

VICTIMS OF CRIME COMPENSATION

People experiencing homelessness are often the victims of violent crimes. This chapter considers the compensation available to victims of crime. The statutory compensation available from the Victims of Crime Assistance Tribunal (**VOCAT**) is discussed in detail, and other avenues are also considered.

Table of Contents

1.	Introduction	3
2.	Overview of VOCAT Process	4
3.	Overview of VOCAT Claim Entitlements	5
4.	Who Can Claim Assistance from VOCAT?	6
4.1	Victims.....	6
4.2	Act of violence.....	8
4.3	Injury	8
4.4	Restrictions on eligibility for assistance	8
5.	What Type of Assistance Can VOCAT Provide?	9
5.1	Assistance for primary victims	9
5.2	Assistance for secondary victims.....	12
5.3	Assistance for related victims	13
5.4	Assistance for counselling expenses.....	14
5.5	Restrictions on quantum of assistance	15
5.6	Interim assistance.....	15
6.	How Does VOCAT Make Its Decision?	16
7.	Particular Circumstances	17
7.1	Koori VOCAT List.....	17
7.2	Family Violence Court Division	18
8.	How to Make a VOCAT Claim	18
8.1	Obtaining instructions from your client.....	18
8.2	Time limits for making an application.....	19
8.3	Making the application	20
8.4	Things to consider when completing an application form.....	20
8.5	Procedure for seeking assistance for counselling expenses.....	21
8.6	What happens after lodgment of the application?	22
8.7	Documenting the claim	22
8.8	Hearings.....	23
8.9	Directions hearings	24
8.10	Notifying the offender and other people.....	25
8.11	Notification of decision	26
8.12	Costs	26
8.13	Variations of awards	27
8.14	Refunds of awards.....	28
8.15	Appeals	28

9.	Other Assistance for Victims of Crime	28
9.1	Civil proceedings.....	28
9.2	Assignment of rights	28
9.3	Compensation under the Sentencing Act 1991 (Vic).....	29
9.4	Other statutory schemes.....	29
9.5	Victim support	29
10.	VOCAT Contacts	30
11.	VOCAT Resources	30
12.	Forms and Precedents	31

1. Introduction

The Victims of Crime Assistance Tribunal (**VOCAT**) is a dedicated tribunal where victims of certain crimes can seek compensation. It is administered through the Magistrates' Court system.

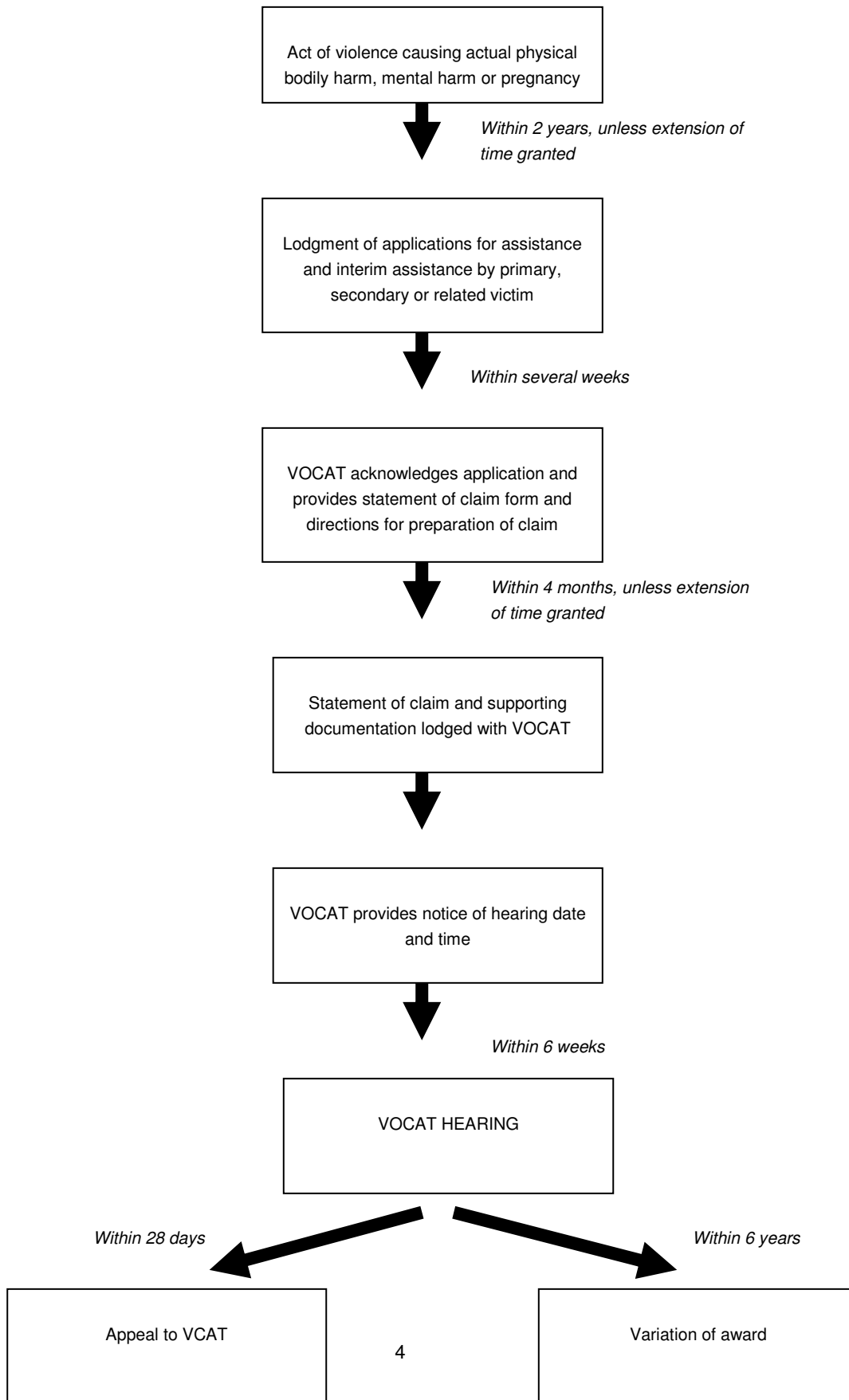
VOCAT is governed by the *Victims of Crime Assistance Act 1996* (Vic) (**VOCA Act**), which was significantly altered by the *Victims of Crime Assistance (Amendment) Act 2000* (Vic) (**VOCA Amendment Act**). The primary purpose of the VOCA Amendment Act was to re-introduce a form of compensation for pain and suffering, known as special financial assistance. The VOCA Act replaced the earlier *Criminal Injuries Compensation Act 1983* (Vic).

In the year ending 30 June 2007, 4562 applications for financial assistance were finalised by VOCAT with VOCAT granting 3134 awards of financial assistance. An award was made in 69% of finalised applications. The average amount awarded per claim was \$7479.¹

