

What type of assistance is available?

Related Victims

- The Tribunal may make an award of up to \$50,000 for the distress experienced as a result of the death, for reasonable counselling services, medical expenses, funeral expenses and for loss of financial support from the victim.
- When more than one related victim applies for assistance, the maximum award payable cannot exceed \$100,000 unless exceptional circumstances exist.

Hearing Related Victim Applications

All Related Victim applications in relation to one death are heard by the same Magistrate at Melbourne Magistrates' Court.

Funeral Expenses Only

- A person may make an application to the Tribunal to be reimbursed for payment of funeral expenses only.

Limits on Assistance

Except for awards for special financial assistance and distress the Tribunal must take into account and reduce the amount by the total amount of:

- any damages recovered by the applicant at common law
- any compensation, assistance or payments of any other kind received by the applicant

and may take into account such entitlements which the applicant has not, but would be entitled to receive.

Failure to make a police statement

- The Act requires that the act of violence be reported to the Police within a reasonable time and that the applicant provide reasonable assistance to the police to investigate and prosecute the alleged offender.
- The Tribunal must refuse to make an award of assistance if not satisfied special circumstances brought about a failure to do so (s.52).
- There may be special circumstances which explain why there was no police report. In each case the Magistrate will consider whether special circumstances exist.

The Tribunal must have regard to

- The criminal history of the applicant or deceased primary victim.
- The conduct of the applicant or deceased primary victim and whether they provoked the act of violence or contributed to the injury.

Notification of Alleged Offenders

The Tribunal may consider that it is appropriate to notify the person/s named as alleged offender/s of the hearing of the application.

Notification of Alleged Offender

- Before notifying the alleged offender, the Tribunal will give written notice to the applicant or their legal representative of the intention of the Tribunal.
- The Tribunal allows a period of 21 days for the applicant to provide submissions as to why they do not wish the notification to proceed. The Tribunal will consider the submissions before making a final decision.
- Should the Tribunal decide to notify the offender, a letter is sent to the applicant advising of this decision and requesting advice as to whether the applicant intends to pursue the application.

DETERMINING AWARDS

Interim Awards

- Interim awards can be made at any time after the application is filed to provide urgent assistance prior to the finalisation of a claim.
- Applicants seeking an interim award must file in addition to an application form, either a notice to victim form (from the police) or a copy of a police statement or a copy of a crimes family violence complaint and summons.
- Interim applications for counselling must comply with Practice Direction 9/2003.
- Examples: Safe housing, counselling, relocation, school uniforms, cost of travelling to a funeral.

Determination without a hearing

- The legislation allows the applicant to nominate to have their application decided without a hearing. This is known as a Section 33 Determination.

The Tribunal may decide it is appropriate to determine claims in this manner when the material filed with the Tribunal clearly supports the findings which the Tribunal is required to make in order to determine:

- That the Applicant is eligible for an award.
- The amount of assistance to which the Applicant is entitled.

Determination at hearing

- If an Applicant does not request a S.33 Determination or a Tribunal member requires more information, the Application is listed for hearing and the Applicant is required to attend.
- The hearing is intended to be less formal than a Court hearing. The Applicant may attend with or without a legal representative. The Tribunal is not bound by rules or practice as to evidence but may inform itself in any manner it thinks fit. Witnesses can be called or cross-examined.

Variation of Awards

- Victims are entitled under the Act to make an application to the Tribunal for a variation of the award made in their favour.
- This entitlement exists for 6 years from the date the original award was made or where the applicant was under 18 years of age at the time the award, until that applicant turns 24.
- An application for variation must be made in writing to the Tribunal registry with the supporting material attached.
- A request for variation must demonstrate the link between the act of violence and the need for the further assistance.

Variation of Awards

- Tribunal members usually determine variation requests without a hearing but may list such applications for a short hearing where the variation is complicated or important issues should be discussed.
- Written notification of the Tribunal's decision is provided to the applicant, the treating practitioner or the legal representative of the applicant depending on who made the variation request. Practitioners are generally invited to forward their accounts directly to the Tribunal for payment upon completion of the required treatment.

Contact

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The Tribunal was set up to acknowledge and provide financial assistance to victims of violent crime committed in Victoria.

If an Applicant can obtain assistance from elsewhere, such as Workcover or TAC, the Tribunal recommends that these avenues are explored before lodging an application with the Tribunal.

- The process is commenced by the applicant filing an Application for Assistance.
- This must be done within 2 years of the act of violence occurring unless the Tribunal considers that, in the particular circumstances, it ought to be accepted.
- If an application is filed out of time, it should be accompanied by an Application for Extension of Time providing a detailed explanation for the delay.
- It is not necessary that a person be charged or convicted in relation to the act of violence, to be eligible to apply to the Tribunal.

Who is entitled to apply?

The applicant is the victim of the crime except:

- If the victim of crime is a child, the application may be made on the child's behalf by a parent or guardian of the child or another person whom the Tribunal considers to be appropriate.
- If the person entitled to make an application is a represented person within the meaning of the Guardianship & Administration Act 1986, the application may be made on the represented person's behalf by the guardian or administrator appointed.
- If in any other case the Tribunal considers that the person entitled to make an application needs assistance in doing so, the application may be made on the person's behalf by any person whom the Tribunal considers to be appropriate.

