
STATES OF JERSEY



CRIMINAL INJURIES COMPENSATION BOARD: REPORT AND ACCOUNTS FOR 2015

Presented to the States on 26th September 2016
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 24 years which the Scheme has been in operation, the number of applications received has varied from year to year: 44 in 1992 (the first full year of operation); 39 in 2015; with applications peaking in 2001 at 106. Consequently, 2015 has seen the third-lowest number of applications received in a full year since the inception of the Scheme (2013 saw 5 fewer applications; and 2014 3 fewer applications). However, compensation paid to applicants each year has increased from £45,840 in 1992 to a 'high point' of £540,849 in 2013 (£145,512 was paid in 2015), with a total of just over £5 million now having been paid under the Scheme. Currently, overall, 16% of compensation (representing 39% 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 37% of applications result in a nil award. The overall annual average award in 2015 was £4,283 – excluding awards of £10,000 or more, the average award falls to £2,342. 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 128 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 14th April 2015 – the States adopted the current, further revised Scheme. Article 10(a) of the 1990 Act, as amended, 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 that 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 14th April 2015.

Membership of the C.I.C.B.

4. At the start of 2015, the Criminal Injuries Compensation Board comprised Advocate C.J. Dorey (Chairman until March 2015), Advocate D.J. Benest (Chairman, appointed from April 2015 for a period of 5 years), Advocates R.J. Michel and L.M. Gould (until October 2015) – (both former Chairmen), Advocates A.S. Regal (until October 2015), M.E. Whittaker, C. Hall and L.K.A. Richardson – 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 refers*] – and ‘lay’ members Mr. M.A. Payne, Mrs. C.L. Jeune (until April 2015), Dr. G. Llewellyn and Mrs. J. Carlin. The Minister wishes to record her appreciation to all members of the Board for the work they have undertaken. The terms of office of some of the remaining Board members are due to end at various times between 2016 and 2018, and those whose term of office was due to end on 30th April 2015 were re-appointed by the Minister for a further period of 6 months; and in the case of Mr. Payne, extended to 31st December 2015.

Consequently, the Chairman (Advocate Benest), together with Advocates Michel, Whittaker, Hall and Richardson, and Dr. Llewellyn and Mrs. Carlin, comprised the Board at the year-end 2015.

Vacancies for lay members are advertised in accordance with the Jersey Appointments Commission guidelines, and expressions of interest considered, leading to candidates being short-listed, interviewed and selected by a Panel comprising the Jersey C.I.C.B. Chairman and a representative from the States’ Human Resources Department and the Jersey Appointments Commission. A further vacancy for a lay member will arise in 2016, and one in 2018. 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. One further vacancy for a legally-qualified member will arise in 2017, and 2 in 2018. The Minister for

Home Affairs is presently reviewing the number of members to be appointed to the Board with a view to achieving a reduction from the 12 currently provided for under the Scheme.

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 2014

6. The Board received 39 applications for the award of compensation under the 1990 Scheme during the period 1st January to 31st December 2015. Because of the length of time it sometimes takes to finalize an award, not all applications are concluded in the calendar year in which they are received. Examples of the nature of applications and awards made in 2015 are as follows –
- (a) The Applicant was assaulted at his place of employment, where his assailant grabbed him around the throat and pushed hard around his eyes. When he arrived at Police Headquarters, reddening to the side of his face was noted, but by the time his statement was taken there were no visible injuries to be seen. Whilst the Board accepted that the Applicant had been assaulted, the consequences of the attack did not merit an award of damages in the minimum amount permitted under the Scheme.
 - (b) The Applicant was a victim of rape and, following a guilty plea by her assailant, the Board accepted that she was a victim of a crime of violence. Special Damages, including G.P.s' fees and loss of wages, amounted to almost £1,100 and the Board awarded £5,000 for General Damages.
 - (c) The Applicant was assaulted after he had left the van he was driving, brought to the ground and kicked and punched. Poor sleep and constant pain in his neck and spine, and partial paralysis of his face, slight memory loss and slight deafness was claimed, although apart from physiotherapy to assist with the neck injury there was no supporting medical evidence of any other injury. The Board accepted that the

Applicant was the victim of a crime of violence, but in the absence of corroborating medical evidence, the level of injuries fell below the minimum award, and no award could be made.

