



Department of
Justice

An Roinn Dlí agus Cirt

Máinnystrie o tha Laa

**Consultation on compensation for miscarriages of justice: options for
Northern Ireland statutory compensation limits.**

Contents

Ministerial foreword	3
1. Introduction	4
Privacy notice	4
Complaints.....	4
2. Background	5
3. Executive summary	5
4. Legislative and policy context.....	6
How individuals qualify for compensation	6
Overview of schemes in each jurisdiction	6
5. Legislative powers in Northern Ireland	7
6. Parliamentary context and consultation focus	8
7. Current Northern Ireland limits and caseload	8
8. Role of the Independent Assessor.....	8
9. Options for consultation.....	9
Option 1 – Retain existing Northern Ireland caps	9
Option 2 – Align Northern Ireland caps with England & Wales (implementable now)	10
Option 3 – Introduce a third cap for >20 years (requires primary legislation).....	10
Option 4 – Remove all caps (requires primary legislation).....	10
10. Summary table	11
11. Equality, human rights and rural considerations	11
12. Transitional arrangements	11
13. Consultation questions	12
14. How to respond	12
15. Use of information	12
16. Next steps	13
17. Equality screening and RNIA.....	13

Ministerial foreword

Public confidence in the justice system depends on miscarriages of justice being rare and, where they do occur, on fair and transparent redress. Northern Ireland's compensation arrangements under section 133 of the Criminal Justice Act 1988 give effect to that duty, providing financial redress to those affected while maintaining confidence in the justice system.

In October 2025, the United Kingdom Parliament approved a 30% increase to the maximum amounts of compensation payable in England & Wales, increasing the lower statutory maximum limit from £500,000 to £650,000 and the upper statutory maximum limit from £1,000,000 to £1,300,000. The Statutory Instrument implementing these changes was signed on 28 October 2025 and came into force on 29 October 2025. No public consultation was undertaken in England & Wales.

In Northern Ireland, the statutory maximum limits of compensation payable under section 133 remain at £500,000 and £1,000,000. The Department considers it appropriate to consult publicly on whether those limits should be revised. This includes consideration of whether they should be aligned with the statutory maximum limits in England & Wales and whether, in the longer term, there is a case for considering more substantive changes, such as introducing a separate provision for very long periods spent in custody. The Department must ensure that the statutory maximum awards payable under section 133 continue to strike an appropriate balance between fairness for those who have suffered a miscarriage of justice, responsible stewardship of public funds, and the maintenance of confidence in the justice system. Interested parties are invited to respond to this consultation and to provide their relevant experience and evidence.

Naomi Long

Minister for Justice

1. Introduction

1.1 This consultation seeks views on whether there should be a change to the statutory maximum limits of compensation payable in cases of miscarriage of justice under section 133 of the Criminal Justice Act 1988.

1.2 Respondents are asked to answer the consultation questions that appear in bold in **section 13** of the consultation document.

1.3 Responses to the consultation can be submitted by using the questionnaire on the Department's website at:

<https://www.justice-ni.gov.uk/consultations>

Responses can also be emailed to:

LegacyLitigationAndProjects.Unit@justice-ni.gov.uk

Alternatively, you can respond online via Citizen Space on the NI Direct website at:

<https://consultations.nidirect.gov.uk/compensation-for-miscarriages-of-justice>

1.4 This consultation is open for eight weeks. The closing date for receipt of responses is 23:59 pm on 17 August 2026. Responses received after this date are unlikely to be considered.

1.5 If it would help you to have this document in a different format, such as Braille or large print, or in a language other than English, please contact us at:

LegacyLitigationAndProjects.Unit@justice-ni.gov.uk

Privacy notice

1.6 We intend to publish a summary of the responses to this consultation on the Department's website. Any contact details that identify a respondent as a private individual will be removed prior to publication. All information will be handled in accordance with the General Data Protection Regulation and the Data Protection Act 2018. Respondents should also be aware that the Department's obligations under the Freedom of Information Act 2000 may require disclosure of responses not subject to exemptions.

Complaints

1.7 If you have any concerns about the way this consultation process is being or has been handled, please contact us at:

LegacyLitigationAndProjects.Unit@justice-ni.gov.uk

2. Background

2.1 Prior to the enactment of section 133 of the Criminal Justice Act 1988, compensation for miscarriages of justice was originally administered on a non-statutory, ex gratia basis. Awards were assessed on a case-by-case basis and were not subject to a prescribed statutory maximum. Over time, the level of awards and associated legal costs rose significantly, leading to concerns about affordability, consistency and public confidence.