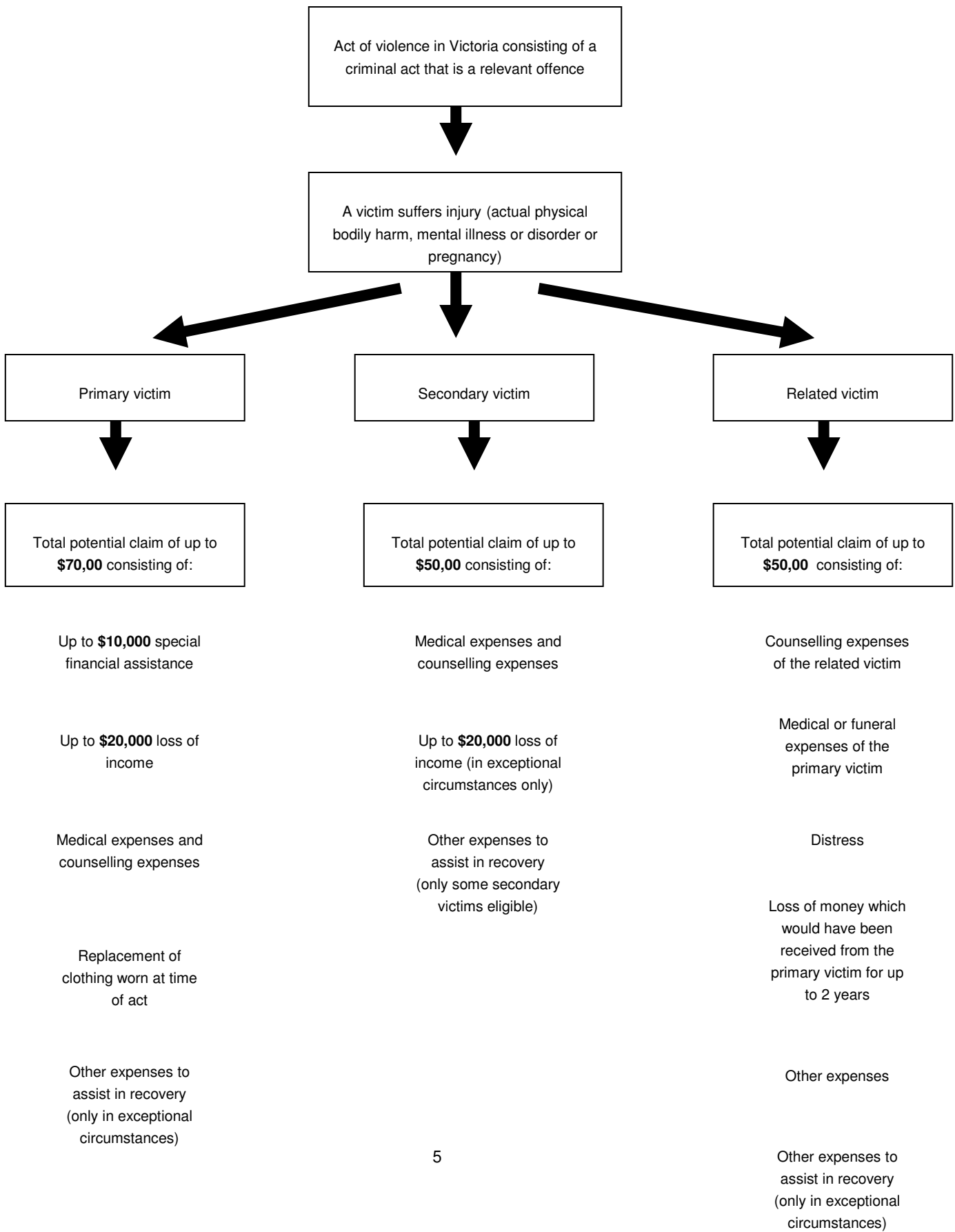
VOCAT can provide awards to cover medical, counselling and certain clothing expenses for victims. It can also provide assistance to aid recovery from a crime and can provide special financial assistance. A potential VOCAT claim exists where there has been an act of violence in Victoria that has been reported to police in a reasonable period of time and a victim has suffered an injury as a result of the act of violence.

¹ VOCAT Annual Report 2006-07.

2. Overview of VOCAT Process



3. Overview of VOCAT Claim Entitlements



4. Who Can Claim Assistance from VOCAT?

A person may be eligible to seek assistance from VOCAT if:

- they are either a primary, secondary or related victim of an act of violence; or
- they are a person who has incurred funeral expenses as a result of the death of a primary victim.

The fundamental eligibility requirements for VOCAT assistance are:

- the existence of a victim;
- an act of violence that occurred within Victoria and was reported to police within a reasonable time; and
- an injury as defined in section 3 of the VOCA Act.

It is not necessary for the victim to live in Victoria nor for the injury to manifest itself within Victoria.

VOCAT also has a general power to allow an application to be made on a victim's behalf by any person whom VOCAT considers appropriate.²

4.1 Victims

Primary victims

A **primary victim** of an act of violence is a person who is injured or dies as a direct result of an act of violence committed against them.³ Regardless of whether an act of violence is actually committed, a person is also a primary victim of violence if they are injured or die as a direct result of:

- trying to arrest someone whom they reasonably believe has committed an act of violence;
- trying to prevent the commission of an act of violence; or
- trying to aid or rescue someone whom they reasonably believe is a victim of an act of violence.⁴

Secondary victims

A **secondary victim** of an act of violence is a person who is present at the scene of an act of violence and is injured as a direct result of witnessing that act.⁵ A person is also a secondary victim if they are a parent or guardian of a primary victim of an act of violence under the age of 18 years and they are injured as a direct result of becoming aware of an

² VOCA Act, s 25(5).

³ VOCA Act, s 7(1).

⁴ VOCA Act, s 7(2).

⁵ VOCA Act, s 9(1).

act of violence having been committed against the primary victim.⁶ A person cannot be a secondary victim under section 9(2) if they have committed the act of violence.⁷

Related victims

A claim may also be made by a related victim of a primary victim who has died. A **related victim** is a person who:

- was a close family member of; or
- was a dependant of; or
- had an intimate personal relationship with,

a primary victim who died as a result of an act of violence.⁸ A person is not a related victim if they committed the act of violence.⁹

A **close family member** means a person who had a genuine personal relationship with the victim at the time of the victim's death and who has one of the following relationships with the victim: spouse, parent, guardian, step-parent, child, step-child, some other child of whom the victim is guardian, brother, sister, step-brother or step-sister. A **spouse** means a person to whom the person is married.¹⁰

A **dependant** means a person who was wholly or substantially dependent on the victim's income at the time of the death or who would have been but for the incapacity of the victim due to the injury from which they died. It also means a child of the victim born after the victim's death who would have been a dependant of the victim if they had been born before the victim's death.¹¹

Section 3 of the VOCA Act contains definitions of **domestic partner, guardian, parent and spouse**. The VOCA Act does not contain a definition of 'intimate personal relationship'. *Reid v Victims of Crime Tribunal*¹² suggests that indicators of an **intimate personal relationship** might include an ongoing sexual relationship, emotional commitment and support, sharing of confidences and intimacies, providing advice of a personal nature, sharing of financial information and plans and shared social contacts and attendance at social functions. Similarly, indicators that, alone, do not indicate an intimate personal relationship include financial or other material support, sharing of a residential property, occasional personal contact or sharing of family events. However, this list is not conclusive and you should use it only as a guide.

A person is eligible to apply for or receive assistance from VOCAT only in respect of a single act of violence in one capacity only.¹³ Therefore a related victim who is also a secondary victim may have to consider in which capacity to apply.

⁶ VOCA Act, s 9(2).

⁷ VOCA Act, s 9(3).

⁸ VOCA Act, s 11(1).

⁹ VOCA Act, s 11(2).

¹⁰ VOCA Act, s 3.

¹¹ VOCA Act, s 3.

¹² [2002] VCAT 373 at [15]-[16].

¹³ VOCA Act, s 18.

Assistance for funeral expenses

In addition, a person who is not a related victim but who has incurred funeral expenses as a direct result of the death of a primary victim may seek an award for funeral expenses actually and reasonably incurred.¹⁴

4.2 Act of violence

Section 3 of the VOCA Act defines the crucial term **act of violence**. An act of violence means a criminal act or a series of related criminal acts, whether committed by one or more people, that has occurred in Victoria and directly resulted in injury or death to one or more people, irrespective of where the injury or death occurs.