- (d) The Applicant was out with friends and was assaulted on his way to another nightclub. His assailant was subsequently convicted of a common assault and sentenced, and the Board was satisfied that the Applicant was the victim of a crime of violence. The Applicant suffered a head injury which included loss of consciousness, and the Board awarded Special and General Damages, from which was deducted 10% to take account of the fact that he had been drinking continuously during the course of the day and that his judgement was clouded in responding to a comment made by his assailant.
7. The Board received 4 requests for hearings during 2015 (all of which related to claims where the applicant had appealed against the decision of the 2-member Panel's initial award). During 2015, the Board held 3 hearings: in one case, the nil amount initially awarded was upheld; another case saw the initial nil award uplifted to £4,150; a further case remained unresolved pending the determination of a legal matter; and the remaining case was unable to proceed until the applicant had provided further information.
8. Of the 1,514 applications received since 1st May 1991 – 1,458 had been resolved as at 31st December 2015. Of the 56 applications in the process of resolution at the end of 2015, 3 related to hearings which remained unresolved, 6 had received awards which included an element of interim payment, and 14 others had been determined which awaited acceptance by the applicant. A total of 33 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 39 applications received in 2015, at least 24 of those (that is 61%) 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 those 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 2015, 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 2015 (39); and **Appendix 2(b)** shows in tabular form month by month, the total number of applications received annually from 2005 to 2015.
12. **Appendix 3** shows the range of awards made by the Board during the period 1st May 1991 to 31st December 2015.

13. **Appendix 4** shows the accounts of the Board for the period 1st January to 31st December 2015 and for the years 2007 to 2014, for comparative purposes.
14. The Board was generally satisfied with the working of the 1990 Scheme, as amended. For 2015, 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 has remained at £100,000 since 1998) to £250,000 in order to bring it closer in line with similar awards made in respect of common law damages, the then 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.”* There has been no further progress on the recommended increase.
15. 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.
16. The Minister has indicated that, as part of the ongoing review of the overall budget of the Home Affairs Department, the operation of the Criminal Injuries Compensation Scheme is to be closely examined, with a view to identifying opportunities for achieving financial savings.
17. In relation to Article 43A of the Scheme whereby, with effect from 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 2015 under that provision.

APPENDIX 1

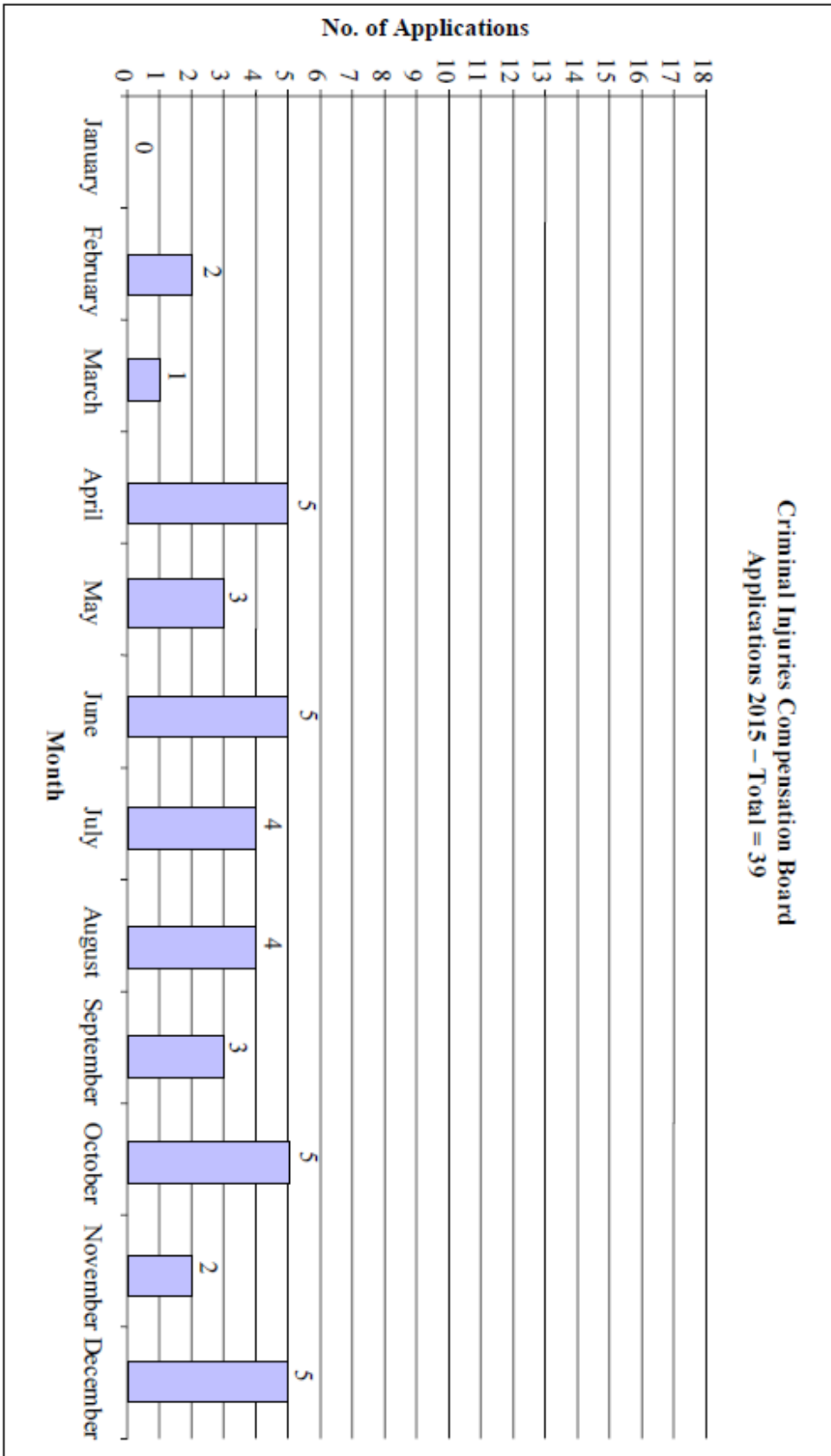
RATE OF APPLICATIONS 1ST JANUARY TO 31ST DECEMBER 2015