2.2 In 2008, statutory maximum limits were introduced to the section 133 scheme through amendments to the Criminal Justice Act 1988. The purpose of these limits was to provide greater proportionality and consistency in awards, whilst also ensuring responsible stewardship of public funds.

2.3 As a result of the devolution of policing and justice matters in 2010, other than in cases involving protected information, responsibility for determining entitlement to compensation payable under section 133 is exercised by the Department of Justice. The amount of compensation payable in Northern Ireland mirrored that of England & Wales: an overall limit of £1,000,000 where a person has spent ten years or more in custody as a consequence of their conviction, and £500,000 in any other case.

2.4 This is the first time the Department has consulted on a miscarriage of justice policy. Given the history of the scheme and the importance of public confidence, the Department considers it appropriate to seek views on whether the existing statutory maximum limits payable in Northern Ireland should be aligned with the new statutory maximum amounts in England & Wales, and whether, in principle, there is justification for more substantive changes in a future mandate, such as a separate provision for very long periods in custody or the removal of statutory maximum awards altogether.

3. Executive summary

3.1 In Northern Ireland, compensation payable for miscarriages of justice is provided for under section 133 of the Criminal Justice Act 1988. Where the statutory test is met, compensation is payable as assessed by an independent assessor, subject to statutory maximum limits per 133A of the Act. They are:

- £1,000,000 where the individual has spent ten years or more in custody as a consequence of the conviction; and
- £500,000 in any other case.

3.2 On 15 July 2025, the Ministry of Justice announced a 30% increase to the statutory compensation limits in England & Wales (and in cases involving protected information in Northern Ireland). The new limits are:

- £1,300,000 for individuals who have spent 10 years or more in custody as a consequence of the conviction; and

- £650,000 in any other case.

3.3 These changes in England and Wales were implemented by the Compensation for Miscarriages of Justice (Alteration of Overall Compensation Limits) Order 2025 (SI 2025/1139), which was made on 28 October and came into force on 29 October 2025. The Order applies to cases determined by the Secretary of State and does not alter the statutory maximum amounts applicable to cases determined and paid by the Department of Justice in Northern Ireland.

3.4 This consultation therefore seeks views on:

- whether Northern Ireland’s statutory maximum limits should be revised, and align with the statutory maximum amounts now in force in England & Wales; and
- whether, in principle, there is justification for considering more substantive changes requiring primary legislation (such as introducing an additional statutory maximum amount for cases involving more than 20 years in custody or removing statutory maximum amounts altogether).

3.5. Such changes would require primary legislation and could only be considered in a future mandate.

3.6 Eligibility criteria and the independent role of the Assessor remain unchanged.

4. Legislative and policy context

How individuals qualify for compensation

4.1 Section 133 of the Criminal Justice Act 1988 provides that compensation for a miscarriage of justice is awarded where a person’s conviction has been reversed, or the person has been pardoned, on the ground that a new or newly discovered fact shows beyond reasonable doubt that the person did not commit the offence.

4.2 In practice, this means that not every person whose conviction is quashed will qualify for compensation. For example, an appeal may be allowed because the trial was found to have been unfair, or because evidence was wrongly admitted, without any new fact emerging that clearly demonstrates beyond a reasonable doubt that the person did not commit the offence. In such cases, the conviction is set aside but the statutory criteria for compensation is not met. Eligibility decisions are taken in consideration of the wording of section 133 and how it has been interpreted by the courts. This consultation does not propose any change to the statutory test.

Overview of schemes in each jurisdiction

4.3 Although the same basic statutory framework under section 133 applies across the UK, each jurisdiction has developed its own arrangements for administering

compensation. These differences provide important context for Northern Ireland's approach and for the options outlined in this consultation.

4.4 In England and Wales, the Secretary of State for Justice decides if a person is eligible for compensation. The amount of compensation to be paid is decided on an individual basis by an independent assessor. Following the 2025 Order, those statutory maximum amounts are set at £1,300,000 for cases involving 10 years or more in custody and £650,000 in any other case.

4.5 In Scotland, Scottish Ministers are responsible for deciding compensation for miscarriages of justice. While the underlying statutory basis is similar, there are currently no statutory overall amounts of compensation that may be awarded. Each case is assessed individually, and awards are made on a case-by-case basis by reference to the particular circumstances, guided by civil-damages principles and relevant case law.

