

# Children's Compensation Counts

-Minor settlements, major problem for young people in Northern Ireland-

**Closes on 24<sup>th</sup> September 2021**

*We have outlined various and appropriate points below to this Consultation.*

*Please include those which you agree with in your submission. It's important that each submission is an independent response so we would encourage you to add additional thoughts / experiences / examples to your submission.*

## **1. Should Government legislate to compel court approval of settlements of compensation for children in cases in which legal proceedings have not issued?**

YES!

- This is vital to ensure fair and just compensation of minors
- The right amount of compensation goes to the right person (the minor) and is held in court funds until they reach the age of 18 – regardless of the amount.
- That minors receive an adequate sum that compensates fully for the damage caused.
- This will protect the injured minor's funds, ensuring that they are still available when the child reaches 18
- That medical records and potential future issues for the child due to the initial injury are considered
- The engagement of medical and legal experts to ensure compensation is appropriate.
- A minor's compensation is protected, regardless of the sum
- A minor's right to compensation is protected in law until such times as they need to access those funds.
- It should be made mandatory that a judge decides on an adequate sum that compensates the injured child
- Currently the law does not protect in settlement rights of children in all cases and changes to legislation to compel court approval in all minor settlements of compensation would protect this
- This change has already been called for by Lord Justice Gillen in September 2017. In his review of Civil Justice in Northern Ireland, Lord Justice Gillen proposed new legislation to compel a requirement for court approval in all legal cases involving a settlement or award of damages to minors.

- The current system allows for insurance companies to decide the sum and directly advise the injured child's parents / guardians. This is not fair or reasonable and leaves the system open to abuse and parents/ guardians open to claims against them for not protecting the child's interests.
- There are many examples where injured children in Northern Ireland are not receiving adequate protection for the compensation for their injuries.
- The rights of children are protected in law.

**Question 2 (to be completed if you answered 'yes' to Question 1):**

**2(a) Should legislation place a duty to obtain court approval (in cases in which legal proceedings have not issued) on one of the parties (a compensator or a parent) and invalidate compensation paid to a child without court approval?**

**Please give reasons, including which of the parties and why.**

YES!

- This is to ensure the right amount of compensation is awarded to the minor by an independent party – the Court – and to protect the funds awarded in all cases
- This will ensure compensation for minors is regulated and fair in ALL cases
- This will deliver an impartial and protected compensation sum for the minor which will be accessible when they reach 18
- As this is not currently mandatory, in many cases, minor compensation claims are settled directly between the insurance company and parent/ guardian of the injured child without important information such as medical reports
- Legislation to place a duty to obtain court approval by one of the parties will avoid the potential of abuse of the law, which the current legal position allows for
- This legislation will ensure the right amount of compensation goes to the right person
- It will also help to protect parent/ guardians in ensuring that they have secured the right amount of compensation for their child as the amount of compensation will have been approved by a Court

**2(b) How could or should such a duty be enforced?**

- By a change to legislation
- All insurance companies must register claims for minors and seek approval from the Court
- All compensation claims awarded to a minor should be protected by the Court until the minor reaches the age of 18

**2(c) Should such legislation apply to all such settlements or only those above a financial threshold?**

- We believe that ALL settlements of compensation for a child, regardless of the sum of compensation involved, should be approved by the court and the funds managed under the direction of the court until the child reaches the age of 18.
- Legislation should apply to ALL settlements regardless of the value and age of the child.
- It is each injured child's compensation and should be duly protected regardless of the value
- It is not for the Courts or Profession or Insurance industry to surmise how valuable a sum of money is from one person to the other as this can change significantly based on the child and circumstances