

Compensation for victims of crime

If you have been injured or suffered loss as a result of a criminal offence, you may be able to:

- Make a claim for compensation to the Office of Criminal Injuries Compensation.
- Ask the court dealing with the offender to give you a compensation or restitution order against the offender.
- Bring other sorts of claims including a common law claim against the offender.

This infosheet briefly explains these options. Get legal advice about the best option in your case.

Can I make a claim for compensation for injuries as a result of a crime?

The *Criminal Injuries Compensation Act 2003 WA* ("the Act") covers these claims. A claim for criminal injuries compensation can be made for injury, and/or financial loss as a result of injury, caused by any offence, committed on or after 22 January 1971.

'Injury' means physical and mental harm, or pregnancy resulting from the offence.

'Loss' means any expenses you actually and reasonably had to pay because of your injury, eg damage to personal items such as clothing worn when the injury was suffered, or travel costs to medical appointments, or lost income while injured.

Do I have to report the offence to the police?

You should report the offence or offences to the police as soon as possible and give them whatever help you can. In most circumstances you may not be awarded compensation if you have not done everything that you reasonably should have done

to help the police identify, find and prosecute the offender. You would need a very good reason for not reporting the offence to the police. In this case get legal advice.

Even if no one is caught or convicted, you may still make a claim and receive compensation.

When making a report to the police write down the name of the police officer and the report number.

Do time limits apply?

Yes, you must make your claim within 3 years from:

- the date of the offence, or
- the date of the last offence, if there have been a number of offences against you over time by the same offender.

The 3 year time limit will run from the date of the offence regardless of your age.

The time limit may be extended if the Office of Criminal Injuries Compensation (OCIC) decides you have a good reason or reasons for not making the claim within that time.

If you believe you have a claim but are outside the time limit, you should get legal advice.

It is best to wait until you are sure of the extent of your injuries before lodging your application. Sometimes you will not know the extent of your injuries before the 3 year time limit ends. In this case, you should:

- lodge your claim before the time limit ends, and
- send a letter with it to the Chief Assessor, Criminal Injuries Compensation to say that your injuries have not settled and you will send more information when they have.

Your claim will be rejected but you may not have to ask for an extension of time later. The OCIC will send you a letter setting out what else you need to do before your claim will be accepted and assessed. You will need to send your application again with any extra information when your injuries are settled.

If you are an adult who received injuries as a child, you may have grounds for a claim and should seek legal advice.

“If you believe you have a claim but are outside the time limit, you should get legal advice.”

Do I need legal advice?

Many of the issues about compensation claims are complex. You should always seek legal advice if:

- the offence has not been reported to the police
- the offender is acquitted of the offence
- the offender is not charged
- the victim is a child
- you were injured as a child
- you have suffered long term sexual abuse
- you are unsure of your injuries or loss
- you do not claim within the three year time limit

- you wish to make a claim for a mental or psychological injury
- you are the close relative of a victim who has died as a result of the crime and wish to make a claim:
 - for loss of financial support, and/or
 - funeral expenses
- you wish to claim for future loss of earnings
- a hearing is arranged
- you are not satisfied with the amount of compensation you receive and wish to appeal
- the Australian Taxation Office has contacted you about payment of tax on an award.

“If you are receiving Centrelink payments or a pension, you should check if there would be any impact on your past or future payments. The Assessor takes Centrelink benefits into account in determining a loss of income claim.”

If you cannot afford to see a private lawyer, you may be able to get legal advice from Legal Aid WA. Legal advice appointments are free. A fee will only be charged if legal aid is granted to represent you in an application for criminal injuries compensation, and only if your application for compensation is successful.

Other places you may be able to get legal advice are listed below under the heading *Where can I get more information?*

Who can claim?

The victim and in some cases, a close relative can bring a claim for criminal injuries compensation.

A close relative does not include a brother or sister. A close relative is defined under the Act to include:

- a parent, grandparent or step parent of the victim
- the spouse or de facto partner of the victim
- a child, grandchild or step child of the victim.

A close relative may have a claim:

- where the victim dies
- where they suffer psychological injury as a result of what happened to the victim.

Get legal advice if you are not sure if you are eligible.

How do I make a claim?

You must complete an application form. You can apply online on the [eCourts Portal](#) or the forms can be downloaded from the [Office of Criminal Injuries Compensation](#) website.

The OCIC prefers lodgment online by the eCourts Portal or by email, however you can send a completed form to the postal address below.

Email: criminal.injuries@justice.wa.gov.au.

Postal address: Criminal Injuries Compensation
GPO Box F317 Perth WA 6841

Telephone: (08) 9425 3250

Your application must include:

- any medical, psychiatric or psychological reports (the cost of reports can be claimed). (If you cannot pay for medical reports see interim payment below).
- incident and prosecution details (eg, date and place of offence, offence report number, was a person charged, what was the charge, date of hearing, etc). Go to the [WA Police website](#) to apply for an Information Report for Criminal Injuries Compensation. This contains information held by police about your incident which may help you complete your criminal injuries compensation application. A fee is payable.
- details in your own words of what the injury is and how the offence and injury has affected you. For example, any change which has happened in your work, home or social life as a

result of the offence and injury. You can use your statement to the police as part of this.

