

Submission to the
Royal Commission into Institutional
Responses to Child Sexual Abuse

Issues Paper 7:
Statutory Victims of Crime
Compensation Schemes



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About Bravehearts Inc.

Our **Mission** is to stop child sexual assault in our society.

Our **Vision** is to make Australia the safest place in the world to raise a child.

Our **Guiding Principles** are to at all times, do all things to serve our Mission without fear or favour and without compromise and to continually ensure that the best interests and protection of the child are placed before all other considerations.

Bravehearts has been actively contributing to the provision of child sexual assault services throughout the nation since 1997. As the first and largest registered charity specifically and holistically dedicated to addressing this issue in Australia, Bravehearts exists to protect Australian children against sexual harm. All activities fall under 'The 3 Piers' to Prevention; Educate, Empower, Protect – Solid Foundations to Make Australia the safest place in the world to raise a child. Our activities include but are not limited to:

EDUCATE

- ◆ Early childhood (aged 3-8) 'Ditto's Keep Safe Adventure' primary and pre-school based personal safety programs including cyber-safety.
- ◆ Personal Safety Programs for older children & young people and specific programs aimed at Indigenous children.

EMPOWER

- ◆ Community awareness raising campaigns (Online and Offline) including general media comment and specific campaigns such as our annual national White Balloon Day.
- ◆ Tiered Child sexual assault awareness, support and response training and risk management policy and procedure training and services for all sectors in the community.

PROTECT

- ◆ Specialist advocacy support services for survivors and victims of child sexual assault and their families including a specialist supported child sexual assault 1800 crisis line.
- ◆ Specialist child sexual assault counselling is available to all children, adults and their non-offending family support.
- ◆ Policy and Legislative Reform (Online and Offline) - collaboration with State Government departments and agencies.

Bravehearts Inc. is a National organisation, it is a registered Public Benevolent Institution, registered as a Deductible Gift Recipient, operates under a Board of Management and is assisted by State based Community Regional Committees, Executive Advisory Committees and a Professional Finance Committee.

Introduction

As an agency that works with, and advocates for, survivors of child sexual assault we regularly and continue to provide support and referral for clients who have sought financial compensation through a range of avenues. This experience and anecdotal accounts from our clients allow Bravehearts to identify the common themes and limitations that are regularly raised by our clients when they interface with statutory victims of crime compensation schemes

Bravehearts believes that compensation processes are important mechanisms to assist survivors of child sexual assault achieve appropriate levels of financial redress as well as access to crucial services, including mental health and medical. It is particularly important for these individuals to receive appropriate compensation, given the lifelong, wide-ranging effects of child sexual assault often on their adult lives.

Impact of Child Sexual Assault on Survivors

Any discussion on financial compensation and redress for survivors of child sexual assault must include an understanding of the complex effects of the sexual exploitation of children.

Childhood trauma can impact on children's development across a range of domains including physical, emotional, social and cognitive (Lamont, 2010). Child sexual assault has also been linked with long term poor mental health outcomes, with those who experienced child sexual assault at greater risk of mental health issues (Tarczon, 2012).

There are a number of well researched and documented long term impacts of child sexual assault affecting adult survivors. Individuals with a history of child sexual assault are at an increased risk for:

- mental illness
- substance abuse
- homelessness
- suicidality
- revictimisation, including domestic violence and sexual assault
- parenting difficulties, and
- health issues.

Diagnoses of anxiety, depression and personality disorders are common in adults with a history of child sexual assault (Hillberg, Hamilton-Giachritsis & Dixon, 2011; Manglio, 2010; Spila, Makara, Kozak & Urbanka, 2008). Long term psychopathology of 2,759 Australian children who were sexually assaulted between the years of 1964 and 1995, were evaluated 12 to 43 years after the assault occurred (Cutajar et al. 2010). Findings revealed that 22% of individuals who had experienced child sexual assault later accessed public mental health services, in comparison to only 7% of those in the control group.

The authors identified that child sexual assault increased the likelihood of experiencing psychosis, mood and anxiety disorders, substance abuse and personality disorders.

Fargo (2009) examined factors influencing sexual revictimisation for survivors of child sexual assault. There are direct links between individuals who have adolescent risk taking behaviour and sexual revictimisation and indirect links between poor early childhood family environments and childhood physical abuse and sexual revictimisation. Those with poor early childhood family environments have an increased vulnerability to adult sexual revictimisation. Consistent with this, women with a history of child sexual assault are three times as likely to experience domestic violence (Tarczon, 2012).

