

An impressionist painting with a textured, layered appearance. The left side features a dense, dark blue and green area, possibly representing foliage or a shadowed area. The right side is dominated by a bright, yellowish-green area, suggesting a sunlit field or a bright sky. The overall style is characteristic of Impressionism, with visible brushstrokes and a focus on light and color.

Financial Assistance

Financial assistance, compensation
and restitution for victims of crime

As a victim of crime, you can seek financial assistance, compensation or restitution (returning or replacing stolen goods) to help lessen the physical and emotional harm suffered as a result of the crime.

This brochure tells you about:

- financial assistance, compensation and restitution
- where to go for information and support.

What Assistance is Available?

As a victim of crime you can apply for compensation in two ways:

1. the Victims of Crime Assistance Tribunal (VOCAT) for financial assistance or compensation
2. the sentencing court for compensation or restitution from the offender after they have been found guilty of the crime.

The law only allows you to claim compensation once for the same injury or expense. If you are awarded compensation from VOCAT before an offender is found guilty, that amount will be taken into account if you apply for compensation to the sentencing court.

Victims of Crime Assistance Tribunal (VOCAT)

VOCAT is a government-funded scheme providing financial assistance or compensation to victims of violent crime where the crime:

- takes place in Victoria
- is reported to police, and
- directly results in injury or death to the victim.

Payment of financial assistance or compensation may be made for:

- physical injury or emotional distress
- medical expenses
- counselling
- loss of earnings.

How to Apply

Generally you should apply to VOCAT within two years of a crime occurring.

Applying for financial assistance early can help with immediate expenses, but you may need to wait until the offender is convicted before a decision about compensation is made. You may wish to contact a lawyer for advice about making a VOCAT application.

For further information contact:

- VOCAT on (03) 9628 7855 (for regional matters, contact the VOCAT registrar at your local Magistrates' Court) or
- the Victims' Assistance and Counselling Program, via the Victims of Crime Helpline on 1800 819 817 (toll free).

Compensation or Restitution from the Offender

After the offender is found guilty or convicted of a crime you can apply to the sentencing judge for:

- compensation from the offender for pain and suffering or property loss
- restitution from the offender to replace or return stolen goods or money.

Compensation for Pain and Suffering

Compensation for pain and suffering includes:

- physical and emotional pain suffered as a direct result of the crime
- counselling services
- medical expenses
- other expenses incurred as a direct result of the crime.

Compensation for Property Loss

The court may order the offender to pay compensation for loss, destruction or damage to your property that has occurred as a result of the crime. The amount of compensation cannot exceed the value of the property.

Restitution from the Offender

The court may order the offender to:

- return your goods to you
- replace your goods
- pay you an amount equivalent to the value of the stolen goods.

How to Apply

An application for compensation or restitution to the sentencing judge can be made by you or a lawyer acting on your behalf.

Depending on the circumstances of your case, the Director of Public Prosecutions (DPP) may decide to make an application on your behalf.

If you are seeking compensation for property loss or damage, the judge can make an order without any application being made. The judge can only make such an order if you do not oppose it and the offender has had an opportunity to have a say.

For more information about making an application, see the County Court Criminal Procedure Practice Note on the County Court website.

When to Apply

You must apply to the sentencing judge for compensation for pain and suffering within 12 months of an offender being found guilty or being convicted of a crime.

An application for property loss or restitution should be made as soon as possible after the offender is found guilty or convicted of the offence.

You should consider getting independent legal advice about:

- the best time to make an application
- identifying whether the offender has any assets or property of value
- receipts and paperwork needed to show expenses you have paid
- the process for receiving compensation.

The Court Process

You should go to court when your application is being heard, even if you have a lawyer, so you can answer questions if required.

An offender can oppose an application for compensation and the court may require you, the offender and any other witnesses to give evidence and be cross-examined. Cross-examination involves being asked questions by a lawyer or the offender if they don't have a lawyer.

In deciding your claim, the court may take into account your Victim Impact Statement outlining the harm you have suffered as a result of the crime.

If you are seeking compensation for property loss or damage, the court can look at documents that confirm that the loss or damage occurred, the amount of loss or damage and any expenses you have paid.

Award of Compensation or Restitution

The sentencing judge decides whether to award you compensation or restitution and how much it will be.

The amount awarded is a civil debt owed to you personally by the convicted offender. If the convicted offender cannot or will not pay (or replace/return stolen goods) you will need to take civil action in the court where the order was made.

Taking Civil Court Action

You have the right to sue an offender in a civil court case. Important questions to consider are:

- whether the offender will be able to pay the compensation
- the costs involved in taking legal action.

The DPP does not have a role in the civil action.

You may want to discuss taking civil action with a lawyer.

What if the Offender Appeals their Conviction?

If the offender appeals their conviction, this may delay the original court's decision about compensation or suspend payment of compensation already awarded.

You will need to wait for the conviction appeal to be completed before any compensation orders can be finalised. The Court of Appeal may vary the terms of a compensation order made by the original court.

Restraining Orders to Preserve Property

A court can restrain the offender's assets, such as a house or money, to prevent any person disposing of them. This generally involves assets worth more than \$10,000 and ensures the offender's property is available in case it is needed to satisfy a compensation or restitution order.

The DPP decides whether to apply for a restraining order following a request from Victoria Police after they have conducted a criminal assets investigation.

Restraining order applications are made by the DPP on a case-by-case basis taking into account a number of things, including whether:

- an application for compensation or restitution is likely to be made in relation to the crime
- the compensation or restitution order of the court is likely to be greater than \$10,000.

Neither you, or your lawyer, can apply to the court for a restraining order, or ask the DPP to restrain property.

Victoria Police can apply for a restraining order in limited circumstances.

You should consider contacting a lawyer for help to enforce payment against the offender's property (including restrained property).

If you require further information about the process of applying for compensation or restitution, you can contact the OPP solicitor handling the matter on 9603 7666.

The Witness Assistance Service is a specialist service which provides information and support to victims and witnesses throughout the court process. If you need information or support, contact the OPP's Witness Assistance Service on 9603 7425 or 1800 641 927.

The OPP is not able to provide legal advice about compensation and restitution. If you need legal advice, contact the Federation of Community Legal Centres or the Law Institute of Victoria.

Contact Details

Federation of Community Legal Centres

T (03) 9652 1500

E

W

Law Institute of Victoria Referral Service

T (03) 9607 9311

E

W

Office of Public Prosecutions

T (03) 9603 7666

E

W

Office of Public Prosecutions Witness Assistance Service

T (03) 9603 7425

T 1800 641 927 (toll free for country callers)

Victims of Crime Helpline

T 1800 819 817 (toll free for country callers)

Victims of Crime Assistance Tribunal

T (03) 9628 7855

T 1800 882 752 (toll free for country callers)

E

W



OFFICE of
PUBLIC PROSECUTIONS
VICTORIA