- proof of any expenses such as:
 - your loss of income, eg time off work while injured
 - medical or psychological expenses including reports and treatment (receipts will need to be attached)
 - incidental expenses, eg travel costs to medical appointments (tickets and receipts will need to be attached)
 - the replacement of any damaged personal items
 - funeral expenses incurred by a close relative.

Can I get any payments before a final decision is made?

An interim payment claim is a reimbursement or upfront payment for expenses you have as a result of your injury. These payments are made prior to the finalisation of the claim.

An interim payment can be made at any time after the incident and can be for:

- funeral expenses
- medical reports, or
- treatment costs.

An interim payment is part of the award of compensation. The amount that can be awarded for these expenses is limited.

If the application for compensation is refused and an interim payment is made, it becomes a debt to the State.

Get legal advice about seeking an interim payment.

Can I claim for future treatment expenses?

Estimates or quotes for future treatment that is likely to be needed by you need to be included in the application. The Assessor can make a compensation award that includes an amount for those expenses.

There are rules about when payment can be made for future treatment. Get legal advice.

What happens next?

Most applications are assessed without the need for you to be present.

Sometimes you may need to attend a hearing. Both you and the offender can have a lawyer at the hearing.

You can ask the OCIC if the offender will be there.

If a hearing is arranged it is advisable to seek legal advice.

The Assessor may require you to see a doctor or psychologist to obtain a report. If you do not go to the appointment the Assessor may take this into account and reduce any compensation that may be awarded.

You will be advised, in writing, if compensation will be paid.

“You will receive less compensation, or your application may be rejected if it is thought that you were partly to blame for your injury.”

Does the offender have to know?

Usually the offender will be told you have made a claim. They may be given an edited copy of your claim and your medical reports. The offender will not be told where you live.

The offender is usually notified of your claim because the OCIC may want to start proceedings against the offender under Part 6 of the Act for the offender to reimburse the OCIC for all or part of your compensation award. If this occurs, the offender needs to see your claim and medical reports as they have a right to answer your claim and get legal advice.

If you are worried about the offender being notified of your claim and receiving an edited copy of your claim and medical reports, you should include in your application a request that the Assessor bars (prevents) proceedings under Part 6 of the Act.

You should give the Assessor your reasons for not wanting the offender to be aware of and to see your claim and reports. For example, your reasons might be that you fear violence or other consequences from the offender if they learn of your claim. You will need to set out the basis of your fears in detail (including, where relevant, examples of this type of behaviour in the past by the offender).

The Assessor will then decide whether to bar proceedings, based on whether they consider it just (fair) to do so.

Can I appeal the decision?

You have the right to appeal to the District Court if you are not happy with the amount of compensation awarded.

You must lodge your appeal within 21 days after the date the order for compensation is made. The 21-day time limit may be extended in some circumstances.

Seek legal advice about lodging an appeal.

The offender may also appeal. If an appeal is lodged, the OCIC will not pay the amount of the award until the appeal is resolved.

For information on who can appeal, time limits to appeal, what needs to be done if you are out of time, the forms required and costs go to the [District Court of WA](#) website. A procedure guide is also available on the District Court website.

Can I make any other sort of claim?

You may have another type of claim for compensation called “a common law claim”. Whether this type of claim is better in your situation will depend on the facts of the case and whether the offender can pay. A lawyer will be able to advise you on this.

There is a time limit within which you must start your court action for your common law claim.

If you are outside the time limit you will lose your right to get the court to decide about your matter.

The time limit may change depending on:

- the date of your claim
- what kind of claim you have
- your age
- whether, when your claim arose, you were unable to manage your own affairs as a result of:
 - mental illness or
 - intellectual disability
- whether you are taking action against or for the estate of a deceased person
- whether you are a relative of a person who has died as a result of the crime.

For claims on or after 15 November 2005, a 3-year time limit applies. There are exceptions.

In some cases the court can extend a time limit.

Get legal advice as soon as possible about the time limit for your claim especially if it is for a claim before 15 November 2005.

National Redress Scheme

If you are a survivor of institutional child sexual abuse you may be able to apply to the [National Redress Scheme](#) ('the Scheme').

The Scheme provides support to Australian citizens and permanent residents who were sexually abused as children while in the care of participating governments and institutions before 1 July 2018. Each state and territory is participating and some non-government bodies have opted to participate in the Scheme.

You can apply to the Scheme until 30 June 2027. You cannot apply while you are in prison except in exceptional circumstances. You can apply once you are released.

The Scheme is an alternative to applying for compensation through the courts. You will not be

able to apply to both the courts and the Scheme for the same events.