A literature review by Wilson (2010) identified that adult survivors are more likely to suffer from depression, obesity, autoimmune disorders (for example, asthma or irritable bowel syndrome), eating disorders and addictions.

Childhood trauma has been linked with a number of negative outcomes in later adult life, including abuse and dependence of alcohol and other substances. The literature suggests that child sexual assault survivors may use substances as a coping mechanism or form of self-medication for the assault. As many as 62-81% of adult women in drug abuse treatment have reported childhood abuse or neglect, compared to the general population rates of less than half that estimation (Min, Farkas, Minnes, & Singer, 2007). Further, Lown, Nayak, Korcha and Greenfield (2011) concluded that there were greater levels of alcohol consumption, in individuals with a history of child sexual assault than those who had no sexual assault history.

Victims of Crime Compensation



All Australian states and territories have legislation providing for statutory victims' of crime compensation. In some jurisdictions these schemes are established in broader legislation that also encompasses other measures to support victims, including framing compensation through broader fundamental principles of justice for victims.

Appendix A includes a summary of the key features of the eight separate statutory schemes that currently exist. From even a cursory review of this table, the issues and inequity that arise for victims of child sexual assault are clear. Victims can expect a different outcome depending on which State or Territory the assaults occurred in; for example the range varies from State to State from a maximum capped amount as low as \$30,000 to a compensation cap of \$100,000. Similarly, in some States you must bring the claim within 12 months, others you have 3 years. Each piece of legislation also includes differing standards of proof.

Child sexual assault, regardless of where it occurs geographically, often has a significant impact on the victim. Bravehearts would argue that it is more appropriate to have a National approach and consistency on this issue to reduce complexity and the inequity that currently exists for victims.

Some of the stated objectives of statutory victims of crime compensation include:

- to provide assistance (or support and rehabilitation) to victims of crime;
- to assist victims of crime to recover from the crime; and
- to give statutory recognition to victims of crime and the harm that they suffer from criminal offending.

Victims' compensation schemes are seen as enhancing the efficacy of criminal justice systems by encouraging victims of crime to come forward and prosecute perpetrators. Like restitution orders, victims' compensation schemes provide a more informal and efficient forum than civil litigation. They are also more effective in that victims have access to a pool of dedicated funds, whereas restitution from an offender depends upon the offender's capacity to pay.

Compensating victims of crime has been part of a wider policy trend encompassing increased recognition of the impact of crimes more generally on victims. The general values underlying compensation for victims are articulated in the preamble to the United Nations *Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power*, that state that victims endure "harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights". The Declaration also includes that State should endeavour to provide financial compensation to such victims and secondary victims, where needed.

In addition, in recognition of the many barriers facing victims in civil claims, the recent 2013 *Betrayal of Trust* report recommended to the Victorian government a review of its

government funded compensation scheme, including contributions from non-government organisations where the harm was committed:

“The Committee recommends that the Victorian Government review the functions of the Victims of Crime Assistance Tribunal (VOCAT) to consider its capacity to administer a specific scheme for victims of criminal child abuse that:

- enables victims and families to obtain resolution of claims arising from criminal child abuse in non-government organisations
- is established through consultation with relevant stakeholders, in particular victims
- encourages non-government organisations to contribute a fee to administer the scheme
- ensures non-government organisations are responsible for the funding of compensation, needs and other supports agreed through the process”.
(*Betrayal of Trust*, volume 1, page xlv).

Statutory Victims of Crime Compensation Schemes: Response to Issues Paper 6



1. What are the advantages and disadvantages of statutory victims of crime compensation schemes as a means of providing redress or compensation to those who suffer child sexual abuse in institutional contexts?

There are a number of identified advantages and disadvantages of statutory victims of crime compensation schemes:

Advantages

- Can provide victims with avenues to specialist therapy;
- May provide for a broad range of services for victims;
- Some schemes may provide for the opportunity to relocate people if unsafe;
- The capacity to treat each individual offence separately and to compensate for individual offences;
- Provides funding for secondary victims affected by the crime;
- Are a less formal mechanism for victims to access compensation for harm experienced;
- Provides a recognition of the harm experienced by victims and secondary victims of crime;
- Provides an avenue for compensation where an offender may not have the capacity to pay restitution; and
- Can provide for a more timely and efficient process
- Provides a non-adversarial process
- To provide an avenue for compensation

Disadvantages

- Amounts that are capped do not necessarily reflect the harm experienced or the needs of the client;
- Time limits can be a barrier to bringing claims;
- Eligibility criteria can be complex;
- Lack of uniformity across each state and territory;
- Implementation is somewhat difficult can take extended periods to approve some over 6 months, others assessed in shorter timeframe;
- Right of appeal is almost nil;
- In Queensland, the exclusion of offences that occurred prior to the implementation of the 2009 legislation is problematic for child sexual assault claims;
- Schemes often have a focus on physical harm and evidence for victims to attain intermediate funding approval and this is not always available or appropriate in child sexual assault matters as there will not often be physical damage as would exist in a common assault matter; and

- Forms to access compensation are often onerous may require multiple signatories.

