



Financial Assistance

Financial assistance,
compensation and
restitution for
victims of crime



Office of Public
Prosecutions
Victoria



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 to:

1

the Victims of Crime Assistance Tribunal (VOCAT) for financial assistance.

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

1) **Victims of Crimes Assistance Tribunal (VOCAT)**

VOCAT is a government-funded scheme providing financial assistance to victims of violent crime. VOCAT can provide financial assistance to help with things like:

- counselling and medical expenses
- safety related expenses
- loss of earnings.

Who may apply?

You may apply for financial assistance if:

- a violent crime was committed against you and you have suffered an injury
- the crime occurred in Victoria
- you are the primary, secondary or a related victim of that violent crime as defined by the Victims of Crime Assistance Act 1996, or you have incurred funeral expenses as a direct result of the death of a primary victim.

You can find more information about who is a primary, secondary or related victim on the VOCAT website.

When to apply?

Generally, you should apply to VOCAT within two years of the crime occurring. However, there are some exceptions to this time limit. You can find more information on the VOCAT website.

How to apply?

Online application forms and instructions about the application process are available on the VOCAT website.

Hard copy application forms are also available at any Magistrates' Court.

How to access legal advice to assist with your application

The Law Institute of Victoria has a phone and online Legal Referral Service which provides free referrals to solicitors all over Victoria. Referrals are made according to practice area, location, preferred language and other specific requirements.

The local Victim's Assistance Program (VAP) will also be able to provide with you the names of lawyers in your local area who may be able to assist.

You can contact these services here:

VAP

T: 1800 819 817 (toll free)

Text: 0427 767 891

E: vsa@justice.vic.gov.au

W: victimsofcrime.vic.gov.au

Law Institute of Victoria

T: 9607 9311

E: inquiries@liv.asn.au

W: liv.asn.au

VOCAT

T: 1800 882 752

E: help@vocat.vic.gov.au

W: vocat.vic.gov.au



2 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.



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. In some cases, the court may extend this time.

An application for property loss or restitution should be made as soon as practicable 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.

What happens next

It's important to understand what goes into the process, which can be daunting for some victims.

You can 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 general information about the process of applying for financial assistance, compensation or restitution, contact the OPP solicitor handling the matter.

The OPP is not able to provide legal advice about compensation and restitution. If you need legal advice, you can contact the Federation of Community Legal Centres or Victims Advice Program (VAP) or the Law Institute of Victoria and ask to be referred to a lawyer who can assist you. You can find their contact details on the next page.

The Victims and Witness Assistance Service at the OPP is a specialist service which provides information and support to victims and witnesses of serious crime, throughout the court process. If you require information or support, contact VWAS on 9603 7425 or 1800 641 927.

Contact Details

Federation of Community Legal Centres

T 03 9652 1501

E administration@fclc.org.au

W fclc.org.au

Law Institute of Victoria Referral Service

T 03 9607 9311

E inquiries@liv.asn.au

W liv.asn.au

Office of Public Prosecutions (OPP)

T 03 9603 7666

T 1800 641 927 (toll free)

E info@opp.vic.gov.au

W opp.vic.gov.au

Office of Public Prosecutions Victims and Witness Assistance Service (VWAS)

T (03) 9603 7425

T 1800 641 927 (toll free)

TTY 133 677 (hearing impaired)

E vwas@opp.vic.gov.au

W opp.vic.gov.au/victims-witnesses

Victims Assistance Program (VAP)

T 1800 819 817

TEXT 0427 767 891

E vsa@justice.vic.gov.au

W victimsofcrime.vic.gov.au/the-crime/get-help

Victims of Crime Helpline

T 1800 819 817 (toll free)

TEXT 0427 767 891

TTY 133 677 (hearing impaired)

E vsa@justice.vic.gov.au

W victimsofcrime.vic.gov.au

Victims of Crime Assistance Tribunal (VOCAT)

T 03 9628 7855

T 1800 882 752 (toll free)

E help@vocat.vic.gov.au

W vocat.vic.gov.au







Office of Public
Prosecutions
Victoria