The Scheme can provide:

- access to psychological counselling
- a direct personal response – such as an apology from the responsible institution for people who want it
- a monetary payment.

For:

- more information call the National Redress Scheme on 1800 737 377
- legal help call the free knowmore advice line 1800 605 762 Monday to Friday 9am to 5pm AEST/AEDT.

Can I claim compensation and/or restitution at court if the offender is convicted?

When the person responsible for the crime against you is found guilty and sentenced, the court may make a compensation or restitution order against them. It may make the order itself without being asked to make it, or it can consider an application from you or the prosecutor.

You can apply:

- in person or in writing (using an approved form available from the court) when the offender is being sentenced, or
- in writing (using an approved form) within 12 months after the date the offender was sentenced.

A *restitution order* is an order for the offender or a third party to return property to you. If the goods are not returned, you can seek enforcement of the order. Seeking enforcement is your responsibility. Contact the Western Australian Sheriff's Office on (08) 9425 2481 for help with enforcement.

A *compensation order* is an order that the offender pay money to you as compensation for:

- loss of or damage to property; and
- expenses reasonably incurred.

If the offender does not pay the compensation amount, you can seek enforcement of the order through the Magistrates Court of WA. Contact the court for more information and to get a copy of the forms you need. Seeking enforcement is your responsibility. The court will not do the work for you.

If a compensation or restitution order is made in your favour, you may still:

- make a claim for criminal injuries compensation
- pursue a common law claim.

You can appeal a decision not to make a compensation or restitution order.

Time limits apply. From the date of the decision you have:

- if the decision is in the Magistrates Court, 28 days, and
- if the decision is in the District or Supreme Court, 21 days,

to lodge your appeal.

You must get permission from the appeal court to appeal out of time.

You should get legal advice before you appeal.

What support is available for victims of crime?

The [Victim Support Service](#) (VSS) and the [Child Witness Service](#) (CWS), Department of Justice, are available at any court in WA including the Magistrates Court, District Court and Supreme Court. The VSS is a voluntary and free service available to victims of crime. The CWS is a voluntary and free service available to children and young people under 18 years of age who are to give evidence to a court.

These services can be contacted on: (08) 9425 2850 or 1800 818 988 (freecall).

The Family Violence Service is a free and confidential service providing information,

advocacy and support to people who have experienced violence in intimate or family relationships. Contact details for the Family Violence Service can be found on the [Department of Justice website](#).

Victims of crime also have rights under the *Victims of Crime Act 1994* (WA) about how they should be treated by all Government departments, as well as any person or agency contracted by the Government to work with victims of crime (excluding private legal officers and medical practitioners). For information about how to make a complaint visit the [Commissioner for Victims of Crime website](#).

Where can I get more information?

- Contact Legal Aid WA's Infoline on 1300 650 579 for information and referral.
- The Office of Criminal Injuries Compensation <https://cict.justice.wa.gov.au/> has a guide to help you complete your application and information on the process.
- Family Violence Prevention Legal Services (FVPLSs) offer legal and counselling services for victims of family violence and/or sexual assault who are ATSI peoples, or whose partner or children are ATSI peoples, including for criminal injuries compensation where it relates to family violence and sexual assault. Contact:
 - [Djinda Services](#) on (08) 9200 2202.
 - AFLS on (08) 9355 1502 or 1800 469 246 (freecall) or go to its website: <https://www.afls.org.au/contact/> for the contact details of AFLS offices in regional areas.
 - Albany FVPLS on (08) 9842 7751.
 - Marnin Family Support and Legal Unit on (08) 9191 5284.
- Your local [community legal centre](#) may be able to give advice or assist you to prepare your criminal injuries compensation application.

LEGAL AID WA OFFICES



Infoline: 1300 650 579



Translating & Interpreting Service:
131 450



Website/InfoChat:
www.legalaid.wa.gov.au



National Relay Service: 133 677
(for hearing and speech impaired)

Perth Office

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1300 650 579
(08) 9261 6222

Midwest & Gascoyne Office

Unit 8, The Boardwalk,
273 Foreshore Drive,
Geraldton, WA 6530
(08) 9921 0200

West Kimberley Office

Upper Level, Woody's Arcade,
15-17 Dampier Terrace,
Broome, WA 6725
(08) 9195 5888

Great Southern Office

Unit 3, 43-47 Duke Street,
Albany, WA 6330
(08) 9892 9700

Goldfields Office

Suite 3, 120 Egan Street,
Kalgoorlie, WA 6430
(08) 9025 1300

East Kimberley Office

98 Konkerberry Drive,
Kununurra, WA 6743
(08) 9166 5800

Southwest Office

7th Floor, Bunbury Tower,
61 Victoria Street,
Bunbury, WA 6230
(08) 9721 2277

Pilbara Office

28 Throssell Road,
South Hedland, WA 6722
(08) 9172 3733

Indian Ocean Office

Administration Building,
20 Jalan Pantai, Christmas Island,
Indian Ocean, WA 6798
(08) 9164 7529

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