We thoroughly support statutory schemes. Similar to our submission on redress schemes (Issue Paper 6), we would suggest that there be fundamental guiding principles needed to ensure a scheme that is effective for victims. These are discussed under Question 2.

In Queensland the experiences of our therapeutic services in assisting clients with their applications under the *Victims of Crime Act 2009* has been frustrating. In addition to the time-consuming process of completing lengthy forms, clients have experienced long delays (in some cases more than 6 months) before receiving an assessment outcome. While Bravehearts understands the need to ensure adequate assessment of applications, to lessen the chance of ineligible compensation claims being granted, for victims of sexual assault, the immediacy of support is crucial and compensation is often the only means by which victims can access that support.

Experience has also shown that assessment for interim assistance to allow victims access to services and support as soon as possible after the sexual assault is overly focused on providing medical care and based on evidence of physical harm. In matters of child sexual assault we know that there is often no physical evidence. Financial support for access to specialised therapeutic services for victims of child sexual assault is critical and all too often we find that clients are unable to access interim assistance while their full claim is being assessed.

We have also unfortunately had a recent case where a client's offender had been convicted with the offence and yet the victim's claim under the Queensland legislation was denied. We are still following up with Victim Assist Queensland for this client. Inconsistencies and unjust decision making is concerning and victims may experience such processes as re-traumatising. Schemes that do not allow victims a right of appeal over decisions are extremely problematic.

A number of our clients have experienced issues with the impact of changes that went through in New South Wales in 2013, one significant impact was the maximum amount of compensation that can be received. .

Ann (not her real name) reported to Bravehearts that she currently has a claim proceeding in New South Wales. The changes under the *Victims Rights and Support Act 2013* mean that the maximum amount that she may receive is now \$10,000. In addition, Ann's experience is that the impact on the victim's overall life is not given consideration under this Scheme.

2. What features are important for making statutory victims of crime compensation schemes effective for claimants?

In line with our submission on redress schemes (Issue Paper 6) we would suggest that there be fundamental guiding principles needed to ensure a scheme that is effective for victims.

- *Timeliness of decision making*: decision-making in relation to applications under statutory schemes must be timely. When victims come forward it is vital that support to meet immediate needs is available.
- *Clear, simplified eligibility criteria*: determination of claims under a statutory system should be based on a lower burden of proof than required in civil proceedings. For example, as recommended in the *Forgotten Australians* report (2004), determination of claims should be based in the 'reasonable likelihood' that the harm occurred.
- *Provision of interim payments*: providing for immediate costs, including physical (e.g. need to relocate), medical and therapeutic support
- *Higher caps*: the maximum amount payable needs to be considered and appropriate to harm done and the long-term impacts of child sexual assault.
- *Assistance for secondary victims*: often secondary victims, including victims' families, witnesses and others who support them, may also experience loss and the impact of the harm committed against the primary victim.
- *Uncomplicated application process*: over complicated and lengthy forms can be traumatic and act as a disincentive for victims and has in our experience resulted in significant backlogs with assessment.
- *Consistency*: legislation across States and Territories should provide a consistent approach for victims of sexual assault.
- *No limitation period*: claimants should be able to seek financial assistance/compensation, regardless of when the sexual assault or abuse occurred
- *No-fault scheme*: rather than claimants having to exhaustively prove they suffered sexual assault or abuse, claimants should only be required to submit relevant police records of complaint and expert medical/counselling reports.
- *Legal representation*: Victims should be entitled to free, or subsidised and capped, independent legal advice under the statutory scheme so they have the opportunity to be appropriately advised of their rights and obligations.

3. Are there elements of statutory victims of crime compensation schemes, as they currently operate, that raise particular difficulties for claims by people who suffer child sexual abuse in institutional contexts? For example:

- a. some schemes have time limits and discretionary provisions to extend the time limits to make claims;**

As discussed in Bravehearts' previous submissions on civil litigation and redress schemes, when the *statute of limitations* is considered in the context of child sexual assault, it is argued that the traditional balance between the rights of the alleged offender and the survivor, and those of society, should be altered in

favour of the survivor and more particularly that no limitation period should apply.

