and thus tried to intervene, calling for the protagonist to stop, but without success. Another individual appeared and as a result of being assaulted the applicant fell backwards down some steps. He experienced intense pain in his foot and believed he had a broken ankle. At the time the applicant informed the police he did not wish to make any formal complaint about the assault. Approximately 3 weeks later he informed the police that he wished to make a formal complaint. The matter remains undetected. The Board accepted that the applicant had suffered injury, however Article 15 of the Scheme provided that the Board could withhold compensation if the applicant had not taken without unreasonable delay all reasonable steps to inform the police and cooperate with the police in bringing the offenders to justice. The Board was of the view that the initial statement that the applicant did not wish to make a complaint effectively brought the police enquiry to a halt and in such circumstances the Board was unable to make any award;
- (c) The applicant had been with family and friends in a public house. On leaving, a group of men mocked his style of dress. When he got into his car the men ran up to it and when the door was opened he was hit with a number of punches. The applicant was able to identify the assailants and the Board accepted that he was the victim of a crime of violence. He was examined at the General Hospital and it was noted

that there was a swelling to the back of the head, bruises to the face and tenderness to the right jaw. The applicant complained of emotional disturbance and distress, but did not seek any medical advice in that regard. Accordingly, the Board concluded that it was unable to make an award to the applicant since any damages would be below the minimum level of £1,500;

- (d) The applicant had been at various public houses in town and then went to a nightclub. The witness statement of the applicant and of the assailant were at variance but there was CCTV footage of what occurred and it is clear that there was a verbal altercation between the applicant and the doorman, but that the doorman then went and assaulted the applicant. The Board accepted that the applicant was the victim of a crime of violence. It was noted, however, that the applicant did not report the incident to the police for some 2 weeks and that the applicant was significantly under the influence of alcohol at the time of the incident. Accordingly a 50% deduction was made under Article 15 and the damages were reduced from £5,138 to £2,569;
- (e) The applicant was drinking with a friend in a public house when he was assaulted; the assailant was duly convicted of the assault. The applicant sustained a cut to the cheek and a fractured elbow. The fracture was slow to heal and the medical evidence was that the applicant would be left with permanent symptoms in the elbow in the form of stiffness, discomfort and limited movement. Certain (but not all) of the symptoms related to pre-existing degenerative changes in the elbow. The applicant was involved in heavy manual tasks and his ability to work was likely to be affected. As well as the claim for general damages there was also a claim for loss of earnings. General damages were awarded in the sum of £10,300 and special damages in the sum of £27,600.
7. The Board received 6 requests for hearings during 2012, all of which related to claims where the applicant had appealed against the decision of the 2-member Panel's initial award. During 2012, the Board held 8 hearings and in 4 cases, the amounts initially awarded were uplifted (one by means of an Interim Award); in 1 case, the Nil Award was upheld; and 4 cases remain unresolved with further information being sought, in respect of which further hearings will be held at a later date.
8. Of the 1,405 applications received since 1st May 1991 – 1,311 had been resolved as at 31st December 2012. Of the 94 applications in the process of resolution at the end of 2012, 6 related to hearings which remained unresolved, 21 had received awards which included an element of interim payment and 15 others had been determined which awaited acceptance by the applicant. A total of 52 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 46 applications received in 2012, 31 of those

(that is 67%) 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 2012, 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 2012 (46); and **Appendix 2(b) shows** in tabular form month by month, the total number of applications received annually from 2002 to 2012.
12. **Appendix 3** shows the range of awards made by the Board during the period 1st May 1991 to 31st December 2012.
13. **Appendix 4** shows the accounts of the Board for the period 1st January to 31st December 2012 and for the years 2004 to 2011, for comparative purposes.
14. The Board was generally satisfied with the working of the 1990 Scheme, as amended. For 2012, 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 that 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, no awards lapsed during 2012 under that provision.

