

Criminal Injuries Compensation - A Fact Sheet

What is Criminal Injuries Compensation?

Criminal Injuries Compensation is a payment made to compensate victims for injuries suffered as a consequence of an offence/criminal act.

Who decides whether compensation is awarded?

A Criminal Injuries Compensation Assessor at the Office of Criminal Injuries Compensation will determine whether or not compensation is to be paid to the person applying.

Who claims Criminal Injuries Compensation?

- A victim of an offence who is injured/harmed and has suffered financial loss due to the offence.
- A close relative or a dependant of a person killed, harmed or injured as a result of an offence, and who has experienced financial loss as a result of that offence.

A relative can be a spouse, de facto partner, parent, grandparent, stepparent, child, stepchild, or grandchild.

Must I have reported the offence?

Yes. When making a report to the police make sure you write down the name of the police officer and the report number.

What if I have not helped the police with their inquiry?

You may not be awarded compensation if you have not fully assisted the police in their enquiries, but you may still be entitled to some compensation if you have a very good reason for not reporting the offence to the police or not assisting them.

Must the offender be charged before I can claim compensation?

No, you can claim compensation even if a person has not been identified, charged or convicted of the offence.

What type of injury is compensated?

You can be compensated if you have suffered:

- Pain and suffering;
- Bodily harm;
- Mental or nervous shock;
- Pregnancy resulting from an offence;
- Loss of enjoyment of life; or
- Loss of income.

Note: You can also claim medical or psychological expenses and other incidental expenses, such as travel for medical treatment or damage to clothing.

Is there a time limit for making an application for compensation?

Yes there is. You have three years from the date of the offence, or the last offence, to lodge an application. The time limit runs from the date the incident took place.

When can I lodge my application?

Your application should be made once you have reached an acceptable stage of recovery from your injuries.

Can I make a claim after the three year limitation period has passed?

You may still apply, but you must get an extension. You will need to provide written reasons for the delay in submitting your application.

Sometimes you will not know the extent of your injury before the three year time limit ends. In this case, you should:

- Lodge your claim before the time limit ends.
- Send a letter with it to the Office of Criminal Injuries Compensation saying that your condition has not been resolved and you will send more information when your condition has stabilised.

Need Advice? Call Citizens Advice Bureau on **(08) 9221 5711**, or visit **www.cabwa.com.au**



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- Your claim will not be accepted until the extra information is given in your application, but because you have lodged a preliminary claim you may not have to ask for an extension of time later when you finally provide all the necessary documents.
- The time limit may be extended in some cases, particularly if you were injured as a child, or had an intellectual impairment at the time. If you believe you have a claim but are outside the time limit you should get legal advice.

What is an interim payment?

An interim payment is a reimbursement or upfront payment for expenses you have incurred as a result of the injury. The interim payment amounts cannot exceed 3% of the maximum amount that could be awarded.

What if I get an interim payment and then my application is refused?

If the application for compensation is refused and an interim payment has been made, it becomes a debt to the State which you have to repay.

For what can I claim interim payments?

You can claim interim payments for treatment or medical reports before your application is finalised. A relative can claim your funeral expenses. You can also pay all accounts yourself and then submit these at a later date with your application.

If that is the case, keep all your receipts because without proof of payment you may not be able to claim the costs you have incurred. When a final amount is assessed, the interim payments you have received will be deducted from the final amount to be paid to you.

Will the compensation payment be made directly to me?

Compensation payments are made directly to the applicant by the Government.

The State will try to recover the money from the offender, however, you will not be involved in those proceedings.

What information should I include in my application?

Details of the offence, was anyone charged, and if known, what was the verdict and so on. A written account in your own words of what the injury is and how the offence and injury has affected you, eg changes which have occurred in your work, home or social life as a result of the offence.

Proof of any expenses such as your loss of income, medical expenses including the cost of medical reports, transport costs, the replacement of any damaged personal items, funeral expenses and so on.

What documents should I provide?

You need to complete an application form available from the Office of Criminal Injuries Compensation or you can submit an online application. Refer to our fact sheet on e-filing of court documents. You need to also provide medical reports, incident reports, prosecution details (if available) and other documents to support your application.

Is there a fee for lodging the application?

No, there is no fee for lodging your application.

Do I have to attend a hearing?

Usually your application will be dealt with by an assessor taking into account the information you have provided. The assessor may also require you to attend a hearing, which will be conducted in private and as informally as possible. You will be advised if your attendance at a hearing is required.

Would the offender know that I have made a claim for compensation?

Yes. The offender will, in most cases, be given notice of the application and may be provided with copies of documents in support of your claim.

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Your application is kept confidential, however, copies of decisions made by the assessors are available to the news media. In special cases, the assessors can order that names of people awarded compensation are not made public. This is usually the case for awards involving sexual offences or juvenile offenders.

You can write and ask the Assessor not to show the offender a copy of your claim and medical reports. You should give the Assessor your reasons for not wanting the offender to see your documents. In most cases the Assessor will not proceed with the claim without the offender viewing the reports. The offender has the right to answer your claim and to get legal advice.

Action may be taken to recover the money from the offender, however, you will not be involved in these proceedings.

To whom should I submit my completed form?

As stated earlier you can submit your form online (refer to our fact sheet on e-filing of court documents) or send the completed and signed form to:

Chief Assessor
Criminal Injuries Compensation
GPO Box F317
PERTH WA 6841

You can also email it to criminal.injuries@justice.wa.gov.au or file an e-lodgement.

Download further information from the Office of Criminal Injuries Compensation website. Please ensure all documentation required is completed and attached to your claim. It is a good idea to keep copies of all the documents you submit with your application.

What if I do not agree with the decision of the Assessor?

If you disagree with the Assessor's decision on the amount you are awarded as compensation or whether or not you should be compensated, you can lodge an appeal in the District Court within 21 days from the date of the Assessor's decision.

Can the offender appeal a decision?

Yes.

Who should be served with the notice of appeal?

You must serve copies of the notice of appeal on:

- The Chief Assessor, Criminal Injuries Compensation;
- The Director General, Department of the Attorney General; and
- The offender, if a person was convicted of the offence.

Can I make an application after the 21 days?

The Court does have discretion to extend this timeframe, where it considers it appropriate. You must apply to the court to seek leave to appeal out of time. You will need to file and serve an application and an affidavit in support of your appeal outlining the reasons why you should be granted leave to apply out of time.

Will any compensation affect my Centrelink payments?

This depends on your individual situation. You should contact a Centrelink Customer Service Centre.

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