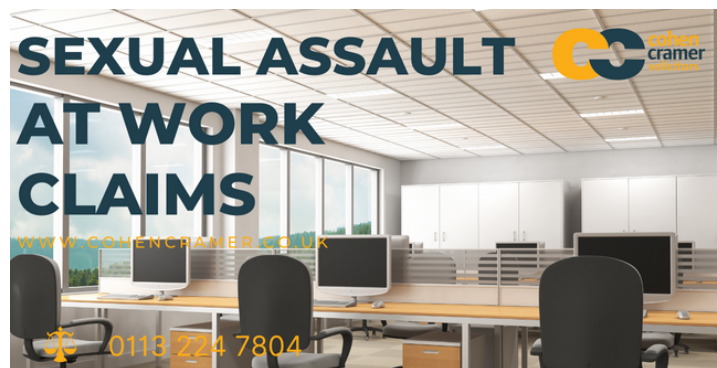


# Advice and assistance for the victims of rape and sexual assault at work.

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**Sexual Assault at Work.** If you have been the victim of rape or sexual assault by a colleague or co-worker, then Cohen Cramer can advise you as to whether you may be entitled to claim compensation.

In certain circumstances, you are entitled to seek compensation from your attacker's employer. If this is not possible, you can seek an award of damages and compensation either direct from your attacker or from the Criminal Injuries Compensation Authority (CICA).

Whichever is the most appropriate way to recover compensation we can help you and we can usually do so on a no-win no-fee basis.

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## Claim for rape and or sexual assault by a colleague or employer:

If you have been the victim of rape or sexual assault by a colleague, co-worker or employer then we can help you claim the compensation to which you are entitled.

Sexual assault at work can take many forms; anything from inappropriate touching to rape falls within the category of sexual assault. Even though in many ways the sexist office culture which was more prevalent many years ago is less common, there are still some who feel that 'office banter' and 'just a bit of fun and a laugh' is an excuse for groping and sexual harassment: It is not and such behaviour is not to be expected nor tolerated in the workplace. If you have been a victim of such behaviour in the past three years you can look to claim for the psychological impact that this has caused you.

In many situations, an employer is responsible for the negligent actions and deliberate wrongdoing of their employees if the employee in question was acting in the course of the furtherance or development of the employer's business; this means that if an employee does something wrong while carrying out their job their employer may be responsible.

## Vicarious liability in claims for sexual assault at work

This responsibility for the actions of an employee is known as **vicarious liability** and while it is obvious and clear-cut in some circumstances it may be difficult to apply in others.

When considering whether an employee should be held vicariously liable for the actions of their employee we need to look at the 'relationship' between the attacker and the victim.

If a manager, senior member of staff, trainer or similar were to abuse their position and sexually assault a colleague then the employer may well be responsible for their actions.

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An example is when a junior member of staff is plied with drink while away at a residential conference and then sexually assaulted by somebody more senior. In this scenario, the employee would have a good claim against their employers under the concept of vicarious liability as the more senior member of staff is clearly abusing his or her position.

Remember, no matter how intoxicated you are, regardless of whether it was through choice, pressure or spiking, sex or sexual contact without your consent is an assault. It is never your fault.

By contrast, if an office junior were to ask another office junior for a date and then outside of office hours and away from the workplace, they were to assault them, the employer would not be liable as the assault was not facilitated by the attacker's employment. The fact they work together does not in itself make the employer liable.

There are many variations of this scenario and in reality, each case will turn on its own facts. It is right, however, that the assault is never your fault. Being drunk at a work's party does not give your attacker any right to assault you. A manager has no right or place in offering promotions or favourable working conditions in return for sexual favours.