It is Bravehearts' stance that in cases involving the sexual assault of children, the application of any limitation provisions to deny adult survivors of sexual assault or abuse access to redress is theoretically, practically and morally unjustifiable. Bravehearts supports recommendations in the *Betrayal of Trust* Inquiry in Victoria that civil limitation periods be abolished in relation to criminal child abuse matters, and specifically child sexual assault. However, if this is not adopted, at the very least the limitation periods should be extended to reflect the average time at which adults disclose their childhood sexual assault. For example, the relevant statutes could be modified to legislate for a limitation period of 25 years from date the cause of action accrued.

b. all schemes have caps on payments;

Arbitrary statutory caps, seen in current schemes, often compensate a victim for well below what is appropriate to the type of crime and the long term impacts. While we understand the need to set maximum payments, the process of both determining the cap and determining payments must be transparent.

Statutory scheme caps must reflect the true impacts of the crime and the needs of victims.

c. some schemes have lower caps on payments for offences committed earlier in time and one scheme does not apply to offences committed before 1971;

Knowing that many victims of child sexual assault do not come forward for some time after the offence has occurred, Bravehearts' position is that it is unjust to lower the maximum compensation payment or not provide for historical matters. The long term impacts of child sexual assault are just as devastating as the short-term impacts and limiting statutory compensation due to the hurdles victims face in disclosing is unreasonable. .

Survivors of child sexual assault face enormous barriers in disclosing. The impacts of child sexual assault typically mean that the victim does not disclose until they feel safe to do so, and this frequently does not occur until some time has passed.

In Queensland, the Project Axis survey found that of 212 adult survivors:

- 25 took 5-9 years to disclose it;
- 33 took 10-19 years; and
- 51 took over 20 years.

Where the perpetrator is a relative, research shows an even more prolonged process. A Criminal Justice Commission analysis of Queensland Police Service data found that of 3721 reported offences committed by relatives:

- 25.5% of survivors took 1-5 years to report the acts;

- 9.7% took 5-10 years;
- 18.2% took 10-20 years, and
- 14.2% took more than 20 years.

(Professor Ben Mathews, 2003)

Having been, in many cases, completely disempowered by an offender, the psychological consequences of child sexual assault have far reaching consequences: shame and guilt can often mean that survivors are unable to disclose until parents have passed away; many survivors are simply not ready to disclose as they may still be processing the psychological trauma and impacts of the sexual assault; and victims may experience post-traumatic stress disorder`

d. some schemes require that the act of violence or offence be reported to the police, or require an explanation if not reported to police; and

It is important to recognise that many victims find the process of reporting to police traumatic and difficult.

As stated under Question 2, Bravehearts would recommend that the determination of claims under statutory schemes should establish a lower burden of proof than required in civil proceedings. As recommended in the *Forgotten Australians* report (2004), determination of claims should be based in the 'reasonable likelihood' that the harm occurred.

Examples of documents that may be used to assess claims could be:

- Medical records
- Mental health records, including psychology or counselling reports
- Records of time spent in care or in an institution, including formal and informal records
- Copies of any police statements or child protection reports.

e. most schemes require repayment of victims' compensation if the recipient later receives compensation from another source (e.g. via damages or settlement in civil litigation).

Bravehearts' position is that any financial compensation already received should be taken into consideration in later claims, but should not be a barrier to making claims through another source, including damages or civil litigation.

Issues our clients have experienced with having to repay (for example, having to reimburse Medicare for counselling sessions) are more often around the lack of clarity around the conditions to repay.

4. What changes should be made to address the elements of statutory victims of crime compensation schemes that raise particular difficulties for claims by people who suffer child sexual abuse in institutional contexts?

The disadvantages outlined above under Question 1 need to be addressed in ensuring that statutory schemes are appropriate and effective for victims of child sexual assault. These included:

- Amounts that are capped do not necessarily reflect the harm experienced or the needs of the client;
- Time limits can be a barrier to bringing claims;
- Eligibility criteria can be complex;
- Lack of uniformity across each state and territory;
- Implementation is somewhat difficult can take extended periods to approve some over 6 months, others assessed in shorter timeframe;
- Right of appeal is almost nil;
- In Queensland, the exclusion of offences that occurred prior to the implementation of the 2009 legislation is problematic for child sexual assault claims given time frame for disclosures being often lengthy periods;
- Schemes often have a focus on physical harm and evidence for victims to attain intermediate funding approval and this is not always available or appropriate in child sexual assault matters as there will not often be physical damage as would exist in a common assault matter; and
- Forms to access compensation are often onerous may require multiple signatories.

