

## Compensation for Victims of Crime

People who have sustained injuries as a result of a criminal act in Victoria may be entitled to compensation for any pain, suffering or financial distress suffered.

This form of compensation can be pursued as part of a sentencing order, or by civil action against the offender directly, however the easiest method is to claim compensation from the Victims of Crime Assistance Tribunal (VOCAT).

### Who can make a claim?

To be entitled to make a claim, the crime must have occurred in Victoria and be punishable by imprisonment. This seem surprising but a person may still be entitled to successfully claim even if the offender has not been found guilty of the crime, or has not been identified by the police.

VOCAT considers various levels of compensation:

- **Primary victims**

Primary victims are those who have been *directly* injured, even killed, or have property damaged, typically when an act of violence is committed against them or when they have been injured trying to prevent a crime or indeed detain someone they believe to have committed a crime or helping rescue a victim of crime.

- **Secondary victims**

Secondary victims are those injured as a result of *witnessing* a violent act or coming to the aid and rescue of a primary victim. If the primary victim is under 18, their parents or guardians may also be considered secondary victims and entitled to compensation.

- **Related victims**

If the primary victim of an act of violence dies, close family members, dependents or those in an intimate personal relationship with the victim may be entitled to compensation.

In addition, a person who pays funeral expenses following the death of a primary victim of crime is also entitled to financial compensation.

Victims who are elderly, impaired, mentally ill, intellectually disabled, a child under 18 or victims of related criminal acts may be entitled to special financial assistance.

This also applies to victims who have been infected with a very serious disease or have suffered a very serious or serious injury or a deprivation of liberty.

### **Legal Fees**

VOCAT will usually pay legal fees for those seeking professional assistance for this process *in addition* to the compensation payout.

### **Time Limits Apply**

An application must be made within two years after the occurrence of the act of violence or, in the case of an application by a related victim or a person who has incurred funeral expenses, within 2 years after the death of the primary victim. Only in exceptional circumstances will VOCAT allow an extension of this time period.

### **What should you do if this happens?**

For anyone injured they should make a formal report to the police, remembering to keep a copy of the statement they make to the police because this will be needed by your lawyer.

Naturally you should seek medical treatment from your doctor and/or counsellor and let them know how the injury occurred, so they too have a clear record.

If you need to take time off work advise your employer of the reasons and request that they also keep a record as well. You should retain a separate record all time off work and keep treatment and medical receipts and provide these to your lawyer.

Then see a lawyer who is experienced in this field.

### **To be eligible for compensation**

To be eligible for compensation from VOCAT:

1. You must be a victim of a violent crime that occurred in the state of Victoria.
2. A violent crime includes a sexual offence, an actual or threatened assault or injury to a person, or the death of a person.
3. The crime must have been reported to police within a reasonable time.
4. The crime must have occurred within the past 2 years, except in the case of certain childhood sexual crime.

The amount of financial assistance that you are entitled to depends upon the particular circumstances of the crime and whether you are classified as a primary, secondary or related victim.

## What compensation is awarded?

A primary victim may be awarded up to \$60,000 although this is only for the most serious of crimes. They may also be entitled to any special financial assistance, to cover expenses incurred or that may be incurred in the future such as:

- Counselling sessions;
- Medical out-of-pocket expenses incurred as a direct result of the act of violence;
- Loss of earnings of up to \$20,000 for a period of no more than 2 years from the act of violence;
- Loss of or damage to clothing worn at the time of the act of violence;
- Other expenses actually and reasonably incurred, or likely to be incurred, by the victim to assist in his / her recovery from the act of violence.

Secondary victim benefits are tied to expenses or loss of earnings including medical, counselling and other expenses including loss of earnings over two years of up to \$20,000

For Related victims the compensation is tied to expenses or loss of earnings.

## Summary

Compensation for victims of crime varies according to the severity of crime sustained and how immediate the impact has been on the victim. Applications can be quite complicated for those without legal expertise and it is important to ensure everything is properly claimed, so it can be helpful to have an experienced lawyer to assist.

If you or someone you know wants more information or needs help or advice, please contact us on (03) 9459 5764 or email [admin@rtlegal.com.au](mailto:admin@rtlegal.com.au).