4.6 In the Republic of Ireland, compensation for miscarriages of justice is provided on an administrative, *ex gratia* basis rather than under a specific statutory scheme equivalent to section 133. The Government may make awards, usually following advice from an independent assessor or advisory committee, and there are no fixed statutory maximum amounts or prescribed monetary limits. This model provides flexibility but is different in nature from the statutory schemes operating in the UK.

4.7 Northern Ireland applies the statutory maximum limits introduced in 2008:

- £500,000 (<any other case);
- £1,000,000 (≥10 years).

4.8 Since devolution in 2010, these amounts have not been amended.

4.9 The Department may alter the amounts of the statutory maximum limits by statutory rule, subject to the draft affirmative procedure.

5. Legislative powers in Northern Ireland

5.1 Section 133A provides for the Department to alter the statutory maximum limits for eligible Northern Ireland cases by statutory rule, subject to Assembly approval under the draft affirmative procedure.

5.2 The Department's powers are limited to modifying the monetary value of the existing statutory maximum limits.

5.3 Structural changes would require primary legislation.

5.5 This consultation seeks views both changes the Department can implement immediately and on whether there is justification for considering longer-term options requiring primary legislation.

6. Parliamentary context and consultation focus

6.1 During the House of Commons debate on 20 October 2025, several themes were highlighted that are relevant to Northern Ireland.

6.2 Members noted that statutory maximum limits had not been uplifted for many years. The 30% uplift was described as necessary to ensure fair and meaningful redress.

6.3 Members also stressed the need to respect devolved structures while maintaining coherence across the UK. Northern Ireland's unique post–Good Friday Agreement sentencing and release context means custodial periods over twenty years are comparatively rare.

6.4 Members highlighted the need for public confidence, proportionality and fiscal responsibility.

6.5 The importance of consistency across compensation frameworks, including Armed Forces arrangements in England & Wales, was noted.

7. Current Northern Ireland limits and caseload

7.1 Current limits:

- £500,000 (any other case)
- £1,000,000 (≥10 years)

7.2 These statutory maximum limits have remained unchanged since introduction.

7.3 The number of applications for miscarriages of justice in Northern Ireland is comparatively small, usually less than five each year.

7.4 The size of Northern Ireland's caseload means potential financial implications of raising caps are proportionately significant to fewer cases than in England & Wales.

8. Role of the Independent Assessor

8.1 In eligible cases, the Department has a statutory responsibility under section 133 of the Criminal Justice Act 1988 to appoint Independent Assessors for the purposes of determining the level of compensation payable. Independent Assessors for miscarriage of justice compensation are drawn from the Government Senior Panel (GSP). Cases are allocated on a rotational basis where that is possible, and subject to there being no conflicts of interest identified in respect of the particular case.

8.2 The Assessor's role is to consider the individual circumstances of each case and to quantify the financial and non-financial loss suffered by the applicant as a result of the wrongful conviction and imprisonment. In doing so, the Assessor applies principles comparable to those used in civil litigation, including:

- loss of past and future earnings and impact on career progression;
- loss of pension rights;
- physical or psychological injury and the broader impact on health and wellbeing;
- damage to reputation and standing;
- disruption to family life and personal relationships; and
- reasonable expenses incurred as a result of imprisonment and its consequences.

8.3 The Assessor produces a reasoned assessment setting out how the award has been calculated. The Department then implements the Assessor's determination, subject to the statutory overall limits and any applicable rules on the treatment of other payments. The Department does not itself calculate or adjust the Assessor's figures. This separation between the independent assessment of loss and the Department's administrative role is intended to promote objectivity, transparency and public confidence in the scheme.

8.4 This consultation does not propose any change to the role, independence or methodology of the Independent Assessor. The focus is on the level and structure of the statutory maximum limits within which the Assessor's awards operate.