A **criminal act** is an act or omission constituting a relevant offence or one that would have been a relevant offence if the person had not been incapable of criminal responsibility. A **relevant offence** is an offence punishable on conviction by imprisonment that involves an assault on or injury to a person. It specifically includes offences under particular provisions of the *Crimes Act 1958* (Vic), including sexual offences under subdivisions 8A, 8B, 8C, 8D or 8E, stalking under section 21A(1), child stealing under section 63, kidnapping under section 63A and common law offences of rape or assault with intent to rape (see section 3(1) of the VOCA Act). The most common acts of violence in successful VOCAT claims are assault offences, sex (non-rape) offences and homicide offences.¹⁵

Related criminal acts are acts that were committed against the same person and either:

- were committed at approximately the same time; or
- occurred over a period of time but were committed by the same person or group of people *or* that share some other common factor.

A series of related criminal acts constitutes a single act of violence for VOCAT purposes.¹⁶

4.3 Injury

Injury means actual physical bodily harm, mental illness or disorder (or exacerbation of such), whether or not flowing from nervous shock, pregnancy or any combination of these. It does not include injury arising from loss of or damage to property.¹⁷

In addition, a primary or secondary victim may be deemed to have suffered an injury as long as VOCAT is satisfied, based on medical or psychological evidence, that treatment or counselling is required as a result of a trauma associated with an act of violence.¹⁸

4.4 Restrictions on eligibility for assistance

VOCAT *must* refuse an application for an award of assistance if it is satisfied that:

¹⁴ VOCA Act, s 15.

¹⁵ VOCAT Annual Report 2006-07.

¹⁶ VOCA Act, s 4.

¹⁷ VOCA Act, s 3.

¹⁸ VOCA Act, s 3(2).

- an act of violence was not reported to police within a reasonable time (unless there are special circumstances);
- the applicant failed to provide reasonable assistance to any person or body investigating, pursuing arrest or prosecuting the act of violence (unless there are special circumstances);
- the application is made in collusion with the person who committed or is alleged to have committed the act of violence; or
- an earlier application for assistance has been made by the victim arising from the same act of violence.¹⁹

In determining whether an act of violence was reported to the police within a reasonable time, VOCAT may have regard to any matters it considers relevant, including:

- the victim's age at the time the act of violence occurred;
- whether the victim is intellectually disabled or mentally ill;
- whether the perpetrator of the act of violence was in a position of power, influence or trust in relation to the victim;
- whether the victim was threatened or intimidated by the perpetrator; and
- the nature of the injury.²⁰

Some examples of cases that consider special circumstances for a report to police not being made within a reasonable time include *Trevor Arnold v Crimes Compensation Tribunal*,²¹ *Arnold v CCT*,²² *Hards v Crime Compensation Tribunal*,²³ *Frost v VOCAT*,²⁴ *Rajah v VOCAT*,²⁵ *Nichol v VOCAT*,²⁶ *J v VOCAT*²⁷ and *S v VOCAT*.²⁸

5. What Type of Assistance Can VOCAT Provide?

An applicant's potential entitlements depend on their designated category of victim.

5.1 Assistance for primary victims

A primary victim may be awarded a sum of up to \$60,000 in addition to special assistance (see below). The amount awarded to a primary victim may consist of:

- expenses incurred or likely to be incurred for reasonable counselling services;

¹⁹ VOCA Act, s 52.

²⁰ VOCA Act, s 53.

²¹ (1991) 5 VAR 222.

²² Unreported, Supreme Court of Victoria, 10 December 1992.

²³ Unreported, AAT, 4 August 1994.

²⁴ [2002] VCAT 1390.

²⁵ [2002] VCAT 1422.

²⁶ [2002] VCAT 1422.

²⁷ [2002] VCAT 532.

²⁸ [2002] VCAT 1257.

- medical expenses incurred or likely to be incurred as a direct result of the act of violence;
- loss of earnings²⁹ suffered as a direct result of the act of violence (up to \$20,000); and
- expenses incurred through loss of, or damage to, clothing worn at the time of commission of the act of violence.³⁰

In exceptional circumstances the sum of up to \$60,000 may include other amounts incurred or likely to be incurred to assist the victim in their recovery from the act of violence.³¹ It is important to demonstrate that the expense sought will assist in the victim's recovery from the precise act of violence. For example in *ML v Victims of Crimes Assistance Tribunal*³² a rape victim's claims for gym membership, self-defence classes and dancing classes were all rejected as the claimant insufficiently showed how these things were connected with her recovery. In practical terms, demonstrating that the expense assists in the victim's recovery may be very difficult. Expenses incurred to assist in recovery encompass a potentially broad range of expenses such as security systems, removal expenses, self-defence classes, tutoring or university fees, driving lessons, mobile phones with pre-paid cards, pets, television, massage therapy, yoga therapy, furniture purchase or replacement, holidays, gym membership and weight-loss program membership. The types of expenditures that may help a victim to improve their personal security, independence, mobility, socialisation, personal development, relaxation or bonding with their family after an act of violence are extensive. The difficulty of connecting these expenses to the victim's recovery from the act of violence should not be underestimated.

Special financial assistance for primary victims

A primary victim may also be eligible for special financial assistance in excess of the \$60,000 cap to a maximum amount of \$10,000. Special financial assistance can be claimed only by primary victims. In order to be eligible for special financial assistance the following factors are necessary:

- an act of violence committed against the primary victim;
- the victim must have experienced a significant adverse effect; and
- the act of violence is a category A, B, C or D act of violence.³³

A **significant adverse effect** includes any grief, distress, trauma or injury suffered by the victim as a direct result of an act of violence but does not include property damage.³⁴

The VOCA Act prescribes a minimum and maximum amount of special financial assistance that can be granted in relation to each category of violence.³⁵ The categories

²⁹ Details of requirements for loss of earnings claims are found in Practice Direction No 6/2003.

³⁰ VOCA Act, s 8.

³¹ VOCA Act, s 8(3).

³² [2006] VCAT 292.

³³ VOCA Act, s 8A.

³⁴ VOCA Act, s 3.

³⁵ VOCA Act, s 8A(5).

of acts of violence are established in Schedule 1 to the *Victims of Crime Assistance (Special Financial Assistance) Regulations 2000* (Vic) as:

- **category A:** any offence involving the sexual penetration of a person or attempted murder (including offences under sections 38, 38A, 44, 45, 48, 51(1), 52(1) and 59 of the *Crimes Act 1958* (Vic));
- **category B:** any offence that involves attempted sexual penetration of a person, an indecent act with or indecent assault against a person, armed robbery, aggravated burglary, the deprivation of liberty of a person for the purpose of sexual penetration or for the purpose of demanding any ransom for their release (including offences under sections 39, 40, 47, 49, 51(2), 52(2), 55, 56, 63A, 75A and 77 of the *Crimes Act 1958* (Vic) and the common law offence of kidnapping);
- **category C:** any offence that involves an attempt to commit a category B act of violence or a threat of death, conduct endangering life, inflicting serious injury or robbery (including offences under sections 16, 17, 20, 22, 24, 27 and 75 of the *Crimes Act 1958* (Vic)); and
- **category D:** any offence that involves an attempt to commit a category C act of violence or threat of injury, an assault against a person, an attempted assault, the deprivation of liberty of a person not included in category B or an act of violence not otherwise specified as a category A, B, C or D act of violence (including offences under sections 18, 21, 21A and 30 of the *Crimes Act 1958* (Vic) and the common law offences of false imprisonment, common assault, riot and affray).

The category of an act of violence is determined by VOCAT and does not depend on the category of crime with which a person is charged or convicted.³⁶

The range of amounts for special financial assistance for each category is (as at 20 December 2007):

- **category A:** \$4667 — \$10,000;
- **category B:** \$1300 — \$3,250;
- **category C:** \$650 — \$1300; and
- **category D:** \$130 - \$650.

These ranges apply only where an act of violence was committed **on or after 1 July 2007**.

For acts of violence committed **on or after 1 July 2000 to 30 June 2007**, the relevant amounts are:

- **category A:** \$3500 — \$7500;
- **category B:** \$1000 — \$2500;
- **category C:** \$500 — \$1000; and
- **category D:** \$100 — \$500.

