

Helping Clients with Victims Support Applications



This fact sheet summarises the Ask LOIS webinar on this topic, presented by Kellie McDonald, Solicitor, Women's Legal Services NSW on 3 March 2015. This webinar can be viewed for free at www.asklois.org.au/webinars/past-webinars.

This fact sheet covers:

- Helpful hints on doing a victims support application
- Understanding the requirements for different types of victims support
- Gathering evidence for a victims support claim
- Written submissions

Before filing a claim

Things your client should know:

- Victims Services can seek restitution
- Not going to be eligible for a payment if they have already received compensation
- Victims cannot receive a payment for domestic violence if still in a relationship with the offender
- Victims cannot receive a payment if they were injured during the commission of an offence

Victims Support Applications

- Electronic forms on Victims Services website
- If assisting a client with their application:
 - Can assist them to fill out or fill out as their representative
 - Note Financial Assistance for Economic Needs and Immediate Needs are grouped together on the form despite being two different types of payments with different evidentiary requirements
 - See whether they have a current counsellor
 - Verify details where received medical treatment including counselling
 - Help client assess whether may be more than one claim
 - Alternatives to reports to police may include to Centrelink, public schools or hospitals or FaCS

Types of support

- Counselling
- Financial assistance for immediate needs
- Financial assistance for economic loss **OR** out-of-pocket expenses
- Recognition payment

Financial support for immediate needs

- Urgent expenses for 'primary victims' to *secure their safety, health or well being*:
 - Assistance to relocate to safer location, eg, 2 weeks rent, bond, furniture
 - Safety measures (eg changing locks)
 - Emergency medical and dental expenses
 - Replacement documents, such as passports
 - Freedom of Information / release of document costs to evidence Victims Services application
- Does not include property damage
- Capped at **\$5,000 in total**
- Family members of homicide victims can also claim for crime clean up and funeral costs (funeral costs capped at \$8,000)

- **Time limit:** 2 years from the incident or 2 years of turning 18 for children – can put in multiple claims in this time



Requirements for immediate needs assistance

- Evidence to satisfy balance of probabilities test
 - Eg, police or medical report
- Plus evidence of expenses claimed
 - Invoice, receipt or quote
 - For quotes, often two required

Helpful hints!

- Determinations for Immediate Needs applications are meant to be made within 15 days of Victims Services receiving the evidence including evidence of the expense claimed
- Advocate for urgent payment
- Advocate for Victims Services to pay service provider directly

Financial assistance for economic loss

- Total limit \$30,000, including:
 - Loss of actual earnings, up to \$20,000
 - Cost of living expenses, up to \$5,000 (if not seeking loss of earnings)
 - “Justice related” expenses, up to \$5,000
 - Medical and dental expenses
 - Damage to clothing or personal effects **worn or carried at the time** of the act of violence, up to \$1,500
 - ie, does not cover general property damage
- **Time limits:** 2 years from the incident or 2 years from turning 18 for children and no time limit for victims of child sexual abuse for claims for justice-related expenses or out-of-pocket expenses

Financial assistance for economic loss

- Documentary evidence required:
 - Police report or report to ‘government agency’
 - Evidence of injury (medical, dental, counselling)
 - Full particulars of loss eg receipts, invoices and/or employer details and statement of employer of absences

Helpful hints!

- Get advice about eligibility for worker’s compensation
- Address victim’s ineligibility for worker’s compensation in submissions
- Remember that financial assistance for immediate needs is separate to financial assistance for economic loss even though not separated on the form

Scenario 1: Lee

Lee paid to stay at a refuge after fleeing domestic violence perpetrated by Sen. She’s been too scared to report the violence to the Police but has been seeing a psychologist. Is she eligible for financial support from Victims Services without a report to the Police?

She could apply for financial support for immediate needs relying on her psychologists report and other corroborating evidence, eg letter from the refuge and a stat declaration. Without reporting violence to Police or other government agency she’s not eligible for other types of financial support.



Recognition payments

Categories of recognition payments

Category A		Act of violence apparently occurred in the course of the commission of a homicide:
	\$15,000	Payable to a family victim who, immediately before the death of the primary victim, was financially dependent on the primary victim.
	\$7,500	Payable to each parent, step-parent or guardian of a primary victim who died.
Category B	\$10,000	Payable to a primary victim of: (a) a sexual assault resulting in serious bodily injury or which involved an offensive weapon or was carried out by 2 or more persons, (b) a sexual assault, indecent assault or attempted sexual assault involving violence that is one of a series of related acts.
Category C	\$5,000	Payable to a primary victim of: (a) a sexual assault other than one referred to above, (b) an attempted sexual assault resulting in serious bodily injury, (c) an assault resulting in grievous bodily harm, (d) physical assault of a child that is one of a series of related acts.
Category D	\$1,500	Payable to a primary victim of: (a) an indecent assault, (b) an attempted sexual assault involving violence other than one referred to above, (c) a robbery involving violence, (d) an assault (not resulting in grievous bodily harm).

Documentary evidence required

- Police report or report to 'government agency'
- Evidence of injury (medical, dental, counselling)

Helpful hints!

- Make written submissions referring to case law if applying for Category C Grievous Bodily Harm assault – may need to refer to a lawyer (call Women's Legal Services NSW)
- Request non-government evidence in support of application
- Ask Victims Services to send you evidence they have obtained
- Seek an adjournment to obtain further evidence if necessary
- Victims Services require < 7 days notice to vet Police records
- Clients or their representatives can view their files at Victims Services in Parramatta, they must give at least 5 working days notice to Victims Services

Gathering evidence

- Instructions from client about potential sources of evidence – include in application
- Make request to Victims Services to obtain evidence. Client will need to sign authority
- Obtain evidence yourself with authority from client
- Fees may be payable to obtain evidence, however could seek financial support for costs
- Beware Victims Services may list once they have recorded the first piece of medical evidence even if it's not the best available



The following evidence can be used to support an application for victims support:

- Statutory declarations / affidavits / witness statements
- Police statements, AVOs and other Police records
- Court records
- FaCS/DoCS reports or records
- Medical and hospital records and reports
- Counselling and community worker reports
- Psychological or psychiatric reports
- Photographs
- Written submissions

Written submissions

- Not necessary but may be useful in more complex applications
- Set out financial support sought
- Summarise background and facts
- Address evidence of violence and injury including evidence that may be adverse to applicant's case
- Address any specific arguments necessary for the category of recognition payment claimed such as: serious bodily injury (Category B sexual assault) or grievous bodily harm (Category C assault)
- Address section 44 factors (reasons for not approving the giving of victims support or for reducing amount of financial support or recognition payment)

Referrals

- Victims Access Line **1800 633 063** or their Aboriginal Contact Line on **1800 019 123**
- Women's Legal Services NSW on **8745 6999**
- Wirringa Baiya can provide advice for Aboriginal and Torres Strait Islander women on **1800 686 587**
- See also our past Ask LOIS webinar and factsheet on the *New Victims Support Scheme*