It may be that the assault occurred in such a manner that your attacker's employers cannot be regarded as being vicariously liable. In a situation like this, you can bring a civil claim directly against your attacker. However, the main problem with such a course of action is making sure that the party we were planning to bring the claim against has sufficient assets (savings, property, assets, pensions etc.) to pay not only your damages but also legal fees and those of any solicitor they may instruct to represent them. In some cases, this can run into tens of thousands of pounds and unless the Defendant has the financial means to satisfy any award of damages and costs, then it may not be proportionate to bring a claim.

In addition, especially in the absence of a criminal conviction, the perpetrator may well deny liability which ultimately could lead to you having to attend court to give evidence in support of your claim. This may well be necessary for a claim against an employer, but experience shows

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that claims against an individual tend, in the absence of a conviction, to be defended as the defendant has a lot more to lose on a personal basis than your employer's insurance company.

## **Applying to the Criminal Injuries Compensation**

### **Authority**

The Criminal Injuries Compensation Authority (CICA) is a government-funded organisation which makes payments to the victims of violent crime. This includes the victims of rape and sexual assault.

If your employer is not vicariously liable or your attacker does not have sufficient assets to satisfy the claim, you may wish to consider making an application to the CICA.

The CICA has certain requirements with which you must comply before they will consider making a compensatory award.

The incident or incidents must be reported to the police promptly and the application has to be made within two years of either your 18th birthday, the date of the assault or the date you reported the matter to the police if not done so immediately. Again, a bit like the limitation period in civil claims, the CICA is more generous with the implementation of these rules when it comes to claims for sexual assault and rape.

The levels of payment made by the CICA on a tariff basis and are not as generous as the levels of award made in a civil claim.

The CICA does not require an arrest nor a conviction to allow an application to be made and like with the civil courts, the CICA uses a burden of proof based upon the balance of probability. In essence, the CICA will consider the facts and determine whether "is it more likely than not" that the incident occurred as you have stated.

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It is possible to run a civil claim side-by-side with an application to the CICA. However, if the civil claim is successful any award made by the CICA must be returned to them up to a maximum level of the compensation you received in your civil claim.

## What can I claim for and what can I look to recover by way of compensation?

As a victim of rape or sexual assault, you are entitled to seek recovery for your physical and/ or mental injuries as well as any financial losses or costs that have resulted as a result of the incident(s) and your injuries.

We appreciate that no amount of money can take away the pain and the hurt that can result from being the victim of such a crime. However, compensation can help you move on, with your life.

Incidents of assault can be traumatic and life-changing; we understand this and will make sure that you receive compensation, not only for the physical act but also for any long-term psychological effects of the assault. These can include stress, anxiety, worry, post-traumatic stress disorder (PTSD) and many other issues and problems that may result from what happened.

If you have become pregnant or developed any sexually transmitted infections as a result of the attack again, you will receive compensation for such.

In a claim for rape or sexual assault: your compensation will consist of what is known as **'General Damages'**. General Damages are compensation for your pain, suffering and loss of amenity (PSLA). Loss of amenity reflects how your injuries have affected your way of life.

The level of compensation you will recover is based upon how the assault has affected you, not how others feel you should behave or react in such a situation.

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**General Damages** cover the physical and mental injuries resulting from the assault upon you. Each case turns on its own facts.

The level of compensation will depend entirely upon the nature of the assault and how it has affected you as an individual.

In addition, we can recover damages in relation to any costs or losses you may have incurred as a result of the assault:

- lost income for treatment or recovery as well as any long-term absence from work that may result from the incident(s)
- the cost of any treatment or counselling you may need
- all and any other financial losses that may arise

To see how we can help get in touch with us today:

- Call: Mike Massen on 0113 224 7830
- email [rasa@cohencramer.co.uk](mailto:rasa@cohencramer.co.uk)

All calls are in complete confidence and we will advise you as to whether we can deal with your claim on a 'no win, no fee' basis.

## **FAQ on Sexual Assault at Work**

### **I feel that I was bullied into having sex with my boss – can I make a claim?**

You can still be a victim if you were coerced into giving your consent. This could be the offer of promotion in return for sex or the refusal of promotion if you don't agree to sex. If a position of

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power is abused, then there may be a claim for compensation. It will be necessary to show that there was some element of coercion used.