³⁶ VOCA Act, s 8A(7).

Victims of acts of violence committed **before 1 July 2000** are eligible only for special financial assistance in certain specific circumstances. The act of violence must relate to the commission of a sexual offence against a person under the age of 18 years and it must have either been committed after 1 July 1997 or a person must have been charged, committed for trial or directly presented for trial after 1 July 1997.³⁷

In addition, where special financial assistance is available, an amount awarded may be higher than the specified minimum or maximum amount in prescribed circumstances. These prescribed circumstances are set out in the *Victims of Crime Assistance (Special Financial Assistance) Regulations 2000* (Vic), which provide that a category B, C or D act of violence may use the range ordinarily specified for category A if, as a direct result of the act of violence, the victim has:

- suffered a very serious physical injury,
- been infected with a very serious disease; or
- been the victim of related criminal acts that are acts of indecent assault or sexual penetration.³⁸

Similarly, a victim of a category C or D act of violence may receive special financial assistance up to the maximum for category B if the victim was a child, elderly or impaired and has either

- suffered a serious injury;
- been the victim of related criminal acts of violence; or
- suffered a deprivation of liberty.³⁹

Finally, a victim of a category D act of violence may receive up to the maximum amount prescribed for category C if the victim has been the victim of related criminal acts or the victim was a child, elderly or impaired.⁴⁰

For the purpose of these prescribed extended maximums, a **very serious disease** means one that is life threatening in nature and includes HIV within the meaning of the *Health Act 1958* (Vic).⁴¹ A **very serious physical injury** refers to actual physical bodily harm of permanent or long term duration that involves loss of a body function, disfigurement, total or partial loss of a body part, loss of a foetus or loss of fertility. **Impaired** includes impairment due to mental illness, intellectual disability within the meaning of the *Intellectually Disabled Persons' Services Act 1986* (Vic), dementia or brain injury. **Sexual penetration** is defined by reference to section 35(1) of the *Crimes Act 1958* (Vic).

5.2 Assistance for secondary victims

A secondary victim may be awarded assistance of up to \$50,000.⁴² This may consist of:

³⁷ VOCA Act, s 77.

³⁸ *Victims of Crime Assistance (Special Financial Assistance) Regulations 2000* (Vic), reg 6.

³⁹ *Victims of Crime Assistance (Special Financial Assistance) Regulations 2000* (Vic), reg 7.

⁴⁰ *Victims of Crime Assistance (Special Financial Assistance) Regulations 2000* (Vic), reg 8.

⁴¹ *Victims of Crime Assistance (Special Financial Assistance) Regulations 2000* (Vic), reg 4.

⁴² VOCA Act, s 10(1).

- amounts for expenses incurred or likely to be incurred by the secondary victim for reasonable counselling services;⁴³
- amounts for medical expenses incurred or likely to be incurred by the secondary victim as a direct result of witnessing or becoming aware of the act of violence;⁴⁴
- in exceptional circumstances, an amount up to \$20,000 for loss of earnings⁴⁵ suffered or reasonably likely to be suffered by the secondary victim as a direct result of witnessing or becoming aware of the act of violence;⁴⁶ and
- in exceptional circumstances, an amount for other expenses aimed at assisting the recovery of a secondary victim who is a child who witnessed an act of violence against a primary victim who was a family member or to assist the recovery of a person who is a secondary victim by virtue of section 9(2) (that is, becoming aware of an act of violence against their child).⁴⁷

The meaning of **family member** for these purposes is defined in section 10A(3)—(4) of the VOCA Act.

5.3 Assistance for related victims

A related victim may be awarded assistance of up to \$50,000.⁴⁸ This may consist of:

- amounts for expenses incurred or likely to be incurred by the related victim for reasonable counselling services;⁴⁹
- amounts for medical expenses or funeral expenses incurred or likely to be incurred by the related victim as a direct result of the death of the primary victim;⁵⁰
- amounts for distress experienced or likely to be experienced by the related victim as a direct result of the death of the primary victim;⁵¹
- amounts for loss of money that, but for the death of the primary victim, the related victim would have been likely to receive during a period up to two years after that death;⁵²
- amounts for other expenses incurred or likely to be incurred by the related victim as a direct result of the death of the primary victim;⁵³ and
- in exceptional circumstances, amounts for expenses incurred or likely to be incurred to assist the related victim in their recovery from the death of the primary victim.⁵⁴

⁴³ VOCA Act, s 10(2)(a).

⁴⁴ VOCA Act, s 10(2)(b).

⁴⁵ Details of requirements for loss of earnings claims are found in Practice Direction No 6/2003.

⁴⁶ VOCA Act, s 10(2)-(3).

⁴⁷ VOCA Act, s 10A.

⁴⁸ VOCA Act, s 13(1).

⁴⁹ VOCA Act, s 13(2)(a).

⁵⁰ VOCA Act, s 13(2)(b).

⁵¹ VOCA Act, s 13(2)(c).

⁵² VOCA Act, s 13(2)(d). Details of requirements for a dependency claim are found in Practice Direction No 7/2003.

⁵³ VOCA Act, s 13(2)(e).

⁵⁴ VOCA Act, s 13(4).

The concept of a claim for **distress**⁵⁵ is not defined in the VOCA Act and was not used in any other previous legislation. Case law suggests that the word can be given no more than its ordinary meaning, which entails great pain, anxiety, sorrow, acute suffering, affliction or trouble and is broader than notions of pain and suffering.⁵⁶ The average amount of financial assistance awarded to related victims for distress in the year ended 30 June 2007 was \$15,682.⁵⁷

There is a maximum amount of \$100,000 that can be awarded in relation to any one primary victim, regardless of the number of related victims who may have potential claims. This \$100,000 cap is exclusive of any amount claimed for funeral expenses.⁵⁸

5.4 Assistance for counselling expenses

In the event that any claim for assistance involves counselling expenses, the particular procedure set out in Practice Direction No 9/2003 must be followed as VOCAT will not usually make retrospective payments for counselling expenses incurred (see below).

VOCAT Guideline No. 2 of 2007 prescribes fees for preparation of counselling reports and for counselling more generally, which are designed to guide VOCAT members in awarding financial assistance for such expenses. This guideline took effect from 1 January 2008, but is not decisive and may be departed from where appropriate.

According to the Guideline, appropriate fees for the preparation of reports are:

Report type	Report by registered psychologist	Report by non-psychologist
First report recommending an award of assistance for five hours or less of counselling	\$250*	\$250
First report recommending an award of financial assistance for more than five hours of counselling	\$300—500*	\$300—500
Subsequent report for award of financial assistance recommending financial assistance for further counselling than previously awarded	\$250*	\$250

* and up to two hours of the authorised hourly rate for time spent conducting necessary formal testing.

⁵⁵ VOCA Act, s 13(2)(c).

⁵⁶ See *Vita v VOCAT* [2000] 2317.

⁵⁷ *VOCAT Annual Report 2006-07*.

⁵⁸ VOCA Act, s 12.