5. What forms of redress, including services and payments, should be offered through statutory victims of crime compensation schemes?

Types of assistance that can necessarily need to be supported through statutory victims of crime compensation schemes include:

- Interim assistance
- Counselling costs
- Medical expenses
- Relocations costs, including school fees and costs where relocated
- Loss of earnings
- Rent
- Incidentals
- Legal advice, relating to the application
- Recognition payments

6. To what extent, if any, should those who suffer child sexual abuse in institutional contexts be eligible for additional or different compensation and services, compared to victims of other crimes? Why?

There is a need to acknowledge the different impacts resulting from sexual harm in an institutional setting. Sexual assaults that take place in institutional contexts are often regular in occurrence and occur in a confined community over a prolonged period with no opportunity for escape, making the dynamics of the offending and often the impacts different to one off acts of sexual violence.

Where the harm occurred in an institutional setting, one issue with statutory victims of crime compensation schemes is the dispersal of responsibility away from the institution. As discussed in our previous submission to Issues Paper 6, victims of sexual assault need to know that the responsibility of the institution where the sexual assaults and abuse occurred is preserved. Reports of low levels of contribution by religious institutions to the Irish redress scheme, was seen by many victims as further evidence of the responsible institution not acknowledging responsibility.

Many of Bravehearts' clients who have experienced sexual harm in institutional settings have stated that the most important aspects of an overall compensation package is the recognition of the harm done to them, including an apology. This is alongside sufficient financial compensation and access to services that provide them with the means to improve their wellbeing and that are relevant to their specific needs.

One of Bravehearts clients, who is a Forgotten Australian and part of the Stolen Generation, has made the following observations and recommendations for the Royal Commission:

- Many people who were institutionalised have not been taught the basic social skills that are necessary to day to day living and this is an area that should be addressed
- Educational standards were not met as they grew up and therefore many are unemployable – so they need to have some basic literacy and numeracy skills which needs to be government funded
- For many people from the Stolen Generation and Forgotten Australians do not have a next of kin and many find this triggering to have to kept saying that they don't have any family. Close friends experience similar symptoms are aren't readily available in an emergency
- Gold Cards for Stolen Generation and Forgotten Australians similar to veteran affairs should be able to provide for:
 - Priority access to medical assistance
 - Redemption of doctor fees
 - Assistance with the purchase of invalid aids
- Help for PTSD such as is provided for the Army.

7. Are the levels of verification or proof required under statutory victims of crime compensation schemes appropriate for claims by those who suffer child sexual abuse in institutional contexts?

As stated under Question 3(d): It is important to recognise that many victims find the process of reporting to police traumatic and difficult.

Bravehearts would recommend that the determination of claims under statutory schemes should establish a lower burden of proof than required in civil proceedings. As recommended in the *Forgotten Australians* report (2004), determination of claims should be based in the 'reasonable likelihood' that the harm occurred.

Examples of documents that may be used to assess claims could be:

- Medical records
- Mental health records, including psychology or counselling reports
- Records of time spent in care or in an institution, including formal and informal records
- Copies of any police statements or child protection reports.

In relation particularly to interim compensation, there is a heavy focus on evidence of physical injuries for the provision of immediate medical support, but with child sexual assault, there is often a lack of physical evidence and injury with the more pressing need for therapeutic support.

Additional Comments

In addition to our response to Issue Paper 7, provided above, we would like to provide the following additional considerations:

- We reiterate the five fundamental principles to ensure effective response and support for victims of institutional sexual assault, covered in our previous submission to Issues Paper 6, as outlined by the Law Commission of Canada (2000). These are:
 1. The provision of all information needed for survivors to make informed choices on what course of redress to undertake.
 2. Access to counselling and support for survivors undertaking the process of redress.
 3. Training for all of those managing the redress process (including judges and lawyers) to ensure that those responsible for the conduct of the scheme have an understanding of the dynamics and impacts of sexual assault on survivors.
 4. Persistent review and modification needed to improve redress schemes
 5. Every effort needs to be made to ensure that the process of redress does not cause further harm to survivors.
- The need to consider making it compulsory for those in the Foster Care System to be reviewed for eligibility under any statutory compensation scheme. We know from past Inquiries into foster care settings that foster children are often

disadvantaged and given limited family financial support available, access to funds could be beneficial for meeting their basic future needs such as access to study, employment skills, and accommodation.