## **I haven't reported the attack to the police – can I still make a claim?**

Yes, there does not have to be a criminal prosecution for you to bring a civil claim. To prove a civil claim there is a lower burden of proof so you only must show that it is more likely than not that the incident occurred as you say.

## **My attacker was taken to court but found not guilty, can I still make a claim for compensation?**

In short, the answer is 'yes'. A criminal court requires a jury to be satisfied 'beyond all reasonable doubt' that the accused committed the crime whereas a judge sitting in a civil court only needs to be convinced on a balance of probability that it is more likely than not that the assault occurred as you claim.

## **I went for a drink with a colleague after work and they raped me – can I claim?**

In this situation, you can bring a claim against your attacker personally, but you may have difficulties holding your employer vicariously liable.

For your employer to be responsible for the actions of their employees it will be necessary to establish a link between the duties of the employee and the assault. This can include a manager

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using their position to orchestrate a situation where the assault can occur e.g. taking a junior staff member on a training course and then plying them with drink.

## **I got drunk at a works party and was attacked by an unknown party on my way home – can I claim?**

You may be entitled to make a claim to the Criminal Injuries Compensation Authority (CICA) as a victim of violent crime, but it is unlikely that your employers would be liable unless it can be shown they had been negligent in looking after you.

## **The assault occurred five years ago can I still claim?**

You have three years from your 18th birthday or three years from the date of assault or the date of your knowledge of the assault (you may have been drugged and had no knowledge of the assault to sometime after) to bring your claim. This is known as the limitation period.

The courts do have the discretion to extend this limitation period in some circumstances and can be more sympathetic to the victims of sexual assault and rape:

The courts will look at the evidence and see, whether it would be unjust to refuse or allow the claim to proceed. When making a claim outside of the limitation period, it can assist if the party you are alleging committed the assault has been convicted of the attack as this can be used as evidence that the assault occurred and cannot later be contested.

## **How long will my claim take?**

It is difficult to give any accurate timescale as each case is different and depends upon your circumstances and those of the claim.



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For a no-obligation assessment of your claim get in touch with us now and we will be happy to discuss the matter with you.

## **What will it cost to bring my claim?**

If we believe your claim has sufficient prospects of success we will be happy to deal with it on a no-win, no-fee basis. This means that provided you comply with our agreed terms and conditions, if your claim is not successful then you don't pay a penny for the work we have done on your behalf.

To see if we can help you on a no-win, no-fee basis get in touch with us now.

- call: mike massen on 0113 224 7804
- email: [rasa@cohencramer.co.uk](mailto:rasa@cohencramer.co.uk)



## Mike Massen, Director

Mike qualified as a solicitor in 1991 and since then has worked exclusively in the field of Personal Injury.

Over the years Mike has helped thousands of victims to recover compensation following their accidents and incidents. This dedication to helping people who have been wronged has developed his expertise in sexual assault and rape claims.

Mike is a member of the Association of Child Abuse Lawyers (ACAL) and a Fellow of the Association of Personal Injury Lawyers (APIL).

Mike's main role within our team is to advise at the outset as to a client's options and what can be done to assist. He also ensures that clients are comfortable with the way their claims are to be run and that they fully understand what is likely to happen during the life of their claim. Your claim will then be passed to one of our Solicitors to deal with on your behalf.



## Kelly Prydderch, Solicitor

Kelly is a Solicitor with over 20 years of experience in handling personal injury claims. Kelly deals with all aspects of personal injury work from serious road traffic collisions and trips in the street, right through to assaults and accidents in the workplace.

Kelly has a passion for supporting innocent victims who have been seriously injured through no fault of their own, she is able to compassionately guide them through the legal process and advise them without using complicated legal language. Her knowledge and experience allow her to obtain positive results time and time again for her clients.