

CRIMINAL INJURIES COMPENSATION

This information sheet provides information about making a claim for injuries you received from an offence against you. If the offence was committed against you before December 18 1995, get legal advice quickly as time limits may apply.

What is compensation for victims of crime?

Queensland has a compensation scheme to assist victims of crime. This type of compensation is called "criminal injuries compensation". A court orders the offender to pay the compensation and where the offender is unable to pay, the government may consider paying the compensation - this is called an "ex gratia" payment. In some limited cases the government may consider paying the compensation even if the offender has not been convicted.

Before making a payment, the government requires you to explore all other options for payment for your injuries. If you have another way of getting payment for your injuries, you must pursue this or your claim will be placed on hold or refused. For example, if you were the victim of an armed robbery at work, you must get all the benefits you can from WorkCover and/or take legal action against your employer if these options are open to you.

If the offender has substantial income or assets, then you may have to consider taking legal action against the offender first. An information sheet is available on Legal Aid Queensland's website www.legalaid.qld.gov.au regarding personal injury claims.

Legal Aid Queensland will only take your criminal compensation case on if you have exhausted all your other options.

Can I claim criminal injuries compensation?

If you have suffered psychological and/or physical injury as a result of a "personal" offence, you may be able to claim compensation. Property offences such as fraud, housebreaking, and willful damage are not "personal offences". Examples of personal offences are assault, rape, stalking and robbery.

If you are a family member of a homicide victim, or you were injured while helping a police officer, you may also be eligible for compensation.

Where the offender has been convicted

The offender must have been convicted in the District or Supreme Court. If the offender was convicted in the Magistrates Court, you cannot claim criminal injuries compensation. In that case, you must ask the prosecutor to apply for compensation at the time of the sentence in the Magistrates Court. The compensation is ordered to be paid by the offender as part of the offender's sentence. If the offender does not pay the amount, the government will not pay any compensation.

Where the offender has *not* been convicted

You can make an application for an ex gratia payment of compensation if

- The offender cannot be found or is not identified; or
- The offender is found to be of unsound mind or not fit to stand trial; or
- The offender is under 10 years of age.

You have to show that the offence was reported to police without delay, or if a sexual offence, reported to police or a doctor or appropriate agency.

How are amounts of compensation worked out?

The amounts awarded are limited as maximum amounts are set by legislation. The payments are intended to help you rather than fully compensate you. For example, you cannot claim medical expenses or lost income.

The current maximum payment of compensation is \$75,000. This amount is reserved for the most serious cases.

Compensation is assessed according to a sliding scale of seriousness. A compensation table sets out the percentage of the maximum to be paid for each injury. For example, the range for bruising and laceration is between 1% and 5% of \$75,000, meaning that an award for this type of injury could be between \$750 and \$3,750. The more serious the bruising and laceration, the higher the amount awarded within this range, with \$3,750 the maximum for the most serious bruising and laceration. Compensation for the impacts of sexual offences can also be awarded.

How do I apply for compensation?

Where the offender has been convicted

The application is made to court, usually to the same Judge who sentenced the offender. The application must be supported by evidence in affidavits. These documents are all filed in court and must be served upon the respondent.

Unlike other civil cases, costs cannot be awarded by the court. This means that the legal costs of the application are usually deducted from your award. There is no set amount for lawyers' fees. If you are using a private lawyer you should clarify how costs are charged and ask for an estimate of the total fee.

Where the offender has not been convicted

The application is made directly to the Department of Justice and Attorney-General without any court proceedings. There is a special form for the application and supporting documents are attached. The Department of Justice will seek a police report and will process the application.

Will time limits apply?

You must apply within three years from the date the convicted person was sentenced in Court. If you were under 18 years of age at the time of the sentence you have three years from when you turn 18.

Applications to the government for an ex gratia payment where there is no conviction must be made within three years of the offence or within three years of you turning 18 if you were a child at the time of the offence.

An extension of time within which to make an application may be granted in limited circumstances by a court, or by the government where no offender has been convicted.

Strict time limits also apply in personal injury matters.

How can Legal Aid Queensland help?

You may be eligible for a grant of legal aid for a lawyer to represent you in your criminal injuries compensation claim. To qualify for aid, a merit test must be met. Representation is either by an in-house legal officer or private solicitor who does legal aid work. You should be aware that the application can take around 18 months or longer from start to finish.

Legal Aid Queensland requires you to make a contribution towards your legal costs from the amount of your award. This contribution will not exceed \$4,000 plus \$400 GST. If you receive less than \$20,000 in compensation, your contribution to legal costs will be no more than 20% of the amount you receive plus GST.

For more information
please contact
**Legal Aid
Queensland**



1300 65 11 88



www.legalaid.qld.gov.au