- The need to provide targeted and specialised support to marginalised groups in terms of access to, and appropriateness of, the statutory schemes and any unique circumstances that require further adaptation of the statutory schemes in place for these groups.
- Resourcing for the schemes needs to be appropriate so it is accessible and meets the needs of victims.
- Ensure there is appropriate awareness and support for victims about the availability of statutory compensation, eligibility criteria and process.
- Consideration should be given to whether a statutory scheme should be managed by government or if it should be managed by an external, independent body.

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Appendix A: Table of Statutory Schemes



TABLE OF AUSTRALIAN STATUTORY VICTIMS COMPENSATION SCHEMES

Jurisdiction	NSW	VIC	TAS	SA	WA	NT	QLD	ACT
Eligibility criteria: Who is a victim?	<p>Primary victim - suffers injury or death as a direct result of an act of violence/trying to arrest someone/in trying to prevent an act of violence/trying to aid or rescue someone who is a victim of an act of violence</p> <p>Secondary Victim – suffers injury as a result of witnessing an act of violence or becoming aware of an act of violence (if a parent of a primary victim who is a child) where the primary victim</p>	<p>Primary victim - suffers injury or death as a direct result of an act of violence/ trying to arrest someone/in trying to prevent an act of violence/ trying to aid or rescue someone who is a victim of an act of violence</p> <p>Secondary Victim – suffers injury as a result of witnessing an act of violence or becoming aware of an act of violence (if a parent of a primary victim who is a child)</p> <p>- a close family member,</p>	<p>Victim - suffers injury or death as a result of an Offence/ assisting a police officer.</p> <p>Primary victim - person against whom an offence is committed.</p> <p>Related victim – person related to the primary victim.</p> <p>Secondary victim -witness of an offence, OR parent, stepparent, guardian of primary victim under 18 years.</p>	<p>Victim -person who suffers harm as a result of an offence – defined narrowly.</p> <p>Immediate victim - physical and/or mental injury resulting from an offence.</p> <p>Victim includes: Immediate family of immediate victim and people involved in the immediate aftermath of the offence.</p>	<p>Victim - person who suffers injury and/or financial loss, or who dies, as consequence of the commission of an offence that happened in WA</p> <p>Victim includes: Close relative of a person killed as a result of an offence and the relative has suffered financial loss.</p>	<p>Primary victim - person who suffers a compensable injury resulting from violent act.</p> <p>Secondary victim - person who suffers an injury from witnessing or becoming aware of a violent act.</p> <p>Family victim, a parent, step parent, child, dependent of primary victim.</p> <p>Related victim - relative or a person in an intimate personal relationship with primary victim.</p>	<p>Victim - person (primary, parent, witness, related victim) who has suffered an injury as a result of a violent act.</p> <p>Primary victim – direct victim of act of violence.</p> <p>Secondary victim -parent of primary victim or witness of the act of violence</p> <p>Related victim (close family member or a dependent of the primary victim).</p>	<p>Primary victim - suffers injury or death as a direct result of an act of violence or trying to assist police.</p> <p>Related Victim - Close family member, dependant or spouse of deceased primary victim</p> <p>Eligible property victim – person whose property was damaged by police in relation to an act of violence.</p>

	has died. Family victim – a spouse or member of the deceased primary victim’s immediate family.	spouse or dependent, of a primary victim who died.						
Capped Compensation	<p>Max paid to a single person/ claimant for an act of violence - \$50,000.</p> <p>Max paid to a primary victim & ALL secondary victims & all family victims together - \$50,000</p> <p>Max 22 hours counselling</p> <p>Max for financial loss \$10,000 (combined total cannot exceed \$50,000).</p>	<p>Max paid to primary victim \$60,000.</p> <p>Max paid to secondary victim \$50,000.</p> <p>Max paid to all related victims \$100,000– max for any one related victim is \$50,000.</p> <p>In exceptional circumstances the Tribunal may award assistance even if the max is exceeded.</p>	<p>Primary victim \$30,000 with one offence.</p> <p>Primary victim \$50,000 with more than one offence.</p> <p>Max paid to secondary victim \$20,000.</p> <p>Max paid to related victim \$10,000 but is not to exceed \$50,000 for all related victims.</p> <p>Medical, dental, psychological or counselling services may be paid in</p>	<p>Eligible victim: \$50,000.</p> <p>Financial dependency: \$50,000.</p> <p>Grief payments: \$10,000 (spouse) & \$10,000 (minor sibling).</p> <p>Funeral expenses: \$7000.</p>	\$75,000.00	<p>Max paid to primary victim \$40,000</p> <p>Max for financial loss \$10,000</p> <p>Max to all secondary victims \$40,000.</p> <p>Max to each secondary victim for financial loss \$10,000</p> <p>Max to all family victims \$40 000.</p> <p>Max to each family victim for financial loss \$10,000</p>	<p>Max paid to primary victim \$75,000.</p> <p>Loss of earnings max \$20,000.</p> <p>Max paid to all parent secondary victim \$50,000.</p> <p>Max paid to a witness secondary victims for:</p> <ul style="list-style-type: none"> • More serious act of violence \$50,000 • Less serious act of violence \$10,000 	<p>Maximum of financial assistance - \$50,000.</p> <p>Special assistance ‘pain and suffering’ for ‘extremely serious injury’ - \$30,000.</p> <p>Related victims may be awarded special assistance for flat payment of \$30,000</p>

