

# Victims Support: Reviewing and Appealing Decisions



This fact sheet summarises the Ask LOIS webinar on this topic, presented by Kellie McDonald, Senior Solicitor, Women's Legal Services NSW on 2 February 2016. This webinar can be viewed for free at [www.asklois.org.au/webinars/past-webinars](http://www.asklois.org.au/webinars/past-webinars).

This factsheet looks at:

- The internal review process
- The external review process through the NSW Civil and Administrative Tribunal (NCAT)
- Tips for preparing submissions

## Victims Support decisions

- Applications determined relatively promptly
- Brief reasons for the decision are given
- If your client is happy with the VS decision they need to sign an acceptance of payment statutory declaration in front of a JP or a solicitor and provide VS with their bank details and a copy of their bank statement

## Internal review

- If your client isn't happy with the decision they may be able to seek an internal review
- Refer your client to WLS for advice about whether the decision should be reviewed
- 28 days from receiving the decision to lodge an internal review
- You can email a request for an internal review and provide additional submissions and/or further evidence later

## Internal review process

- VS will make a new decision as if the original decision had not been made
- Your client can lodge more evidence and submissions in support of their internal review application
- VS will send your client a letter giving them a deadline to lodge new evidence/submissions
- Your client may need a solicitor to help them write submissions about why the original decision was wrong
- Applications are determined by a Senior Assessor relatively promptly
- Brief reasons for the decision are given
- If your client is happy with the VS decision they need to sign an acceptance of payment statutory declaration in front of a JP or a solicitor and provide VS with their bank details and a copy of their bank statement

## NCAT review

- If your client is not happy with the internal review decision they may be able to ask NCAT to review the decision
- Refer your client to WLS for advice about whether the decision should be reviewed
- 28 days from receiving the decision to lodge an application with NCAT seeking a review
- NCAT can only review decisions about recognition payments



## NCAT review process

- \$25 application fee
- The application form needs to identify the mistakes the VS assessor made in their decision for eg:
  - dismissing the application for failing to prove an act of violence
  - giving too much weight to the failure by police to investigate the offences.
- The original application for review and three copies should be lodged with NCAT
- A sealed copy of the application needs to be sent to VS
- NCAT will send a letter advising your client of the first mention date
- NCAT will make a new decision as if the original decision had not been made so new evidence can be lodged
- On first mention date directions are made for the exchange of evidence to be relied upon
- Your client has the option of having the review determined 'on the papers' or by hearing
- Your client can give oral evidence at the hearing

## Tips for preparing submissions

- Be clear about what award your client should receive eg recognition payment B, C or D
- Refer to evidence that establishes your client was a victim of an act of violence, eg Police records and Ambulance records
- Identify any corroborative evidence eg did your client tell different people and/or agencies the same story
- Refer to evidence that establishes your client suffered an injury as a direct result of the act of violence
- It is sufficient that the violence exacerbates an existing injury
- May need to make specific arguments about some recognition payments eg category C why the injury constitutes GBH
- Address any problems with your client's case, eg:
  - Why she left the hospital without getting treatment
  - Why she delayed in reporting the violence to the Police
  - Why she didn't cooperate with the Police
  - Any allegations that she contributed to the violence

### Case study

Your client was a victim of childhood sexual abuse by her step father when she was 10. She reported the abuse to the Police when she was 57, however she found it hard to talk about the details of the abuse and the Police didn't charge her step father.

She lodged an application for VS herself. She brings you the VS decision which says her application for VS has been dismissed for failing to prove an act of violence. She tells you she remembers telling her sister about what happened to her the following day.

## Referrals

- For legal advice, refer clients to the Women's Legal Services Advice Line on **(02) 8745 6988** or **1800 801 501**
- For more information on NCAT, call NCAT information line on **1300 00 NCAT** or 1300 006 228
- Victims Access Line **1800 633 063** or their Aboriginal Contact Line on **1800 019 123**
- Wirringa Baiya can provide advice for Aboriginal and Torres Strait Islander women on **1800 686 587**
- See also our past Ask LOIS webinars and factsheets on the [New Victims Support Scheme](#) and [Helping Clients with Victims Support Applications](#)