The Act of Violence

- A criminal act or series of related criminal acts
- Occurred in Victoria
- Punishable by imprisonment
- Which involves an assault or injury to or threat of injury to a person
- and includes sexual assaults, stalking and kidnapping
- Related criminal acts committed against one person constitute a single act of violence.
- The Tribunal has no power to assist with loss of, or damage to property, (or reimburse any cash stolen)

Injury

- *Actual physical bodily harm*
- *Mental illness or disorder*
- *Pregnancy*
- *any combination of the above arising from an act of violence*

Primary Victims

A primary victim is a person who is injured or dies as a result of :

- an act of violence committed against him or her
- trying to arrest someone he/she believes, on reasonable grounds, has committed an act of violence
- trying to prevent the commission of an act of violence
- trying to aid or rescue someone he or she believes is the victim of an act of violence.

Types of assistance

Primary Victims Assistance

The Tribunal may award assistance of up to \$60,000 to cover expenses to be incurred (or likely to be incurred), for:

- Reasonable counselling services
- Medical expenses incurred as a direct result of the act of violence
- Loss of Earnings up to \$20,000
- Loss of or damage to clothing worn at the time of the incident
- Expenses to assist recovery under s8(3)

Evidence Requirements for expenses

Physical Injury

- If the applicant is claiming assistance for physical injuries, this must be supported by medical evidence. The Tribunal may get public hospital records.
- The applicant must provide a report from a doctor or dentist with regard to the injury suffered, the treatment required and the link with the act of violence.

Psychological Injury

- If the applicant is claiming for a psychological injury, the applicant is required to submit a report from a qualified psychologist/psychiatrist in accordance with Practice Direction 9/2003.
- If the applicant is only seeking an award for expenses, medical or psychological evidence that treatment or counselling is required as a result of the act of violence is sufficient.

What is the expenses to assist recovery category?

- Section 8(3), 10(3) & 13(4) of the Act provides that in **EXCEPTIONAL CIRCUMSTANCES** the Tribunal is able to make an award to assist the victims recovery from the act of violence. Amounts awarded under this provision must still come within the \$60,000 limit. In each case the Magistrate will decide whether exceptional circumstances exist and there must be evidence that the expense will really assist the applicant to recover.
- Previous successful examples include home security systems, locks fitted to windows, removalist expenses, remedial tutoring, and other education expenses.

Special Financial Assistance

- Is available to Primary Victims only (s 8A).
- The minimum amount of Special Financial Assistance is \$100.00, the maximum is \$7,500.00. The amount a victim may receive is dependant upon the injury sustained and the significant adverse effect suffered as a result of the crime and the applicants personal circumstances. Example: age, disability.
- Except with regard to childhood sexual abuse Special Financial Assistance is only available for acts of violence occurring after 1st July 2000.

Categories & Award Levels

Category	Acts of Violence and Classes of Acts of Violence	Award Level Minimum - Maximum
A	Any offence that involves: <ul style="list-style-type: none"> • the sexual penetration of a person • Attempted murder 	\$3500 - \$7500
B	Any offence that involves: <ul style="list-style-type: none"> • an attempt to sexually penetrate a person • an indecent act with or indecent assault against a person • Armed robbery and aggravated burglary • deprivation of liberty of a person for the purpose of: sexual penetration or demanding any ransom for their release 	\$1000 - \$2500
C	Any offence that involves: <ul style="list-style-type: none"> • a threat of death • conduct endangering life • inflicting serious injury; or • robbery 	\$500 - \$1000
D	Any offence that involves: <ul style="list-style-type: none"> • A threat of injury • an assault against a person • an attempted assault; or • the deprivation of the liberty of a person 	\$100 - \$500

Secondary Victims

- A secondary victim is a person who is present at the scene of an act of violence and who is injured as a direct result of witnessing that act.
- A person is also a secondary victim if he/she is injured as a direct result of becoming aware that his/her child, who is under 18 years of age, has been the victim of an act of violence.

What type of assistance is available?

Secondary Victims Assistance

- The Tribunal may award assistance up to \$50,000 for expenses incurred (or likely to be incurred) for reasonable counselling services and medical expenses.
- Loss of earnings may be covered up to \$20,000 but only in exceptional circumstances.
- Certain secondary victims may be eligible for expenses to assist recovery.

Related Victims

A related victim is a person who, at the time of the act of violence:

- was a close family member of; or
- was a dependant of; or
- had an intimate personal relationship with - a person who has died as a result of the act.

Definitions for Related Victims

Close family member

Means a person who had a genuine personal relationship with the victim at the time of the victim's death and who is:

- *the spouse of the victim*
- *a parent, guardian or step-parent of the victim*
- *a child or step-child of the victim or some other child of whom the victim is the guardian*
- *a brother, sister, step-brother or step-sister of the victim*

Intimate personal relationship does not refer exclusively to a sexual relationship.