	Family (related) victims max \$50,000 to be shared.		addition to the max sum.			Related victims receive counselling.	Max paid to all related victims \$100,000 Max paid to related victims \$10,000 for distress.	
Type of compensation	<p>Information, support and referral -All victims of crime</p> <p>Counselling -All victims of violent crime</p> <p>Financial assistance (immediate) -Primary victims</p> <p>Financial assistance (economic loss) -Primary victims -Parents of child victim -Family members of homicide victims</p>	<p>Primary victim: - Counselling -Medical expenses - Loss of earnings - Loss of damage to clothing worn - Safety-related expenses - Reasonable expenses in exceptional circumstances - Special financial assistance</p> <p>Secondary victim: - Counselling services - Medical expenses - Loss of</p>	<p>Primary, secondary and related victim: - Reasonable expenses. - Medical, dental (only for primary victim) and psychological or counselling services which the Commissioner is satisfied that the victim will require in the future. - Loss of wages/salary. - Pain and suffering. - Reasonable expenses as a result of claim.</p>	<p>- Economic loss resulting from injury: treatment costs; loss of earning capacity; and loss of opportunity.</p> <p>-Non-economic loss: pain & suffering.</p> <p>- Homicide cases: financial dependency; grief; funeral expenses.</p> <p>- Solicitors' fees per scale.</p>	<p>- Loss to personal items worn at the time the injury. -Expenses actually and reasonably incurred. - Expenses that are likely to be reasonably incurred. - Loss of earnings. - Mental and nervous shock. - Pain and suffering. - Loss of enjoyment of life. - Travel for medical treatment. - Funeral expenses</p>	<p>- Counselling. - Immediate payment of financial assistance for financial loss. - Financial loss: Loss of earnings. Loss of clothing or personal effects. Medical expenses. - Exceptional losses (including relocation expenses, costs of securing residence or business of primary victim). - Family victim: counselling,</p>	<p>- Interim assistance - counselling expenses - medical and dental expenses - reasonable incidental travel expenses - loss of earnings - damage to clothing - funeral expenses - up to \$500 for legal assistance - in exceptional circumstances, other reasonable costs - compensation for physical injury, mental and nervous shock.</p>	<p>- medical costs, - home security or moving expenses - property damage directly linked to the violent crime. - Income lost. - Costs of making application (except legal fees). - Special assistance if suffered an 'extremely serious injury.'</p>

