

FACT SHEET: Changes to the Victims Compensation Scheme in NSW

When: The changes came into effect on 1 January 2011. The changes relate to all claims currently lodged at the Victims Compensation Tribunal (“VCT”), estimated at 18,000 and all future claimants. There are four areas of great concern:

1. Changes to Compensation Payable to victims of Multiple Acts of Violence

Previously: a claimant could lodge a number of claims for compensation where they were subjected to violence by an offender or offenders over a long period of time.

Case Study

Megan* was subjected to long standing non-penetrative sexual assaults by a family member between the ages of 5 to 15. His four friends became involved in the sexual assaults when she was aged 10 to 15. At 17 there was a rape by the family member. At 17 there was a group rape by the family member and his four friends. Megan received 4 awards totalling \$160,000.

Now: The law has now been widened so that where crimes are committed over a period of time by the same person or group of persons it can be treated as one claim and the maximum available is now only \$50,000.

2. Removal of ability to lodge claims for violence pre-dating the lodgement date of a successful VCT claim.

Previously: there was the ability to bring any claim for compensation within two years – the time limit was routinely extended for sexual assault and domestic violence victims.

Now: if you have had received money from the VCT in the past, you will no longer be able get compensation for violence that took place before the lodgement date of the earlier successful victims compensation claim. This change will particularly affect victims of childhood sexual assault who usually take longer to lodge a claim. Basically you must bring all VCT claims at once or you will miss out.

3. The dramatic reduction in legal fees payable to solicitors

Previously: Victims Services paid solicitors \$825.00 plus GST for a successful claim, which takes about two years and considerable effort and \$1000 plus GST for an appeal to the Tribunal. There was a discretion to pay costs for an unsuccessful claim.

Now: solicitors may be paid ‘up to \$825’ plus GST for a successful claim. The costs payable on unsuccessful claims may only be ‘up to \$400.00’ plus GST)

despite the considerable work completed. Costs for an appeal have been halved ('up to' \$500.00 plus GST).

Lodging applications can be a difficult and daunting process for many victims. Some victims have problems with literacy and/or English may be their second language. It can be very challenging searching for all the evidence that may be required to support an application. There are also important legal issues that need to be addressed when the VCT makes a decision about whether someone is awarded compensation or not. Many victims would not be able to lodge an application and be successful without legal representation. Particular socio-economic issues face this group of people including housing insecurity and poverty, especially if they have escaped domestic and/or sexual violence. These changes will result in solicitors ceasing to assist clients with victims compensation matters and remove one important avenue for this group of (predominantly) women to achieve some type of social justice to support them.

4. The lack of consultation

Even though the attorney General stated: *"The proposed changes are the result of extensive consultation with the Victims Advisory Board and victims support groups"*.

To our knowledge there has been no consultation with key stakeholders such as domestic violence specialist services or their peaks, or sexual assault services.

Myths of Victims Compensation

- \$1m claims: The Attorney General stated victims have increasingly separated their claims into multiple claims and that some claimants would have been entitled to \$1million in compensation. Legal practitioners who specialise in these claims agree that there is no likelihood whatsoever that such an award would be made. The largest known is in the vicinity of the \$200,000.
- That it is easy to get compensation. Around 40% of claims are unsuccessful. Victims of crime applications can be complex and the requirements daunting for people to complete and represent themselves. The preparation of claims can take a considerable amount of time. By reducing what is basically a very modest payment will result in solicitors withdrawing from providing vulnerable people with the expertise they need to secure a fair and just recompense for what they have suffered.

WHAT CAN YOU DO?

1. Join the Coalition.

2. Send this email to your network.
3. Send the attached letter to your local MP and the Premier and Opposition Leader, the Attorney General and the Shadow Attorney General and get your clients to send one too.