Appropriate fees for counselling services are:

Duration of individual client counselling sessions	Registered psychologist	Non-psychologist
30 minutes	\$65	\$50
60 minutes	\$130	\$100
90 minutes	\$195	\$150

Duration of group or family client counselling sessions	Registered psychologist	Non-psychologist
30 minutes	\$37.50 per person to a maximum of \$137.50	\$30 per person to a maximum of \$110
60 minutes	\$75 per person to a maximum of \$250	\$60 per person to a maximum of \$200

5.5 Restrictions on quantum of assistance

The amount awarded by VOCAT *must* take into account the other entitlements of the victim. A VOCAT award must be reduced by the total amount of any damages the applicant has received at common law and any compensation, assistance or payments of any other kind that the applicant has received.⁵⁹ The exception to this restriction is awards for special financial assistance⁶⁰ or distress,⁶¹ which must not take into account payments under life insurance policies or superannuation schemes.⁶²

In addition, VOCAT *may* take into account and reduce any award by the total amount of any compensation a victim is *entitled* to recover under a scheme, including WorkCover, the Transport Accident Commission and the Police Assistance Compensation Scheme.⁶³ Subject to section 16(ab), outlined above, payments under life insurance, health insurance and superannuation schemes to which a victim is entitled may also be taken into account.⁶⁴

5.6 Interim assistance

It is possible for an applicant to seek an interim award of up to \$1000 for immediate needs such as counselling, medical and other expenses. If an interim award is made but the final application is unsuccessful, then the sum of the interim award may become a

⁵⁹ VOCA Act, s 16(a).

⁶⁰ VOCA Act, s 8A.

⁶¹ VOCA Act, s 13(2)(c).

⁶² VOCA Act, s 16(ab).

⁶³ VOCA Act, s 16(b)(i).

⁶⁴ VOCA Act, s 16(b)(ii).

debt due to the State.⁶⁵ If the final application is successful, then the amount awarded will be reduced by the amount of any interim assistance.⁶⁶

Decisions on interim awards may be made within 24 hours if they are referred to the registrar. If referred to a VOCAT Member, it may take longer for a decision to be made. An application for an interim award is made at the time of lodging the application for assistance.

The application for interim assistance should be made in writing in a letter (see sample in section 12 below) accompanying the application for assistance. This letter should not merely state that the applicant seeks interim assistance but should also demonstrate the urgency of the need for assistance and itemise the use to be made of the interim award. Applications should include relevant supporting documentation, such as invoices or reports. In particular, VOCAT is likely to require a police report before progressing any application for interim assistance.

In the financial year ended 30 June 2007, 97% of applications for an interim award of financial assistance were granted.⁶⁷

6. How Does VOCAT Make Its Decision?

VOCAT may make an award of assistance to an applicant if it is satisfied that:

- an act of violence has occurred;
- the applicant is a primary, secondary or related victim or a person who has incurred funeral expenses; and
- the applicant is eligible to receive assistance.⁶⁸

VOCAT may make an award in relation to an act of violence even though no person has been charged with, found guilty of or convicted of an offence in respect of this act.⁶⁹

In determining whether to make an award, VOCAT is obliged to have regard to:

- the character of the applicant at any time, whether before, during or after the act of violence;
- the behaviour of the applicant at any time, including past criminal activity and the number and nature of any findings of guilt or convictions; and
- the attitude of the applicant at any time;
- whether the applicant provoked the act of violence and, if so, the extent to which the violence was proportionate to the provocation;
- any condition or disposition of the applicant that directly or indirectly contributed to the injury or death;

⁶⁵ VOCA Act, s 56(3).

⁶⁶ VOCA Act, s 56(4).

⁶⁷ *VOCAT Annual Report 2006-07*.

⁶⁸ VOCA Act, s 50(1).

⁶⁹ VOCA Act, s 50(4).

- whether the person who committed the act of violence will benefit directly or indirectly from the award; and
- any other relevant circumstances.⁷⁰

For related victims only, VOCAT must also have regard to:

- the character and behaviour of the deceased victim, including past criminal activity and the number and nature of any findings of guilt or convictions;
- any obligations owed to the applicant and other related victims by the deceased primary victims;
- the financial resources and financial needs of the applicants and any other related victim applicants; and
- for close family members or those in intimate personal relationships, the nature of the relationship between the deceased primary victim and the applicant.

Obtaining instructions on any previous criminal activity and convictions may be of particular importance. Factors such as the length of time since such any such convictions and any rehabilitation attempts may be relevant.⁷¹

The standard of proof that applies to any question of fact to be determined by VOCAT is the balance of probabilities.⁷²

The only other more general obligations on VOCAT are to act fairly, according to merits and with expediency.⁷³ VOCAT has discretion to make awards subject to any specified conditions.⁷⁴

7. Particular Circumstances

7.1 Koori VOCAT List

The Koori VOCAT List was launched on 10 August 2006 to address difficulties faced by the Victorian Koori community in exercising their rights to assistance.

It is governed by Practice Direction No. 2 of 2007. It is currently in a two-year pilot phase, with the pilot due to end on 1 July 2008. All applications involving an Aboriginal or Torres Strait Islander applicant are to be transferred to the Koori VOCAT List of the Melbourne Magistrates' Court where they will be managed by the Koori VOCAT List registrar. The purpose of the list is to encourage a flexible approach that is responsive to the needs of Victoria's Koori community.

⁷⁰ VOCA Act, s 54.

⁷¹ See *Nguyen v VOCAT* [2001] VCAT 2028; *Klein v Victims of Crime Assistance Tribunal* [2005] VCAT 1732.

⁷² VOCA Act, s 31.

⁷³ VOCA Act, s 32.

⁷⁴ VOCA Act, s 50(2).

7.2 Family Violence Court Division

VOCAT claims may also be heard within the special Family Violence Court Division of the Magistrates' Court at Ballarat and Heidelberg, which aims to increase access to justice and the safety of those who have experienced family violence.

8. How to Make a VOCAT Claim

8.1 Obtaining instructions from your client

As the *Lawyers Practice Manual Victoria* suggests, you should seek as many of the following details as possible from your client to complete the VOCAT application form and statement of claim:

- name, address and birth date of applicant;
- facts surrounding the offence, including anything the applicant has done that may have contributed to the injury;
- circumstances of any prior convictions of applicant;
- whether the offence was reported and the name, rank, registration number and police station of the officer to whom it was reported;
- name, rank and station of any interviewing police officer;
- if the offence was not reported, then the reasons for not reporting the offence to police;
- a copy of the police statement or report;
- names and addresses of treating medical practitioners;
- the nature and extent of injuries, including any disabilities, suffered by the applicant and the length of time the injuries took to subside or heal;
- the extent to which the injury has affected the applicant's normal activities;
- names and addresses of any doctor, psychiatrist, psychologist or other health practitioner still treating the applicant and any medication still being used;
- the cost of past and likely future medical and hospital treatment and expenses;
- the extent to which the injury has exacerbated any existing conditions or disabilities;
- the nature and amount of claim for damage to clothing worn at the time of injury;
- the name and address of the applicant's employer;
- details of absence from work, lost wages or salary;
- whether the applicant was a member of any benefit fund or society or had any relevant insurance;
- the nature and amount of any payments received in respect of the injury; and
- names and addresses of people who may have witnessed the criminal act or the injuries.

Be aware that in order to make and progress the application, it will be necessary to obtain information from the police about the progress and status of any police investigations and/or criminal proceedings. A written or telephone request to the relevant police officer may be sufficient to obtain this documentation or information. Alternatively, upon making the application, VOCAT will request the relevant information from the police. You and the applicant can view this material held by VOCAT (except in the case of certain types of police documents).⁷⁵ A freedom of information request may also be made to the police for all documents associated with the crime (see section 10 below for contact details). At the time of writing, an application fee of \$22 must accompany the application and there may be further costs for accessing the documents. If there has been a conviction and sentence, then no further details or information will be required by VOCAT.

8.2 Time limits for making an application

An application must be made within two years of the occurrence of the act of violence or, in the case of a related victim or person who has incurred funeral expenses, within two years of the death of the primary victim.⁷⁶

If an application is not made within this period, then VOCAT will send the applicant an application for an **extension of time** form with its acknowledgement of the application. VOCAT may consider whether there are particular circumstances that indicate that the application should not be struck out.⁷⁷ Circumstances to which VOCAT must have regard are:

- the applicant's age at the time of the act of violence;
- any intellectual disability or mental illness of the applicant;
- whether the person who has committed the act of violence was in a position of power, influence or trust in relation to the applicant;
- the physical or psychological effect of the act of violence on the applicant;
- whether the delay in making the application threatens VOCAT's ability to make a fair decision;
- whether the applicant was a child at the time of the act of violence; and
- all other circumstances that it considers relevant.⁷⁸

VOCAT may not grant an application to commence proceedings out of time simply because the applicant was not aware of their rights under the VOCA Act.⁷⁹

⁷⁵ See Practice Direction No 2 of 2003 for further details on obtaining access to files held by VOCAT.