Month	Received	Applications on which reports sent to Board	Applications determined	Amount awarded £
2015				
January	–	–	6	23,114
February	2	3	5	15,237
March	1		8	7,751
April	5	1[+1]	1	Nil
May	3	4	3	8,461
June	5	2	6	5,170
July	4	4	5	19,403
August	4	–	1	1,732
September	3	3	2	40,157
October	5	3[+1]	5	7,502
November	2	7	3	16,198
December	5	1	1	50,000
	39	11[+2]	45	192,725

[£192,725 ÷ 45 = £4,283 – average award for 2015;
and excluding awards of £10,000+: £98,372 ÷ 42 = £2,342]

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 2015**
(and comparative figures for 2005 to 2014)

	2015	2014	2013	2012	2011	2010	2009	2008	2007	2006	2005
January	–	6	2	3	3	4	2	7	5	2	5
February	2	1	5	8	2	4	3	7	9	4	3
March	1	1	4	4	7	7	6	4	3	5	6
April	5	1	1	4	2	6	8	2	4	5	3
May	3	2	5	3	9	6	3	3	5	7	4
June	5	3	1	2	8	2	5	2	2	3	5
July	4	4	7	4	2	10	4	1	4	11	3
August	4	4	2	3	6	4	3	6	3	5	4
September	3	2	2	2	5	8	4	2	6	6	8
October	5	2	1	6	2	3	3	4	9	8	2
November	2	5	2	6	7	4	7	3	5	7	5
December	5	5	2	1	–	1	3	3	5	7	2
	39	36	34	46	53	59	51	44	60	70	50

APPENDIX 3

RANGE OF AWARDS 1ST MAY 1991 TO 31ST DECEMBER 2015

Total number of applications received =1,514

Total number of applications determined = 1,458*

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	Annual average
1991	£	£	£	£	£	£	£	£	£
0	–	1,706	–	–	–	–	–	1,706	1,706
(–)	(–)	(1)	(–)	(–)	(–)	(–)	(–)	(1)	
1992									
0	3,901	8,160	5,452	3,886	–	5,899	–	27,298	1,187
(7)	(6)	(6)	(2)	(1)	(–)	(1)	(–)	(23)	
1993									
0	3,919	8,985	17,444	6,641	–	11,500	53,084	101,573	3,174
(5)	(6)	(7)	(7)	(2)	(–)	(2)	(3)	(32)	
1994									
0	10,411	8,728	14,735	9,678	17,900	28,121	–	89,573	1,791
(11)	(16)	(6)	(6)	(3)	(4)	(4)	(–)	(50)	
1995									
0	10,000	8,095	2,438	10,254	17,346	13,690	–	61,823	1,288
(16)	(17)	(5)	(1)	(3)	(4)	(2)	(–)	(48)	
1996									
0	13,485	18,183	28,131	20,289	9,232	48,573	131,248	269,141	2,691
(28)	(19)	(13)	(11)	(10)	(3)	(7)	(9)	(100)	
1997									
0	6,608	10,557	18,216	6,825	4,500	33,178	–	79,884	1,331
(28)	(9)	(7)	(8)	(2)	(1)	(5)	(–)	(60)	
1998									
0	11,896	27,984	16,412	22,338	9,047	50,272	53,320	191,269	1,708
(48)	(20)	(19)	(7)	(7)	(2)	(7)	(2)	(112)	
1999									
0	10,897	16,829	19,312	9,938	–	37,360	34,744	129,080	1,594
(34)	(16)	(12)	(8)	(3)	(–)	(6)	(2)	(81)	
2000									
0	11,874	14,080	15,904	20,157	13,112	35,361	180,491	290,979	2,825
(46)	(18)	(11)	(6)	(6)	(3)	(5)	(8)	(103)	
2001									
0	16,035	17,367	11,920	21,084	4,612	77,468	141,400	289,886	2,761
(42)	(23)	(13)	(5)	(6)	(1)	(11)	(4)	(105)	
2002									
0	11,930	13,533	19,772	6,437	13,829	27,177	38,995	131,673	1,756
(29)	(16)	(10)	(8)	(2)	(3)	(5)	(2)	(75)	
2003									
0	6,465	11,133	20,390	7,612	8,485	33,883	65,715	153,683	1,945
(43)	(9)	(8)	(8)	(2)	(2)	(5)	(2)	(79)	
2004									
0	4,783	10,669	19,784	13,919	31,581	67,240	93,294	241,270	2,838
(34)	(7)	(7)	(8)	(4)	(7)	(11)	(7)	(85)	
2005									
0	4,909	17,889	19,115	10,698	12,142	51,997	74,650	191,400	2,622
(28)	(7)	(13)	(8)	(3)	(3)	(7)	(4)	(73)	

