



GUIDANCE NOTE (GN18/24)

REGULATION 20: ADJUSTMENT IN RESPECT OF PAST COMPENSATION

Purpose of Guidance

This guidance is provided to help applicants understand what may happen if they have received past compensation in respect of the same permanent disablement for which they are applying to the Victims' Payments Board (VPB).

Where an applicant is eligible for victims' payments, the VPB may adjust the amount payable when the past compensation exceeds a particular threshold (known as the exempted amount). The power to do this is contained in regulation 20 of the Victims' Payments Regulations 2020 (the Regulations).

When is previous compensation taken into account?

- The previous compensation must have been paid to the applicant for the same disablement.
- The compensation must have been paid to the applicant:
 - under any Criminal Injuries Compensation arrangements;
 - in court proceedings in respect of a claim;
 - in settlement of a claim (whether or not the claim was brought before a court);
 - or
 - under any other statutory scheme.
- Compensation which has previously been paid to an applicant will only be taken into account if this is over the exempted amount. Where the previous compensation is less than or equal to the exempted amount, no reduction can be made to the victims' payments due to the applicant.

No account will be taken of any compensation paid to the victim which has been gifted to, or forms part of an inheritance received by, a posthumous applicant (i.e. applicants applying on behalf of someone who passed away on or after 23 December 2004).

The applicant is responsible for providing details of all compensation payments made to them. The VPB will also seek information from relevant organisations including Compensation Services NI.

What is the exempted amount of compensation?

The exempted amount is calculated by the VPB based on the three steps set out in regulation 20.

Broadly speaking, the exempted amount is a figure calculated on the basis of the amount of victims' payments an applicant would have received (based on their assessed percentage of permanent disablement) if they had been receiving payments since the date of the incident.

For further information as to how the exempted amount is calculated by the VPB and examples of the exempted amount, see Annexes 1 and 2.

What can panels decide?

A panel will first consider whether it is appropriate to make an adjustment to the amount of victims' payments payable. There is no mandatory requirement under regulation 20 for a deduction to be made and a panel will have regard to the factors outlined below.

If a panel considers an adjustment is appropriate, it will then consider the amount of any adjustment. Each case will be considered on its individual merits and on a case-by-case basis.

The "exempted amount" of previous compensation received cannot be taken into account when panels are considering the amount by which to adjust victims' payments. It will only be the amount of compensation which is over the exempted amount that can be considered.

What factors will be taken into account?

When deciding whether to adjust and, if so, to what extent, panels must **have regard in particular** to:

- (a) the **amount of previous compensation** received;
- (b) the **period of time** since that compensation was paid; and
- (c) **any other factor** the Board considers to be relevant.

Other factors the Board considers relevant

A panel has a wide discretion in relation to the consideration of "any other factor" and should exercise judgement based on the particular facts and circumstances in each case to reach a fair and proportionate decision. Other factors the Board considers may be relevant include:

- the applicant's current or likely future needs arising from the disablement including:
 - health, wellbeing and disability-related needs;
 - accommodation needs;
 - equipment, services and facilities required;
 - promotion and enabling of family life;
 - need for carer/s and daily living support;
 - education, training and personal development needs;

- any current or likely future financial hardship connected to the disablement arising from the Troubles-related incident/s. This will also include applicants whose earning potential has been, or is likely to be, impacted as a result of their disablement;
- the applicant's assessed level of disablement, particularly where that is above 100%;
- the amount of compensation in excess of the exempted amount, for instance, where the excess compensation over the exempted amount is relatively low in comparison to the total compensation received, an adjustment may not be deemed appropriate;
- likely duration of victims' payments.

The above factors may not all be applicable in every case, nor is this list intended to be exhaustive. Where deemed appropriate, and in order to avoid unnecessary adjournments, a panel may seek further information and documentary evidence (where available) from applicants in respect of these factors.

How the exempted amount of compensation is calculated by the VPB

Step 1: Calculate the amount an applicant would have received had they been entitled to victims' payments from the date of the relevant incident. This is calculated as the number of weeks since the relevant incident multiplied by the appropriate rate¹.



Step 2: The amount of this payment is then adjusted for inflation using the [Gross Domestic Product deflator published by HM Treasury](#) (a) beginning with the date of the relevant incident and (b) ending with the date of the determination of the person's entitlement to victims' payments.



Step 3: A final adjustment is then made to the amount calculated under Step 1, to reflect the time value of money with reference to the [Bank of England base rate](#).

Where permanent disablement is caused by more than one relevant incident, the amount of exempted compensation is calculated by following Steps 1 to 3 for each incident and combining the figures.

¹ The appropriate rate means the rate specified from time to time in column 2 of the table in Part 2 of Schedule 1 to The Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006 (weekly rates of pensions for disabled members of the armed forces of certain ranks) corresponding to the applicant's degree of relevant disablement.

Table of exempted amounts

Broadly speaking, the exempted amount is a figure calculated on the basis of the amount of victims' payments an applicant would have received (based on their assessed percentage of permanent disablement) if they had been receiving victims' payments since the date of the incident. Therefore, the exempted amount will be higher for incidents which occurred further into the past than those occurring more recently and also for those assessed at a higher level of permanent disablement.

The following table is intended to demonstrate a range of exempted amounts of compensation based on an application being determined by a panel on 1 November 2024. The minimum exempted amount is calculated using an incident occurring on the most recent date covered by the Scheme (12 April 2010) and the maximum amount is calculated using an incident occurring on the earliest date covered by the Scheme (1 January 1966).² In this example, incidents falling between these dates would have an exempted amount between the higher and lower figures.

Degree of Disability	Minimum Exempted Amount (Incident 12/04/2010)	Maximum Exempted Amount (Incident 01/01/1966)
20%	£34,101.60	£208,515.07
30%	£51,166.31	£312,857.65
40%	£68,217.11	£417,115.18
50%	£85,267.91	£521,372.72
60%	£102,318.71	£625,630.26
70%	£119,369.51	£729,887.79
80%	£136,434.21	£834,230.37
90%	£153,485.01	£938,487.90
100%	£170,535.81	£1,042,745.44

This table is provided only as a guide as the date of determination and the date of incident will differ in each case. It serves as a useful illustration of the range of exempted amounts of compensation which previous compensation must exceed to be considered for a reduction to the award.

² The VPB may apply discretion if the incident took place outside of these dates.