

# Victim compensation and domestic violence

A national overview

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# Overview

- The basics
- Context
- How do the states compare?
- Future directions

# The basics





# What is victim compensation?

- Criminal acts of violence
- Statutory schemes v. other legal remedies
- Range of applicants:
  - Primary victim
  - Secondary victim (NSW, NT, Qld , Tas, Vic)
  - Related victim (homicide only)

# Case studies: women

## **Case 05/44 - \$24 267.91**

*A female victim was assaulted by her ex partner causing a dislocation of her right ankle. She became fearful for her safety. The offender was charged with assault occasioning actual bodily harm.*

## **Case 06/45 - \$30 000.00**

*The applicant... suffered from a knife attack causing deep lacerations and nerve damage and many psychological problems including anxiety, depression and fears for her safety and that of her child. The offender was charged and convicted of two counts of common assault and was deported.*

# Case studies: children

## **Case 03/63 - \$40 000**

*The victim was a child with intellectual disabilities who is now under the care and protection of the [state]... She was a victim of sexual and emotional abuse at the hands of [her] mother and mother's partner. The offenders were charged and convicted.*

## **Case 08/53 - \$15 000**

*The applicant is the adoptive mother, carer and appointed guardian of... a young female with a mental illness. Over a period of years the victim was sexually abused by her adoptive father. This male person has since been charged...*



# Why apply for compensation?

- Practical benefits
- Symbolic recognition
- Therapeutic value
- Victim focused process

Context

# Policy context

- Two recent reviews:
  - Queensland Victims of Crime Review (2008)
  - Victorian Review of Victim Compensation (ongoing)
- National Council to Reduce Violence against Women and their Children (2009, p. 98): *a core component of a just legal response*



## Policy context (cont.)

- Australian Law Reform Commission (2010, p. 939): *an important support mechanism for victims which facilitates, and possibly enables, a victim to navigate the legal system*
- Attorney General Robert McClelland (2010): *provide tangible acknowledgement of the pain, suffering and loss endured by victims*



## Research context

- Financial security project (2009-2010)
- Barrett Meyering, I (2010) *Victim compensation and domestic violence: a national overview*, Stakeholder Paper 8, Australian Domestic and Family Violence Clearinghouse, Sydney

[www.adfvc.unsw.edu.au/stakeholder\\_papers.htm](http://www.adfvc.unsw.edu.au/stakeholder_papers.htm)

How do the states compare?



# Different states, different models

- All states and territories provide victim compensation
- There are significant disparities across the schemes in the:
  - Award composition
  - Eligibility criteria
  - Assessment process



# Barriers faced by women

- The ‘stranger violence model’:
  - Types of loss covered
  - Restrictive eligibility requirements
  - Debt recovery and offender involvement
- Broader issues around access to justice:
  - Awareness of the schemes
  - Access to legal advice



# Are women using the schemes?

- Limited data available
- ACT (2008-2009):
  - two final and two interim awards for domestic violence related crimes (4.8%)
- NSW (2007-2008):
  - 750 awards for domestic violence related crimes (28%)



# Special provisions

- Domestic violence and sexual assault
- Five states: ACT, NSW, NT, Qld, Vic
- Types of awards
  - New categories of ‘compensable injuries’
  - Special assistance
- Greater guidance to assessors

# 'Compensable injuries'

- New South Wales:
  - Domestic violence (\$7500-\$10 000)
  - Sexual assault (three categories, \$7500-\$50 00)
  - Evidence of harm required
- Northern Territory:
  - Domestic violence (\$7500-\$10 000)
  - Sexual assault (three categories, \$7500-\$40 00)
  - No evidence of harm required

# Special assistance

- Victoria:
  - victims who suffer a ‘significant adverse effect’

Category	Acts of violence	Award range
A	Sexual penetration of a person; or attempted murder	\$4667-\$10 000
B	Attempted sexual penetration of a person; an indecent act with, or indecent assault against, a person; armed robbery; aggravated burglary; or the deprivation of liberty of a person for the purpose of sexual penetration, or demanding any ransom for their release	\$1300-\$3250
C	An attempt to commit a category B act of violence; threat of death; conduct endangering life; inflicting serious injury; or robbery	\$650-\$1300
D	An attempt to commit a category C act of violence; threat of injury; assault against a person; attempted assault; the deprivation of the liberty of a person; or an act of violence not otherwise specified	\$130-\$650



## Special assistance (cont.)

- Queensland:
  - special financial assistance (\$130-\$10 000)
  - expanded definition of injury for sexual assault
- ACT:
  - special assistance for victims with an ‘extremely severe injury’ (\$30 000, up to \$50 000 for sexual assault)



# Greater guidance to assessors

- Reporting requirements (NSW, Qld, Vic)
- Contributory conduct (NSW)
- Time extensions (NSW, NT, Qld, Vic)

# Special provisions: state-by-state

	TYPES OF AWARDS		GUIDANCE TO ASSESSORS		
	Compensable injury	Special assistance	Reporting requirements	Contributory conduct	Time extensions
ACT		✓			
NSW	✓		✓	✓	✓
NT	✓				✓
QLD		✓	✓		✓
VIC		✓	✓		✓

# Future directions

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# Policy directions

- Amend legislation – adopt/extend/standardise special provisions
- ALRC (2010, p. 940): *The Commissions' preliminary view is that Australian state and territory governments should amend their victims' compensation legislation to ensure the legislative provisions do not unfairly discriminate against victims of family violence.*



## Policy directions (cont.)

- Review debt recovery processes
- Funding for legal assistance
- Court specialisation and victim support



# Research directions

- Collection of quantitative data
- Renewed focus on women's experiences of the process



# Contacts

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