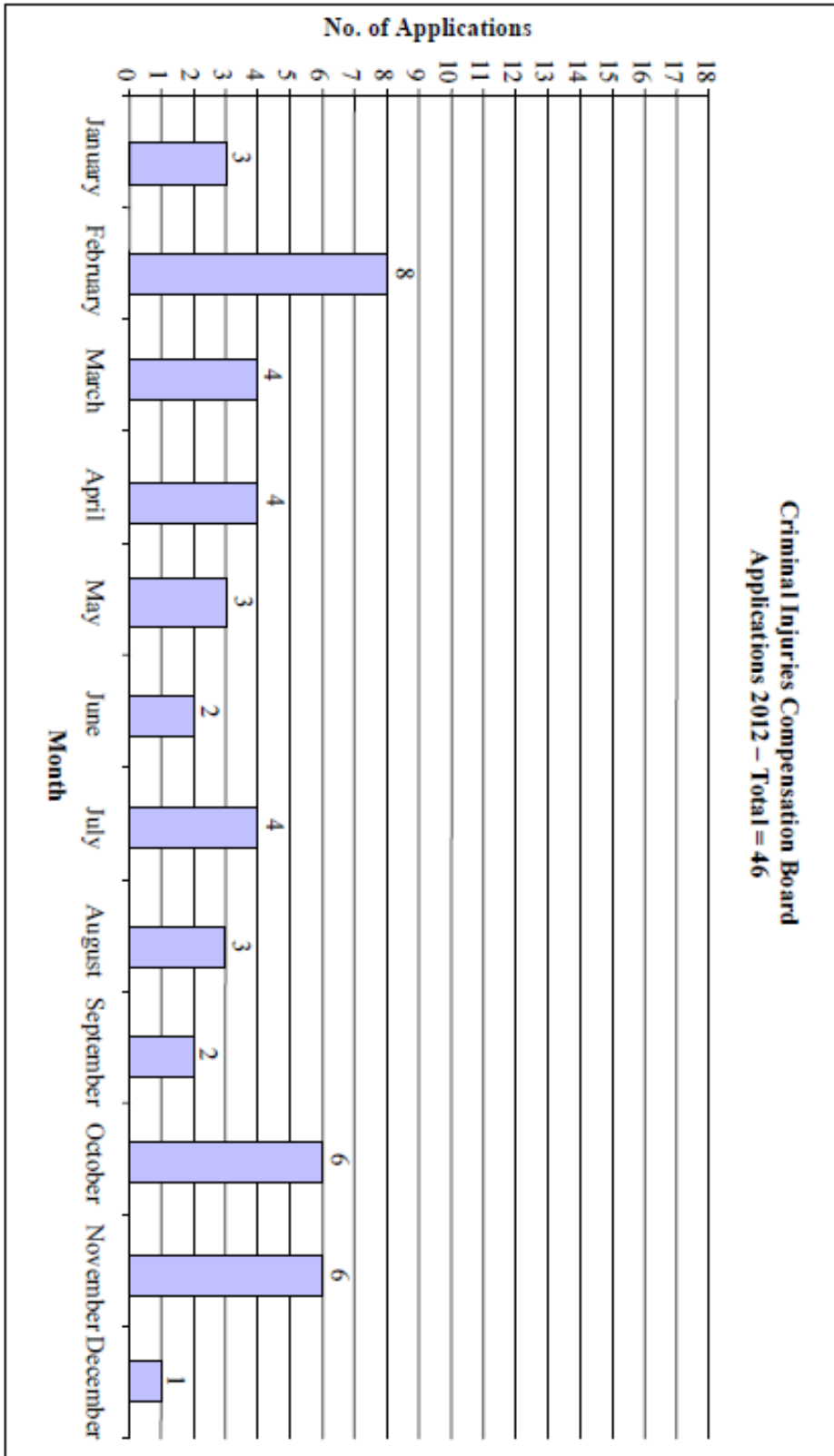
**APPENDIX 1**

## RATE OF APPLICATIONS 1ST JANUARY TO 31ST DECEMBER 2012

<b>Month</b>	<b>Received</b>	<b>Applications on which reports sent to Board</b>	<b>Applications determined</b>	<b>Amount awarded £</b>
<b>2012</b>				
January	3	2	3	10,485
February	8	4	8	28,925
March	4	3	4	78,582
April	4	3	4	4,566
May	3	5	2	6,300
June	2	1	6	38,048
July	4	3	9	12,750
August	3	5	4	8,000
September	2	2	5	9,022
October	6	5	7	5,926
November	6	3	5	6,593
December	1	2	2	1,650
	<b>46</b>	<b>39</b>	<b>59</b>	<b>210,847</b>