9. Options for consultation

Option 1 – Retain existing Northern Ireland caps

- £500,000) (any other case)
- £1,000,000 (≥10 years)

Advantages:

- Stability and predictability
- No cost increase –.
- No legislative change required

Disadvantages:

- Divergence from England & Wales
- Perception that limits are outdated

Option 2 – Align Northern Ireland caps with England & Wales (implementable now)

- £650,000 (any other case)
- £1,300,000 (≥10 years)

Advantages:

- Maintains parity
- Supports public confidence
- Implementable via statutory rule

Disadvantages:

- No separate provision for very long custodial periods
- Some stakeholders may consider uplift insufficient

Option 3 – Introduce a third cap for >20 years (requires primary legislation)

Advantages:

- Recognises exceptional impact of very long custody
- Very limited NI caseload makes cost manageable

Disadvantages:

- Requires primary legislation
- Threshold decisions could create boundary issues and owing to small case numbers may never be used.
- Would require development in a future mandate

Option 4 – Remove all caps (requires primary legislation)

Advantages:

- Maximum flexibility
- Individualised awards
- Aligns more closely with Scotland

Disadvantages:

- Less predictable cost profile particularly with regard to legal fees.
- Increased scrutiny around proportionality
- Requires primary legislation

10. Summary table

Category	Current NI overall limit	Option 2 (alignment with E&W)	Option 3 (third cap – primary legislation)	Option 4 (no caps – primary legislation)
Any other case	£500,000	£650,000	As per Option 2, with additional 20+ tier	No overall limit
10 or more years' custody	£1,000,000	£1,300,000	As per Option 2, with additional 20+ tier	No overall limit
More than 20 years' custody	No separate provision	Included within above	Separate higher overall cap (level to be consulted on; would require primary legislation)	No overall limit

11. Equality, human rights and rural considerations

11.1 The proposals do not alter eligibility criteria or the Assessor's methodology.

11.2 Equality screening under section 75 has been carried out. No significant adverse impacts were identified.

11.3 A Rural Needs Impact Assessment has been completed. No specific rural needs were identified.

11.4 The scheme will continue to operate consistently with human-rights obligations.

12. Transitional arrangements

12.1 Any amendments to the statutory maximum limits will be on a prospective basis other than in cases in which assessments are underway but have not concluded. For the avoidance of doubt, any revised limits would apply only to determinations made on or after the commencement date, regardless of when the application was submitted.

13. Consultation questions

Respondents are invited to address any or all of the following questions. Please provide reasons and any evidence or examples where possible.

Q1. Do you consider that the current Northern Ireland statutory maximum limits (£500,000 and £1,000,000) remain appropriate? If not, why not?

Q2. Do you agree that Northern Ireland should align its overall statutory maximum limits with those now in England & Wales (£650,000 and £1,300,000 – a 30% uplift)? Please explain your reasons.

Q3. If you do not agree that Northern Ireland should align with England & Wales, what alternative maximums (if any) would you propose for the statutory awards, and why?

Q4. Do you consider that there is a case, in principle, for a separate statutory maximum limit for cases involving more than 20 years' custody in Northern Ireland, recognising that this would require primary legislation and could not be introduced quickly? Please explain your reasoning.

Q5. Do you consider that there is a case, in principle, for removing statutory maximum limits entirely in Northern Ireland, recognising that this would require primary legislation? Please explain your reasoning.

Q6. Are there any operational, legal or other considerations (for example, in relation applications, legal costs, or public confidence) that the Department should take into account in developing any future proposals?

14. How to respond

Opening date: 22 June 2026

Closing date: 17 August 2026

Responses may be submitted by:

- Email: LegacyLitigationAndProjects.Unit@justice-ni.gov.uk
- Post: Block 2, Knockview Buildings, Stormont Estate, Belfast, BT43SJ

Alternative formats are available on request.

15. Use of information

15.1 Responses will be handled in accordance with data-protection legislation.

15.2 The Department intends to publish a summary of responses to this consultation on its website. Any contact details that identify a respondent as a private individual will be removed prior to publication.

15.3 Respondents should be aware that the Department's obligations under the Freedom of Information Act 2000 may require that any responses not subject to specific exemptions under the Act may be disclosed to other parties on request.

16. Next steps

16.1 Following the end of the consultation period, the Department will analyse the responses received and provide advice to the Minister.

16.2 Subject to the Minister's decisions and the agreement of the Northern Ireland Executive and Assembly where required, the Department will bring forward any necessary legislation and/or guidance changes

17. Equality screening and RNIA

The policy proposal to amend the statutory maximum compensation limits for miscarriages of justice under section 133A of the Criminal Justice Act 1988 in Northern Ireland has been screened for any impact on equality of opportunity and a rural needs impact assessment has been carried out.

The equality screening concluded that there would be no significant implications for equality of opportunity and therefore an equality impact assessment is not required. The rural needs impact assessment did not identify any specific rural needs.