



NORTHERN IRELAND OFFICE  
GREAT GEORGE STREET,  
LONDON SW1P 3AJ

William Rickett Esq  
10 Downing Street  
LONDON SW1

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Dear Willie

You asked for a note on the articles in last Friday's Guardian about compensation to the widows of the soldiers killed at Warrenpoint on 27 August 1979 and, in a separate case, to former \*            \* (not named by The Guardian) who was injured at Newry on 13 September 1977.

Under the Criminal Injuries (Compensation) (Northern Ireland) Order 1977 compensation is payable to anyone injured as a result of violence in Northern Ireland, and to the dependants of anyone killed as a result of that violence. For injuries, compensation is based on the loss of the injured person's past and potential future earnings - taking account of potential promotion, for example - together with an element for the pain and suffering experienced. These earnings are then netted against the additional benefits which become payable and the result is converted into a lump sum.

For fatal injuries, the compensation payable to dependants is, again, based on the deceased's past and potential future earnings, but the compensation in this case also takes account of the degree of financial "dependency" that is established. For a widow, this means working out what her late husband's net earnings were and might have become, and assessing what proportion (80 per cent is a typical result) would have been devoted to the surviving dependants. Against the net earnings are then set the additional benefits to which she becomes entitled by way of social security payments and gratuities, pensions etc from her late husband's employer. If the net earnings exceed the additional benefits received then the difference is converted to a lump sum: and if the difference is substantial then it is usual to make interim payments while the final settlement is being arrived at.

A In the case of injuries, the position of dependency does not arise: we work out the position of the injured person. One other possible point of difference: because any final settlement reached cannot be re-opened, it may well be in the claimant's interests not to reach that position until some considerable time after the injury was suffered, simply to ensure that the medical condition has stabilised, the extent and the effects of the injuries can be fully established, and the prospect can be fully assessed. (This can be a source of distress of which we are well aware: the injured person's tendency is to want to have his claim settled as quickly as possible, so that it will for him at least cease to be a matter of uncertainty. It is not

always easy for officials to put this over and we have to rely a good deal on the tact and persuasive powers of the claimant's family, friends, and professional advisers. In the meantime, of course, interim payments can be, and regularly are, made).

For widows of service non-commissioned officers and other ranks who have children, the position is that the net extra benefits received may exceed their late husbands' net earnings calculated as I have described. If so, then only the discretionary payments provided for under the 1977 Order are available: this is a maximum of £5000 for the widow and £500 for each child, and the maximum is in practice almost invariably paid. In such circumstances it is usually possible to agree final payments without the need to offer interim payments (as happens more often in injury cases).

This is the background. The thrust of the criticisms in The Guardian article is that:

- a. the claims in both cases have taken too long to settle and the delay is the consequence of "official bungling" particularly by the NIO; and
- b. the compensation offered was inadequate and the manner of the offer was complicated and insensitive.

We agree with The Guardian on why the widows' claims have taken longer than they should: we do not agree with a great deal else. So far as 'a' is concerned the NIO had by early 1980 obtained sufficient information to be able to conclude, necessarily provisionally, that the discretionary payments only were likely to be payable to six of the widows. The office at this stage told the solicitor acting on their behalf of the position as we saw it and after discussions with him had by August 1980 made available, in writing, the relevant calculations and the information to back them, to ensure that the widows' interests were being safeguarded. The matter has since then effectively been in the solicitor's hands though we have made it clear that we want to see the claims properly and fairly settled and have given all the necessary help and information we can.

As to 'b', the six are all widows of NCOs or private soldiers and all have one or two children. As I have explained, in these circumstances compensation under the 1977 Order may be limited to the discretionary awards. Because of the time that had passed, the office did decide in July to make an interim award to each of the six up to the amount of their maximum discretionary award. It conveyed this formally to the solicitor in the terms normally used for interim payments and these do contain safeguards covering the possibility of refunding (which can arise even with discretionary awards). If this has served to confuse or upset the widows, that is something we very much regret: we were already checking at the time to see if the risk of this happening again could be avoided.

There is not a lot to add on \*~~~~~\* It is quite true that his claim has not yet been finally settled and that he has in

\*~\* Passages deleted and closed, 40 years,  
under FOI Exemption. 2.

Wayland, 2 October 2012

the meantime had three interim payments totalling £12,000. I have explained why this may be thought to be in his interests. To the best of our knowledge this is the view taken at the moment by both the solicitor and counsel acting on his behalf.

Yours sincerely  
Mike Hopkins

M W HOPKINS

# Ambush widows still wait for payments

By David Pallister

A MUCH-HERALDED compensation deal for the widows of soldiers killed in Northern Ireland has proved — after nearly four years — to be fraught with delays, misunderstandings and official blunders.

Two years after 18 soldiers were blown up by the Provisional IRA at Warrenpoint on August 27, only one of the nine widows has had her full claim settled. She is the wife of Lieutenant Colonel David Blair, commanding officer of the Queen's Own Highlanders, who has received a substantial sum, according to the Northern Ireland Office.

The other eight women, whose husbands in the Parachute Regiment ranked from private to major, have been offered an "interim" payment of £5,000. Six received this only within the last few days, one has declined the

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Guardian Extra, page 5;  
Sterility and death in the  
Maze, page 15

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offer and another has not yet decided whether to accept.

Their final claims, which are being handled by Carrickfergus solicitor, Mr Terence Shiels, are unlikely to be finished before the end of October.