⁷⁶ VOCA Act, s 29(1).

⁷⁷ VOCA Act, s 29(2).

⁷⁸ VOCA Act, s 29(3).

⁷⁹ VOCA Act, s 29(4)). For judicial consideration of s 29, see *CS v Victims of Crime Assistance Tribunal* [2006] VCAT 1061, *L v Victims of Crime Assistance Tribunal* [2004] VCAT 1452, *S v VOCAT* [2002] VCAT 1257, *J v VOCAT* [2002] VCAT 532 and *Clement v VOCAT* [2002] VCAT 495.

8.3 Making the application

The application must be made on a prescribed form, which can be obtained from the VOCAT registry, most other Magistrates' Courts, most police stations or the VOCAT website (see <http://www.vocat.vic.gov.au> or the sample application contained in section 12 below). VOCAT does not charge any fees for making the application or the hearing.

As discussed above in section 8.1, the application form must set out:

- the circumstances in which the injury or death occurred, including the date, time and place of the alleged criminal act;
- whether the applicant is claiming as a primary, secondary or related victim or as a person who has incurred funeral expenses;
- the nature of the injury or cause of death;
- whether the applicant has made a police report;
- whether criminal proceedings arising out of the alleged act have been commenced;
- the amount and type of assistance sought;
- whether the applicant has sought any other assistance under the VOCA Act in respect of the same act of violence;
- whether the applicant has applied for compensation or assistance under any other scheme;
- details of any relevant insurance cover or other benefits; and
- any other materials required by rules or practice directions.⁸⁰

In addition, an application form of a related victim must also include:

- details of every other person whom the applicant believes may be a related victim in the act of violence; and
- details of every other person whom the applicant believes *may allege* that they are a related victim of the act of violence.⁸¹

8.4 Things to consider when completing an application form

Things to consider when completing an application form include whether the applicant would prefer to have the **application determined at a hearing** or **determined in their absence**. It is often advisable to elect a hearing in order to enable the VOCAT Member to see the applicant and better understand their experience. If a determination in absentia is requested, then a comprehensive statement of claim (see below) becomes increasingly important.

The application form also allows an applicant to elect whether they wish to have proceedings conducted in a **closed court**. Election for a closed hearing in the application form will not necessarily be decisive, as the ultimate election is to be made by VOCAT. The default position is that hearings will be in public unless VOCAT directs

⁸⁰ VOCA Act, s 27.

⁸¹ VOCAT Act, s 27.

otherwise.⁸² VOCAT must make directions for the hearing to be closed in specified circumstances relating to the vulnerability and distress of the applicant.⁸³

The application form also includes an authorisation that enables VOCAT to obtain any further evidence or documentation that it considers necessary. As a matter of course, VOCAT will obtain information from police in relation to the offence.

You should lodge or post the completed application form, together with any request for interim assistance, with or to the Magistrates' Court closest to the applicant's residence.⁸⁴ Certain applications must be lodged with the Melbourne VOCAT registry, such as when the applicant lives interstate, the applicant is a related victim or the applicant is a primary or secondary victim but is aware of the existence of related victims.⁸⁵

An application may also be lodged with a VOCAT registrar via fax, as long as it is accompanied by a cover sheet that states:

- the name, address and telephone number of the sender;
- the date and time of transmission;
- the total number of pages sent, including the cover sheet;
- the telephone number from which the transmission is sent;
- the name and telephone number of a person to contact in the event of any problem in fax transmission; and
- a statement that the fax is by way of lodgement under rule 6(1).⁸⁶

In addition, a copy of the application must be sent to the registrar within 14 days of the fax.⁸⁷ Failure to comply properly with the lodgement rules may result in the application being struck out.⁸⁸

8.5 Procedure for seeking assistance for counselling expenses

If the victim requires counselling and wishes to pursue these expenses through VOCAT, then you should follow the procedures in Practice Direction No 9/2003. A counsellor who is writing a report in support of a VOCAT application must follow a different report style, depending on whether the counsellor recommends that the applicant requires up to five hours of counselling, more than five hours of counselling or it is a subsequent counselling report. The required content of these reports is set out in Practice Direction No 9/2003. In addition, all reports must be accompanied by:

- the applicant's signed request for counselling and information acknowledgement form;
- particulars of the academic qualifications and experience of the counsellor, including particulars of any VRAS accreditation; and

⁸² VOCA Act, s 42(1).

⁸³ See VOCA Act, s 42(3).

⁸⁴ *Victims of Crime Assistance (Procedure) Rules 2007*, r 5(1).

⁸⁵ *Victims of Crime Assistance (Procedure) Rules 2007*, r 5(2).

⁸⁶ *Victims of Crime Assistance (Procedure) Rules 2007*, r 6(2).

⁸⁷ *Victims of Crime Assistance (Procedure) Rules 2007*, r 6(3).

⁸⁸ *Victims of Crime Assistance (Procedure) Rules 2007*, r 6(4).

- a completed counselling and report fee invoice form.

If further counselling is required after initial sessions, then prior approval must be obtained from VOCAT. It is important to follow these guidelines, as retrospective payment for counselling after the first five hours will not usually be made.

8.6 What happens after lodgment of the application?

Once VOCAT has received an application, it will send an **acknowledgement, directions for preparation, statement of claim form** and, if applicable, an **application for an extension of time form** (see the sample in section 12 below). Such acknowledgement occurs fairly quickly, often within one week.

A pro forma statement of claim form is provided for each type of claim (primary, secondary or related). This claim must be completed and returned to VOCAT within four months. It should be accompanied by all supporting information, as indicated in the directions for preparation. The statement of claim sets out the amount and details of all types of expenses claimed (for example, counselling, medical, assistance for recovery, clothing at time of act of violence, legal costs) and each expense category must be supported by appropriate receipts and documentation.

Unless the information has already been received, three months after the application has been filed VOCAT will send a reminder letter indicating that there are 28 days remaining within which the statement of claim and supporting material must be filed. If all supporting material cannot be filed in time, then you may make a written request to VOCAT outlining the reasons why an extension of time is required. If time limits for lodgements are not met and no extensions are granted, then the application may be struck out. If a claim is struck out, then there is potential to request its reinstatement.

VOCAT may also require an applicant to attend an independent medical, psychological or psychiatric assessment before the hearing.

8.7 Documenting the claim

As the *Lawyers Practice Manual Victoria* suggests, the types of **evidence** or documentation necessary to support the statement of claim may include the following:

- accounts or receipts for all expenses;
- evidence of extent of any insurance, Medicare rebates or other forms of compensation obtained (for example, Transport Accident Commission);
- medical reports from doctors that include the following information:
 - the date of first consultation;
 - the history received from the patient;
 - clinical findings;
 - diagnosis;
 - opinion on relationship between the crime and the patient's medical condition;
 - opinion on effect of injury on normal life of patient;
 - prognosis; and

- any details necessary to satisfy the definition of very serious injury or very serious disease (if relevant);
- report from a clinical or forensic psychologist or psychiatrist to outline the extent of any claimed psychological trauma including the following information:
 - particulars of materials considered by the practitioner, including police reports and any other reports;
 - details of time spent consulting and details of any tests undertaken;
 - outline of alleged violence;
 - outline of presenting psychological problems;
 - outline of relevant psychological history;
 - opinion as to link of psychological problems to the act of violence;
 - diagnosis;
 - prognosis;
 - opinion as to how any relevant psychological history of the patient will affect prognosis; and
 - a proposed counselling plan;
- detailed calculations relating to loss of earnings, potentially through a letter from an employer that outlines the following:
 - the applicant's net and gross weekly wages or salary at the date of the offence and at the time of providing the information;
 - details of periods of absence from work due to the injury;
 - reasons for period of absence;
 - net and gross amounts of any sick leave entitlements paid to the applicant;
 - net and gross amounts the applicant would have received if they had worked during the relevant period; and
 - income tax records for at least the 12 months preceding the incident;
- relevant accounts for any funeral expenses.