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	Annual average
2006									
0	6,570	9,608	14,698	3,972	26,214	45,029	334,241	440,332	6,290
(27)	(9)	(7)	(6)	(1)	(6)	(6)	(8)	(70)	
2007									
0	3,022	5,815	9,829	19,819	13,327	75,558	110,246	237,616	3,895
(23)	(4)	(5)	(4)	(6)	(3)	(12)	(4)	(61)	
2008									
0	3,345	19,642	24,306	6,359	12,921	73,454	137,956	277,983	3,519
(23)	(6)	(15)	(10)	(2)	(3)	(11)	(9)	(79)	
2009									
0	1,550	12,531	22,196	10,071	4,000	17,000	242,209	309,557	5,528
(19)	(3)	(9)	(9)	(3)	(1)	(3)	(9)	(56)	
2010									
0	1,376	12,537	10,844	22,355	4,526	55,111	305,886	412,635	6,877
(25)	(2)	(8)	(5)	(6)	(1)	(8)	(5)	(60)	
2011									
0	1,685	6,213	17,902	10,093	43,755	44,889	94,286	218,823	3,587
(20)	(2)	(4)	(8)	(3)	(10)	(7)	(7)	(61)	
2012									
0	750	14,084	7,694	19,079	14,439	42,260	112,542	210,848	3,574
(27)	(1)	(9)	(3)	(6)	(3)	(7)	(3)	(59)	
2013									
0	-	14,414	12,443	13,555	18,126	38,665	354,037	451,240	6,735
(30)	(-)	(9)	(5)	(4)	(4)	(5)	(10)	(67)	
2014									
0	465	2,257	14,746	10,637	13,081	52,052	139,042	232,280	4,740
(18)	(1)	(2)	(6)	(3)	(3)	(8)	(8)	(49)	
2015									
0	350	8,094	5,250	6,669	12,819	51,420	108,121	192,723	4,283
(20)	(1)	(5)	(2)	(2)	(3)	(8)	(4)	(45)	
TOTALS									
0	146,226	299,093	368,933	292,365	304,994	1,017,157	2,805,507	5,234,275	3,036
(631)	(218)	(301)	(151)	(90)	(70)	(153)	(110)	(1,724)*	
[0%]	[3%]	[6%]	[7%]	[6%]	[6%]	[19%]	[53%]	[100%]	
[(37%)]	[(13%)]	[(17%)]	[(9%)]	[(5%)]	[(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 2015**

(AND COMPARATIVE FIGURES FOR 2007 TO 2014)

	2015	2014	2013	2012	2011	2010	2009	2008	2007
	£	£	£	£	£	£	£	£	£
Publications	29	263	372	259	–	373	245	409	–
Printing and stationery	–	–	–	–	–	–	–	–	323
Payment to members of the Board	15,785	17,964	30,992	25,703	16,277	20,488	16,421	25,562	17,352
Medical reports	1,548	2,380	2,548	2,872	2,609	2,944	755	2,321	565
Hearing costs	–	–	–	397	6	429	–	–	–
Compensation paid	99,804	192,946	478,790	305,002	208,778	375,282	323,628	315,486	182,842
Administration	28,346	28,147	28,147	28,147	28,147	28,147	27,595	–	25,955
	145,512	241,700	540,849	334,234	255,817	427,663	368,644	343,778	227,037

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 2001 to date are as follows –

Year	2015	2014	2013	2012	2011	2010	2009	2008	2007	2006	2005	2004	2003	2002
Hours	347	311	581	453	397	376	400	499	290	392	432	457	209	435

- 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, 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.