The delay is causing concern not only to the widows, but also to senior Army officers and Ministry of Defence officials. Colonel Jim Burke of the Parachute Regiment, who has been closely involved with the negotiations, said: "I can't say I am happy with the progress. I would have wished it had been tied up sooner, but I don't want to go into the details."

Two years ago the Army set up a new legal services unit to handle cases where there was unlikely to be any dispute, rather than farm them all out to solicitors. The move was too late for the Warrenpoint widows but a Ministry spokesman said that theirs were the sort of cases which the unit could deal with.

The Ministry said that the establishment of the unit was no reflection on the way compensation cases had been handled previously.

The reasons for the delays begin with the convoluted phrasing of the Criminal Injuries (Compensation) (Northern Ireland) Order 1977. This was introduced by the former Labour Secretary

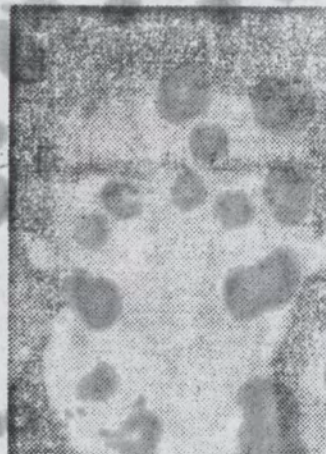
Mrs Karen England, whose soldier husband was killed at Warrenpoint, with daughter Caroline, aged 3

for Northern Ireland, Mr Merlyn Rees, after a series of embarrassing newspaper reports about some widows getting no compensation while known terrorists were getting high awards.

Under previous legislation, the Criminal Injuries to Persons (Compensation) Act (Northern Ireland), 1968 a widow received the difference, if any, between her husband's likely earnings over the next 15 years and the income she received from the Army, gratuities, pension and child allowances and the DHSS war widows' pension. In many cases, particularly for the lower ranks, widows turned out to be better off and ineligible for compensation.

The new order gave the Secretary of State discretion to pay each widow £5,000, plus £500 per child up to a total of £7,000. The Northern Ireland Office which deals with the claims through its Criminal Injuries Division says that in practice all

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Doctors were trying to save the life of IRA hunger striker Patrick McGeown (pictured above) last night after his family agreed to medical intervention to halt his rapid deterioration. He was in the 42nd day of his fast at the Maze prison when he was taken to hospital. Earlier, the hunger strike claimed its tenth victim, Mickey Devine.

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# Warrenpoint widows still waiting for compensation

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widows receive this full discretionary minimum amount.

This, on the face of it, appears to involve a fairly straightforward set of calculations. But over the Warrenpoint widows, matters took a more complicated course.

The Northern Ireland Office in Belfast said that the women were offered the £5,000 last summer but they rejected it in the belief that it was a full, final offer. Three of the women interviewed said that they all discussed it among themselves on the telephone and decided the amount was inadequate. One described it as "insulting."

Mrs Karen England, aged 24, who lost her husband, Robert, said: "We were given no explanation about the 1977 scheme. If we had

been told at the time that it was an interim payment we would have accepted it."

Mrs Carol Giles, whose husband, Corporal John Giles, was one of the 16 Paras killed, said: "Nothing was really explained to us. The solicitor came over last July or August and he said we might lose it if we fought."

In July this year, pressure from the Ministry of Defence obliged the Northern Ireland Office to renew the offer, this time described as an interim payment in view of the lapse of time. But the women were also asked to sign an undertaking that "should the final settlement be less than the total of any amount now advanced or to be advanced subsequently, she will refund the amount overpaid to the Secretary of State."

The Northern Ireland

Office now agree that the undertaking was an insensitive mistake and should not have been called for.

The new "interim" offer clearly held out the promise of more to come. In a letter to Mrs England on July 9 Mr Shiels wrote: "We are confident that we shall be able to establish a substantial figure of dependency and obtain appropriate compensation."

At the same time Mr Shiels told her that he had employed a London firm of specialist accountants, Binder Hamlyn, to carry out a full assessment on her claim — nearly two years after the Warrenpoint explosions. The fees were to be paid by the Airborne Forces Benevolent Fund — an arrangement which was made with the help of the Parachute Regiment's Colonel Burke.

Six of the women agreed

to accept the offer four weeks ago. But, on the basis of earlier cases and an examination of one of the women's cases, the optimism about getting much more than the offer appears to be exaggerated.

Carol Giles, who lives in Stockton-on-Tees, has two children, so she will get £6,000. As a corporal, her husband's income would have been £6,428. Her two pensions with their child allowances comes to £6,782. In addition, she received a gratuity of £6,464 from the Army, a further lump sum of £1,616, and a short pension for the first three months — the equivalent of her husband's wages.

Taken over a period of 15 years, it is probable that her husband would have risen higher up the ranks, but even this addition to the

equation would not substantially increase her entitlement to compensation.

Mr Julian Critchley, the Conservative MP for Aldershot, who has taken up the women's cases, would like to see the £5,000 index-linked. He is also pursuing the case of an injured Royal Military policeman, whose story appears on page five.

This policeman, a sergeant, is also represented by Mr Shiels. He has now been waiting four years for a final claim to be presented for serious burns that devastated his life. He has suffered a nervous breakdown, partly, he says because of his anxiety over his claim, and is now unemployed.

Tentative estimates put his final compensation anywhere between £35,000 and £60,000. So far he has received £12,000, largely to cover his expenses in pursuing the claim and the cost of moving his house to be near the military hospital in Aldershot.

## Agreement