8.8 Hearings

The amount of time between filing the statement of claim and the hearing may vary. As an indication, in the year ending 30 June 2007, case processing time in VOCAT (being the time between an application first being lodged and it being finalised) was less than nine months for 55% of applications and within 12 months for 68% of applications.⁸⁹

A notice of hearing will be sent about six weeks before the scheduled hearing date, advising of the time and date of the hearing. It may also indicate whether VOCAT considers any particular substantive matters in the application to be in issue.

⁸⁹ VOCAT Annual Report 2006-07.

Hearings usually take about half an hour, although longer may be necessary in more complex cases. Briefing counsel may be desirable for the hearing. In particular, counsel should be briefed in complex cases such as those where the offender is participating or those where a longer period of time has been set aside for the hearing.

Procedure at a VOCAT hearing is informal, with VOCAT not bound by the rules of evidence or practice. Applicants can attend the hearing on their own or with a legal practitioner. VOCAT is amenable to the use of techniques, such as closed circuit television, screening, video conference and the attendance of other people for emotional support during the hearing.⁹⁰

The applicant and lawyer are usually seated at the bar table and the lawyer remains seated throughout the hearing. The hearing may involve questioning of the applicant directly by the VOCAT Member, or this may be done through the lawyer (or a combination of both). The witness box is not usually used.

Despite the lack of formal procedures, VOCAT is required to give a party reasonable opportunity to:

- call or give evidence;
- examine, cross-examine or re-examine witnesses; and
- make submissions.⁹¹

VOCAT also has broad discretion to adjourn hearings (for example, in order for further reports to be obtained).⁹² VOCAT might adjourn consideration of an application if the determination of relevant civil or criminal proceedings is expected within the next six months.⁹³

VOCAT also has wide investigative powers and other powers to obtain information.⁹⁴

8.9 Directions hearings

VOCAT may call directions hearings at any stage during the proceedings. In the event that the offender is participating, a directions hearing must be held. As set out in Practice Direction No 4/2003, directions hearings are commonly held if the following issues may arise:

- a third party with a legitimate or substantial interest is involved (see below);
- access is sought to classified documents on VOCAT files;
- applications are of additional complexity (for example, they involve an extension of time, delay in reporting to the police or pecuniary loss);
- there is adverse police material;
- claims do not appear to disclose a relevant offence;

⁹⁰ See VOCA Act, s 37.

⁹¹ VOCA Act, s 38(1)(c).

⁹² VOCA Act, s 41.

⁹³ VOCA Act, s 41(2).

⁹⁴ VOCA Act, ss 39-40.

- cases are poorly prepared with insufficiently particularised statements of claim; and
- final hearing information needs to be finalised, such as the number of witnesses to be called, the estimated length of the hearing, the need for remote witness facilities, access to and exchange of documents, identification of facts in dispute and possible need for an interpreter.

8.10 Notifying the offender and other people

People with a substantial interest, a VOCAT legal officer or the State are entitled to appear at a hearing⁹⁵ and VOCAT may give notice of the hearing to any person with a legitimate interest in the matter.⁹⁶ The offender may be a person with a legitimate interest; however, VOCAT cannot give notice of the hearing to the alleged offender unless the applicant has had opportunity to be heard on whether such notice should be given.⁹⁷

Factors usually taken into account by VOCAT in determining whether to notify the offender include:

- whether there has been a complaint to police in relation to the act of violence;
- whether a complaint has been made but the applicant does not want to proceed with it;
- whether the Director of Public Prosecutions has elected not to prosecute;
- whether the alleged offender has made denials in relation to the allegations;
- whether the alleged offender has been charged or convicted; or
- whether there are previous or concurrent proceedings elsewhere relating to the same alleged offences.

Practice Direction No 8/2003 establishes the following procedures and timelines to be followed in relation to this notification, whether in relation to the offender or any other third party:

- VOCAT will advise the applicant or the applicant's lawyer in writing;
- 21 days will be allowed for a response;
- at the end of this time limit, the matter will be referred back to the VOCAT Member together with the response, if any, received from the applicant or the applicant's lawyer;
- the VOCAT Member will consider all relevant matters including the applicant's or their lawyer's response and will thereafter make a decision regarding the potential third party interest;
- if VOCAT decides that the third party has a legitimate or substantial interest or decides to notify the alleged offender as the case may be; the applicant or their lawyer will first be advised of this in writing;

⁹⁵ VOCA Act, s 35.

⁹⁶ VOCA Act, s 34(2).

⁹⁷ VOCA Act, s 34(3).

- 21 days will, unless otherwise ordered by VOCAT be allowed for the applicant or their lawyer to advise VOCAT whether the applicant still wishes to pursue the claim;
- if the applicant or their lawyer advises that the applicant seeks to proceed with the claim, or no response is received, then notification will be sent to the third party/alleged offender as the case may be, by registered mail;
- 14 days, unless otherwise ordered by VOCAT, will be allowed for a response;
- if no response is received from the third party/alleged offender, then the application will be listed and the applicant or their lawyer will be advised that the third party/alleged offender will not be attending;
- if the third party/alleged offender indicates that they wish to be involved in the proceedings or wish to be notified of the hearing, then the matter will be listed for a directions hearing. The applicant and the third party/alleged offender will be notified of the time, date and place of the directions hearing; and
- procedural directions for the further conduct of the proceedings will, unless otherwise ordered, be determined at the directions hearing.

8.11 Notification of decision

An applicant will be notified in writing of VOCAT's decision. VOCAT's notification must include details of:

- the amount of assistance awarded (if any);
- the category of violence of the act of violence (if relevant);
- the purpose of the award;
- any conditions of the award; and
- the person or people to whom assistance is payable.⁹⁸

The amount might be paid as a lump sum, in instalments or as a combination of both.⁹⁹ In addition, VOCAT may order that assistance in respect of expenses be paid directly to a creditor.¹⁰⁰

8.12 Costs

VOCAT has broad discretion to award costs in relation to a VOCAT application.¹⁰¹ Guideline No 1 of 2007 sets out a scale of costs that cover preparation and appearance fees for VOCAT claims. The scale is as follows:

⁹⁸ VOCA Act, s 38(2).

⁹⁹ VOCA Act, s 55.

¹⁰⁰ VOCA Act, s 47.

¹⁰¹ VOCA Act, s 48(1).

	Preparation Fees	Appearance Fees
Directions hearing		\$260—410
Application of modest complexity	\$680—780	\$565—670
Application of greater complexity	\$780—990	\$670—875
Multiple claims	Principal application: \$675—990 Subsequent applications: 30—50% of principal application fee	Principal application: \$565—875 Subsequent applications: 30—50% of principal application fee
Related victim applications	Lead application: \$675—990 Associated applications: 30—50% of lead application fee	Lead application: \$565—875 Associated applications: 30—50% of lead application fee

8.13 Variations of awards

Once an award has been made, an application to vary the award may be made within six years of the date of the award.¹⁰² A period of longer than six years may be allowed if the award was made to a victim under 18 years, in which case a variation may be made at any time until the victim turns 24 years of age.¹⁰³

An application for variation is to be made in writing to VOCAT and accompanied by supporting materials.

VOCAT endeavours to determine variation applications within two weeks of receipt.