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 2012**  
(and comparative figures for 2002 to 2011)

	<b>2012</b>	2011	2010	2009	2008	2007	2006	2005	2004	2003	2002
January	<b>3</b>	3	4	2	7	5	2	5	3	6	7
February	<b>8</b>	2	4	3	7	9	4	3	8	2	6
March	<b>4</b>	7	7	6	4	3	5	6	4	6	7
April	<b>4</b>	2	6	8	2	4	5	3	11	4	7
May	<b>3</b>	9	6	3	3	5	7	4	5	10	4
June	<b>1</b>	8	2	5	2	2	3	5	9	3	6
July	<b>4</b>	2	10	4	1	4	11	3	10	1	9
August	<b>3</b>	6	4	3	6	3	5	4	2	10	13
September	<b>2</b>	5	8	4	2	6	6	8	5	4	6
October	<b>6</b>	2	3	3	4	9	8	2	4	2	7
November	<b>6</b>	7	4	7	3	5	7	5	5	3	10
December	<b>1</b>	-	1	3	3	5	7	2	6	3	1
	<b>46</b>	53	59	51	44	60	70	50	72	54	83

## APPENDIX 3

## RANGE OF AWARDS 1ST MAY 1991 TO 31ST DECEMBER 2012

Total number of applications received = 1,405

Total number of applications determined = \*1,311

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

<b>2004</b>								
–	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)
<b>2005</b>								
–	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)
<b>2006</b>								
–	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)
<b>2007</b>								
–	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)
<b>2008</b>								
–	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)
<b>2009</b>								
–	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)
<b>2010</b>								
–	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)
<b>2011</b>								
–	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)
<b>2012</b>								
–	750	14,084	7,694	19,079	14,439	42,260	112,542	210,848
(27)	(1)	(9)	(3)	(6)	(3)	(7)	(3)	(59)
<b>TOTALS</b>								
–	<b>145,411</b>	<b>274,328</b>	<b>336,494</b>	<b>261,504</b>	<b>260,968</b>	<b>875,020</b>	<b>2,204,307</b>	<b>4,358,032</b>
(563)	(216)	(195)	(138)	(81)	(60)	(132)	(885)	(1,473)*
[–]	[3%]	[6%]	[8%]	[6%]	[6%]	[20%]	[51%]	[100%]
[(38%)]	[(15%)]	[(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 2 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 2012

(AND COMPARATIVE FIGURES FOR 2004 TO 2011)

	2012	2011	2010	2009	2008	2007	2006	2005	2004
			£	£	£		£	£	
Publications	259	–	373	245	409	–	261	251	143
Printing and stationery	–	–	–	–	–	323	–	–	635
Payment to members of the Board	25,703	16,277	20,488	16,421	25,562	17,352	19,264	22,624	25,475
Medical reports	2,872	2,609	2,944	755	2,321	565	669	1,730	1,785
Hearing costs	397	6	429	–	–	–	–	–	157
Compensation paid	305,002	208,778	375,282	323,628	315,486	182,842	418,763	180,767	230,219
Administration	28,147	28,147	28,147	27,595	–	25,955	–	25,000	23,500
	<b>334,234</b>	255,817	427,663	368,644	343,778	227,037	438,957	230,372	281,914

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 1999 to date are as follows –

Year	2012	2011	2010	2009	2008	2007	2006	2005	2004	2003	2002	2001	2000	1999
Hours	452	397	376	400	499	290	392	432	457	209	435	495	372	379

- 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.
- 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 and 2010 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.