	<p>Recognition payment</p> <ul style="list-style-type: none"> -Primary victims -Dependent family members -Parents of homicide victims 	<p>earnings.</p> <ul style="list-style-type: none"> - Reasonable expenses in exceptional circumstances <p>Related victim:</p> <ul style="list-style-type: none"> - Counselling services - Medical or funeral expenses - Distress - Loss of money obtained from the primary victim for a max of 2 years - Other reasonable expenses 	<ul style="list-style-type: none"> - Reasonable expenses for parent/step parent or guardian of primary victim (secondary victim). - If primary victim dies the financial loss if the related victim was a dependent (related victim). 		<ul style="list-style-type: none"> (relative victim). - Loss of financial support (relative victim). 	<p>financial loss (includes funeral expenses, financial support if dependent on primary victim, medical expenses, exceptional losses).</p> <ul style="list-style-type: none"> - Related victim: counselling. 	<ul style="list-style-type: none"> - Exceptional expenses - related victims may claim max \$10,000 for distress. Funeral expenses. 	
Relevant Act	<i>Victims Rights and Support Act (2013)</i>	<i>Victims of Crime Assistance Act (1996)</i>	<i>Victims of Crime Assistance Act (1976)</i>	<i>Victims of Crime Act (2001)</i>	<i>Criminal Injuries Compensation Act (2003)</i>	<i>Victims of Crime Assistance Act (2006)</i>	<i>Victims of Crime Assistance Act (2009)</i>	<i>Victims of Crime (Financial Assistance) Act (1983)</i>
Recoupment arrangements	Victim is entitled to sue in civil proceedings for damages but an amount of any damages award	Victim must repay financial assistance if civil damages or any other amounts related to the injury are	Victim must repay financial assistance if civil damages are recovered. Reduced by	Victim must repay award if other damages are recovered (not taken into account in the making of the	Cannot claim for injuries, expenses or losses from another source (i.e. Medicare,	Cannot claim financial assistance if Workers Compensation is paid or eligible to be paid.	Reduced by amounts paid by Workers Compensation.	Victim must repay financial assistance if civil damages are recovered. Reduced by

	equivalent to the victims support payment is automatically taken by the State.	recovered.	amounts paid by Workers Compensation.	award). Cannot claim financial assistance if Workers Compensation is paid or eligible to be paid – except for psychological injury.	workers compensation), injuries caused by a motor vehicle accident, if you are not the primary victim. Assessor must deduct from compensation award any amount victim would be entitled to receive under insurance contract, or other compensation/ damages			amounts paid by Workers Compensation.
Proof required	Must be more probable than not that the person is a victim of an act of violence and is eligible to receive compensation. Medical reports, police or government	Tribunal may be satisfied on the balance of probabilities that an act of violence occurred. No charge or conviction of offender required.	Commissioner must be satisfied that is more likely than not that the death or injury was the result of criminal conduct.	District Court may award compensation if satisfied the offence is proved beyond a reasonable doubt (unless admitted or inferred from other proceedings) and the injury	Arrest or conviction not necessary. Medical reports, certificates, police reports, statements, receipts. Assessor has discretion to determine	Arrest or conviction not necessary. Act must be reported to police or if not an excuse must be provided. Medical reports, certificates, police reports,	No arrest or conviction required. Violent act must be reported to police or if not an excuse must be provided. Medical certificate required, along	Court to be satisfied that it is more likely than not that a violent crime took place. Applicant must file a supporting affidavit along with medical certificates, reports, police

	agency reports, and other supporting material such as receipts or employment records required.	Applicant must file a statutory declaration along with medical certificates, reports, police statements, and receipts.		occurred as a result on the balance of probabilities. Applicant must file relevant affidavit including medical reports, statements, and receipts.	application.	statements, receipts. Assessor to be satisfied the applicant is an eligible victim.	with supporting documents. Consent must be given to assessor to obtain further information. Assessor has discretion to determine application.	statements, and receipts.
Time Limits	Within 2 years of offence or within 2 years of turning 18 yrs of the act of violence or death of primary victim. Recognition payment – Claims for recognition payment involving domestic violence, child abuse or sexual assault must be made within 10 years after the	Within 2 years after the act of violence (or within a reasonable time after the victim turned 18). Tribunal may extend the time limit.	Within 3 years of offence or within 3 years of turning 18 yrs. May extend time limit in special circumstances.	Within 3 years of offence or within 3 years of turning 18 yrs. May extend time limit in special circumstances.	Within 3 years of offence date. May extend the time limit.	Within 2 years of the violent act. May extend time limit in special circumstances.	Within 3 years of act of violence or the death of the primary victim or from the day a child victim turns 18. May extend time limit in special circumstances.	Within 12 months. Victim may apply to Magistrates Court for extension of time.

	<p>act of violence or, if the victim was a child, within 10 years after the child turns 18.</p> <p>May apply for extension of time.</p>							
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REFERENCE LIST

Victims of Crime (Financial Assistance) Act 1983 (ACT)

Victims Rights and Support Act 2013 (NSW)

Victims of Crime Assistance Act 2006 (NT)

Victims of Crime Act 2001 (SA)

Victims of Crime Assistance Act 1976 (TAS)

Victims of Crime Assistance Act 1996 (VIC)

Criminal Injuries Compensation Act 2003 (WA)

'National Framework of Rights and Services for Victims of Crime 2013-2016', Standing Council on Law and Justice,
http://www.victimsupport.org.au/UserFiles/File/SCLJ_Framework-2013-16.pdf, accessed 18 June 2014.