

Početna stranica>Vaša prava>Žrtve kaznenih djela>Naknada štete>Potraživanje naknade od počinitelja

Otvoreni postupci u području građanskog pravosuđa koji su započeti prije isteka prijelaznog razdoblja nastavit će se na temelju prava EU-a. Na temelju uzajamnog sporazuma s Ujedinjenom Kraljevinom na portalu e-pravosuđe do kraja 2024. ostat će dostupne informacije povezane s Ujedinjenom Kraljevinom.

Claiming damages from the offender

Engleska i Wales

How can I claim damages or other means of redress/satisfaction from an offender in a trial (criminal proceedings), and who should I address this claim to?

In law, damages are an award, typically of money, to be paid to a person as compensation for loss or injury. These claims are generally brought in the civil courts and usually have no connection with a criminal act or offender. However, you can apply for compensation if you have been hurt in a violent crime – this would be criminal compensation which is different from claiming compensation under the civil law of tort.

Compensation orders are available to the courts to require an offender to compensate a victim financially, primarily for personal injury, loss or damage. The Government believes that it is important for offenders to make reparation for their crimes, and in recent years this regime has been strengthened by obliging courts to consider making a compensation order in appropriate cases, and lifting the £5,000 cap on compensation awards in respect of offenders aged 18 or over in the magistrates' court. The power to order compensation for victims means that courts are able to order compensation in accordance with the offender's means as a reparative measure.

If you have suffered a loss as a result of the act or omission of another person, such as loss of income, property or even personal injury, you may be able to bring a claim for compensation for this loss. Such a claim is brought in the civil courts and is entirely independent of whether there are any criminal proceedings.

At which point in the criminal proceedings should I present a claim?

A claim in tort is entirely separate from any criminal proceedings. The fact of a conviction may, however, be used as evidence in a claim in tort that the offender did what is alleged against him or her. In some cases, therefore, it may be advisable to wait until the criminal proceedings have concluded before commencing a claim in tort.

What can I ask for in the claim and how should I present it (indicate a total amount and/or specify the individual losses, lost profits and interests)?

In a civil claim, there are various heads for damages depending on the loss, damage or injury caused, but in the main you may claim for loss of money, income, damage to property and the like, or (in the case of personal injury) for pain, suffering and loss of amenity. Any award of damages is designed to place you in the same position as if the incident had not occurred. The different heads of loss should be specified.

Any award for civil damages will reduce one under the Criminal Injuries Compensation Scheme by a similar amount.

Is there a specific form for such claims?

Yes, claims in England and Wales start on a claim form, Form N1. For further information see: <https://www.gov.uk/make-court-claim-for-money>. For claims in Europe that are for money less than 5000 Euros it may be possible to use the European small claims procedure in contested matters, or the European Order for payment. Also see <https://www.gov.uk/recover-debt-from-elsewhere-in-european-union>

What evidence do I need to present to support my claim?

A civil claim requires the matters complained of to be proved on the balance of probabilities, so it will be necessary to present sufficient evidence of the defendant's conduct alleged to have caused the loss, and evidence that it did cause that loss, to meet that test. It will also be necessary to prove the amount of the loss, and the evidence necessary for that will depend on what is being claimed for, and would generally include receipts, sales bills, payslips and the like for financial loss, and medical reports for personal injury.

Are there courts fees or other costs linked to my claim?

Yes there are fees, they are dependent on the value of the claim, for more information see: <https://formfinder.hmctsformfinder.justice.gov.uk/ex50-eng.pdf>

Can I get legal aid before and/or during the proceedings? Can I get it if I'm not living in the country where the proceedings take place?

There is very limited legal aid for civil matters, and would depend on the nature of the claim. It is unlikely that there would be legal aid for an individual not normally resident in the UK. For further information please see: <https://www.gov.uk/legal-aid/eligibility> Claimants in civil proceedings are mainly represented on the basis of conditional fee agreement, often described as a "no-win, no-fee" agreement.

<https://www.lawsociety.org.uk/support-services/advice/articles/new-model-conditional-fee-agreement/>

When would the criminal court dismiss or refuse to adjudicate on my claim against the offender?

A civil claim is not brought before a criminal court at all. The matters are independent of each other.

Can I appeal against such a decision or seek other means of redress/satisfaction?

The decision to appeal a determination in a civil case will depend on the circumstances. For further information please see:

<https://www.justice.gov.uk/courts/procedure-rules/civil/rules/part52>

If I am awarded damages by the court, how do I ensure the judgement is enforced against the offender and what help can I get to ensure this?

Under the legal system of England and Wales the choice of enforcement method lies entirely with the judgment creditor. The civil courts offer a number of different methods by which a creditor can enforce a judgment in their favour. These methods include warrants of control, attachment of earnings, third party debt orders, charging orders and orders for sale. For more information please see: <https://www.gov.uk/make-court-claim-for-money/enforce-a-judgment>

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