

Victims of crime and other compensation

This chapter explains the work of the Victims of Crime Assistance Tribunal and the assistance they may be able to give. It also has information on the Transport Accident Commission and Worksafe Victoria regarding transport or workplace injuries.

What does the Victims of Crime Assistance Tribunal do?

The Victims of Crime Assistance Tribunal gives financial help to victims of violent crime in Victoria. This help is to acknowledge the loss or injury the person has suffered and to help them recover from the crime.

Who can apply?

Applications for Victims of Crime compensation can be made by other people besides the person who suffered the actual injury. People who may apply include:

- those who have been injured or who have suffered a 'significant adverse effect' due to an act of violence
- those trying to aid or rescue someone who is the victim of an act of violence
- people who are present at the scene of an act of violence and are injured as a result of witnessing that act
- people who are injured because of becoming aware of an act of violence after it happens, and they are the parent/guardian of the primary victim and the primary victim was under 18 years of age at the time of the act of violence
- close family members of people who died as a direct result of the act of violence. 'Close family member' is a person who had a genuine personal relationship with the victim at the time of death and who was the spouse, parent, guardian, step-parent, child, step-child, brother, sister, step-brother or step-sister of the primary victim
- people dependent on the primary victim who has died as directly because of an act of violence
- someone who had an intimate close relationship with the primary victim who died as directly because of the act of violence.

Can I apply as a bushfire victim?

Bushfire victims may, in very special circumstances, make an application to the tribunal. The fact you are a bushfire victim does not, in itself, allow you to apply.

First it must be proved that an 'act of violence' has happened (for example, that someone deliberately lit a fire), and that this has caused injury or death. The act of violence must be a criminal offence which caused the death, injury or the threat of an injury to a person (and be punishable by imprisonment). There does not have to be an arrest or conviction of the person who allegedly lit the fire, only that the fire was deliberately lit.

Note: the tribunal has the power to limit or refuse financial assistance if you have received other assistance. This would include, for example, if you have received bushfire recovery payments, grants or allowances, or other assistance.

How will the tribunal make its decision?

The tribunal will work with Victoria Police to get evidence that an act of violence happened to you. Usually the tribunal will wait until any investigations have finished before making a decision about your application. This may include the police or coronial investigation or the Royal Commission process. This may take a long time.

Sometimes the tribunal may tell the alleged offender (the person the police suspect lit the fire) and anyone else with a direct interest, to be a part of the decision about your application. This might happen, for example, if the person has not been charged with a criminal offence or has been found not guilty of that offence. A hearing may be held at the tribunal (similar to a criminal court case) to decide if the violent act happened. This may be stressful for you. You can get support. **See** the upcoming section 'Where can I get help?'

The tribunal will also ask you for information yourself, about your injuries and any assistance you may have received. If the tribunal later discovers you have received compensation or help after they have made their decision, they may ask for a refund of the compensation they gave you. This might be for all or part of the compensation.

When do I need to apply?

You must apply within two years of the act of violence (or within two years of the death of the primary victim if you are a relative). There are some cases where the tribunal will consider your application if you submit it after two years time. You can make an application for an 'extension of time' after two years with your reasons for the delay and why your application should be considered.

You need to report the act of violence to the police within a reasonable time after the violent act happened. However, if there are special circumstances this may not be necessary.

What sort of assistance might I get?

Financial help can be given for medical or counselling expenses to help you recover. You may get help for funeral expenses, for loss of your wage or for other types of expenses. In special circumstances, you may get a payment to recognise the trauma you went through.

The tribunal does not award compensation for loss or damage to property, such as your house or car.

What if I am unsatisfied with the Tribunal's decision about my application?

You can apply to Victorian Civil and Administrative Tribunal (VCAT) if you are unhappy with the tribunal's decision. You must do this within 28 days of the tribunal's decision being made. VCAT can change the decision so that you get compensation or more compensation, or change conditions about the compensation being given.

You can also apply to change the compensation if there is new evidence about the act of violence or if your circumstances have changed (including if you have more expenses because of the violent act). You must do this within six years of when the compensation decision was made or, if you are under 18, at any time up until you are 24 years old.

Where can I get help?

For more information, go to the tribunal's website at www.vocat.vic.gov.au and see their 'Information for persons affected by the Victorian bushfires' available from the homepage. You can also call the tribunal on 9628 7857 (Melbourne callers) or 1800 882 752 (country callers) from Monday to Friday, 9 am to 4.30 pm.

The Victims of Crime helpline can give you information, support and referral to local support services. Their number is 1800 819 817 and they are open Monday to Friday from 8 am to 10 pm.

You should get legal advice before making an application to the tribunal. Call the Bushfire Legal Help Line on 1800 113 432 for free legal information, Monday to Friday from 8.45 am to 5.15 pm.

Transport Accidents

What can the Transport Accident Commission do?

If you have been involved in a transport accident during the bushfires, the Transport Accident Commission can pay for medical treatment that you get at a public or private hospital because of your transport accident. It can also pay for a range of other medical treatment, such as physiotherapy or pharmacy items, that you need because of your accident injuries.

You may also be able to get compensation if you have lost a family member due to a transport accident during the bushfires.

How to make a claim

There is no separate process for people affected by the bushfires. You need to make a claim following the usual steps.

To start with, call the Transport Accident Commission on 1300 654 329 or 1800 332 556 (toll-free outside Melbourne). A staff member will then explain what entitlements you may have and gather the information needed to help you get your claim started. You have 12 months to make a claim from the date of the accident. They will let you know when a decision has been made about your claim.

More information

Call the Transport Accident Commission on 1300 654 329 or 1800 332 556 (toll-free outside Melbourne).

Workplace injuries

What can WorkSafe Victoria do?

If you have suffered an injury, either physical or mental, at work because of the bushfires or as a consequence of the bushfires, you may be able to get WorkCover compensation from WorkSafe Victoria.

For example police officers, or telephonists in the emergency call centres may be affected by the work they performed during and after the fires. Also teachers of schools destroyed by fire or with deceased pupils, may subsequently suffer a psychiatric reaction that makes it too emotionally difficult for them to return to employment, for the current time or going forward.

The compensation can include weekly payments (for loss of wages) and money to cover reasonable medical and living expenses, as well as other benefits.

You can make a claim whether you are permanent or casual, full time or part time, employed by the people where you work or by an employment agency. You should make a claim as soon as possible.

How to make a claim

There is no separate process for people affected by the bushfires. You need to make a claim following the usual steps.

Before you contact WorkSafe Victoria, you will need to report your injury in your workplace, see a doctor to get a Certificate of Capacity and report a motor vehicle accident to the police if a motor vehicle was involved. You will then need to fill in a 'Worker's Injury Claim Form' and lodge it with WorkSafe Victoria. You can get a form from your employer, a post office or from WorkSafe Victoria at www.worksafe.vic.gov.au

More information

Call WorkSafe Advisory Service on 1800 136 089.

CFA and SES volunteer entitlements

CFA volunteers who suffer injury as a consequence of their employment as a fire fighter or as an auxiliary volunteer are entitled to the same benefits that are paid to workers under the Accident Compensation Act. See the above information under Work Injury claims.

State Emergency Services volunteers are also entitled to benefits under the Accident Compensation Act. See the above information under Work Injury claims.

DISCLAIMER

The information contained in this chapter of the Bushfire Legal Help Handbook is intended to provide general information on legal topics, current at the time of first publication. The contents do not constitute legal advice, are not intended as a substitute for legal advice and should not be relied on as such. You should get legal advice in relation to your individual circumstances and any particular matters you may have.

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