In considering applications for variation, VOCAT must have regard to:

- any fresh evidence that has become available since the award was last made or varied;
- changes of circumstances since the award was last made or varied;
- payments received by the person to whom an award was made in respect of the relevant injury; and
- anything else VOCAT considers relevant.¹⁰⁴

¹⁰² VOCA Act, s 60.

¹⁰³ VOCA Act, s 60(2).

¹⁰⁴ VOCA Act, s 60(3).

8.14 Refunds of awards

A victim who has received an award may be required to refund all or part of that award if they later receive any damages, compensation, assistance or payments that were not taken into account by VOCAT at the time of its decision.¹⁰⁵

8.15 Appeals

The following final decisions can be reviewed de novo by the Victorian Civil and Administrative Tribunal (**VCAT**):

- refusal of an award of assistance;
- the amount of assistance;
- refusal to vary an award;
- determination of the amount of assistance on a variation application; and
- determination that a person is required to make a refund.

A decision to refuse an application for interim assistance is not a final order and therefore cannot be the subject of an appeal.

An application for review of a VOCAT determination must usually be made within 28 days of the date of the final decision.¹⁰⁶

You should make sure your client is aware that appeal costs may be expensive and that VCAT often requires each party to bear their own costs regardless of the outcome of the appeal. In addition, appeals may have mixed success. In the financial year ended 30 June 2007, 48.3% of applications for review to VCAT were struck out, withdrawn or abandoned. An award was made by VCAT in 13.8% of cases or varied by VCAT in 17.2% of cases.¹⁰⁷

9. Other Assistance for Victims of Crime

Victims of crime may also have access to other types of compensation or assistance.

9.1 Civil proceedings

A victim of crime may be able to bring a civil claim for damages against the offender in the Magistrates' or County Court. The ability to pursue this claim depends on the assets of the offender and the prospects of success. Legal advice should be sought in relation to this as soon as possible in order to ascertain the prospects of a successful claim.

9.2 Assignment of rights

A person for whose benefit an award is made under the VOCA Act is able to assign their rights in any civil proceedings to the State, which may then pursue civil proceedings,

¹⁰⁵ VOCA Act, s 62.

¹⁰⁶ VOCA Act, s 59(2).

¹⁰⁷ VOCAT Annual Report 2006-07.

damages or compensation against the offender.¹⁰⁸ Any amounts recovered by the State in excess of the amount received by the assignor from VOCAT must be paid to the assignor. Requests to make an assignment are to be directed to the Victorian Department of Justice.

9.3 Compensation under the Sentencing Act 1991 (Vic)

The *Sentencing Act 1991* (Vic) provides that if a court has found an offender guilty of an offence, the victim may apply to the court within 12 months to recover damages for pain and suffering and other expenses from the offender personally.¹⁰⁹ An application under section 85B is typically made through a victim impact statement.

A court may award a victim compensation for:

- pain and suffering;¹¹⁰
- reasonable counselling services;¹¹¹
- reasonable medical expenses;¹¹² and
- compensation for property loss or damage.¹¹³

The court may take the financial circumstances of the offender into account when determining whether to make an order for compensation.¹¹⁴ These mechanisms are not commonly used, potentially due to the financial situation of offenders and the difficulty of obtaining accurate information about an offender's ability to pay compensation.

9.4 Other statutory schemes

Other statutory schemes may be available to assist particular types of victims. An act of violence involving a vehicle may create an entitlement for payment under the *Transport Accident Act 1986* (Vic) (through the Transport Accident Commission). A victim injured while assisting a member of the police force may have entitlements under the *Police Assistance Compensation Act 1968* (Vic). A worker injured in a criminal act in the course of their employment may have entitlements under the *Accident Compensation Act 1985* (Vic).

9.5 Victim support

The Victim Support Agency (**VSA**), an arm of the Department of Justice, coordinates support services for victims of crime. VSA provides a dedicated helpline that operates during business hours and offers referrals and information to victims of crime (toll free help line number is 1800 819 817).

The victim assistance and counselling program enables eligible victims of crime to be referred to appropriate short-term counselling. Up to five counselling sessions can be

¹⁰⁸ VOCA Act, s 51(1).

¹⁰⁹ *Sentencing Act 1991* (Vic), s 85D.

¹¹⁰ *Sentencing Act 1991* (Vic), s 85B(2)(a).

¹¹¹ *Sentencing Act 1991* (Vic), s 85B(2)(b).

¹¹² *Sentencing Act 1991* (Vic), s 85B(2)(c).

¹¹³ *Sentencing Act 1991* (Vic), s 86.

¹¹⁴ *Sentencing Act 1991* (Vic), s 85H.

provided to primary victims of a violent crime that occurred and was reported in the previous 12 months or a victim of family violence who has been granted an intervention order within the past 12 months.

10. VOCAT Contacts

Victims of Crime Assistance Tribunal (VOCAT)

Principal Registry
2nd Floor, 233 William Street
Melbourne VIC 3000
GPO Box 882G, Melbourne 3001
DX 350080
Tel: 1800 882 752/ (03) 9628 7855
Fax: (03) 9628 7853
Email: info@vocat.vic.gov.au

In addition, there are permanent VOCAT Registrars at the following courts: Ballarat, Bendigo, Broadmeadows, Dandenong, Frankston, Geelong, Heidelberg, Latrobe Valley (Morwell), Ringwood, Shepparton and Sunshine.

Contact details for these registries can be found at

<http://www.vocat.vic.gov.au/wps/wcm/connect/VOCAT/Find/VOCAT+Locations/>

Victoria Police Freedom of Information Unit

GPO Box 415
Melbourne VIC 3001
Website: <http://www.foi.vic.gov.au>

Victims Support Agency (VSA)

Department of Justice
1/136 Exhibition Street
Melbourne VIC 3000
GPO Box 4249 QQ
Melbourne VIC 3001
Helpline: 1800 819 817
Tel: (03) 8684 6700
Fax: (03) 8662 1777

11. VOCAT Resources

Potentially useful resources for further information about making a claim with VOCAT include:

- Fitzroy Legal Service, *The Law Handbook*;
- VOCAT website <http://www.vocat.vic.gov.au> (includes brochures, guidelines and practice directions);
- Springvale Legal Service, *Lawyers Practice Manual Victoria*;
- *Victims of Crime Assistance Act 1996* (Vic);

- *Victims of Crime Assistance Amendment Act 2000* (Vic);
- *Victims of Crime Assistance Amendment Act 2007*(Vic) ;
- *Victims of Crime Assistance (Special Financial Assistance) Regulations 2000* (Vic);
- *Victim of Crime Assistance (Procedure) Rules 2007* (Vic); and
- *Sentencing Act 1991* (Vic);
- VCAT review of VOCAT decisions available online at <http://www.austlii.edu.au>

12. Forms and Precedents

- Application form
- Loss of earning claim form
- Letter to client confirming instructions
- Letter to psychologist requesting report
- Letter to medical practitioner requesting medical information
- Letter to psychologist requesting psychological information
- Letter requesting information – hospital
- Letter requesting information – court
- Letter requesting information - police
- FOI request letter to Victoria Police
- Statement of claim form for a primary victim
- Statement of claim form for a secondary victim
- Statement of claim form for a related victim
- VOCAT letter acknowledging receipt of application
- VOCAT pro forma directions for preparation
- Letter to VOCAT requesting interim assistance
- Extension of time form
- Letter to client re: closure of file

13. Waiver

This Manual is intended to be used as a resource that introduces different areas of law and provides guidance on how an issue might be addressed. The Manual is not intended to be advice on any particular matter. Readers should not act on the basis of any material in the Manual without obtaining advice relevant to your own particular situations. The authors and publishers expressly disclaim any liability to any person in respect of any action taken or not taken in reliance on the contents of this Manual. The law in this edition of the Manual is correct as at 30 June 2008

