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Information about Applying for Victims of Crime Assistance

with SECASA Joint Legal Service

The South Eastern Centre Against Sexual Assault Joint Legal Clinic may be able to assist you in lodging an application with the Victims of Crime Assistance Tribunal. The Victims of Crime Assistance Tribunal (“VOCAT”) aims to financially reimburse sexual assault victims from expenses that they have incurred or will likely incur as a result of the sexual assault. The tribunal also grants certain victims financial assistance as symbolic expression of the states sympathy for and recognition of their suffering. The Tribunal’s focus is to provide financial assistance to victims rather than providing compensation.

A SECASA counsellor must refer your file to the Legal Service for you to be able to get legal assistance with your application. A law student at Springvale Monash Legal Service (“SMLS”) will provide you with free legal service in lodging your VOCAT Application under the full supervision of a registered solicitor. The Legal Service will book a Barrister to appear on your behalf at any hearings held at VOCAT which will be paid for by the Tribunal. Typically Applicants will not be out of pocket for any costs involved in the application even if their application is unsuccessful. In a small amount of unsuccessful cases, the most amount of money that a client would need to pay is \$550 for the cost of a psychologist writing a report to support your application. However the report writing fee is usually paid for by the Tribunal.

Eligibility to make a Victims of Crime Claim

1. Victims

There are two types of victims that can make a claim of financial assistance with VOCAT in relation to a sexual assault:

- 1) The Primary Victim: The person who was physically and/or psychologically injured as a result of a sexual assault
- 2) A Secondary Victim: A parent of a person who was injured as a result of the sexual assault who also became injured as a result of becoming aware that a sexual assault was committed against their son or daughter who was under the age of 18 years.

2. An Act of Violence Took Place

To claim financial assistance from VOCAT, the primary and/or secondary victim must have been significantly adversely affected by the sexual assault and have suffered injury which includes physical bodily harm and/or a mental illness or disorder which may or may not flow from nervous shock and/or pregnancy.

To be successful in a VOCAT Application, it must be established that a person suffered from ‘an act of violence’. The Applicant must always report the sexual assault to the Police before they make an application with VOCAT. However, the offender of the sexual assault does not have to have been charged, convicted or found guilty of the sexual assault for an Applicant to recover financial assistance from VOCAT. However, the victim’s application would be stronger if the offender was found guilty and convicted of the sexual assault. A primary victim of sexual assault can make a claim for ‘special financial assistance’ for either a “Category A” or a “Category B” sexual offence.

a) The “Category A Offence” is the most serious act of violence which includes ‘sexual penetration’. Sexual penetration includes the introduction (to any extent) by a person of his penis into the vagina, anus or mouth to another person whether or not there is emission of semen; or the introduction by a person of an object or part of his body (other than the penis) into the vagina or anus of another, other than in good faith for medical or hygiene purposes.

b) The “Category B Offence” includes an attempt of sexual penetration of a person, an indecent act/assault of another person or the deprivation of liberty of a person for the purpose of sexual penetration.

3. Application is within the Time Limit

A person must apply for financial assistance from VOCAT within two years of the sexual assault occurring. However, an application can be made to VOCAT to extend this two year period if a valid reason can be provided why there was a delay in making the VOCAT application. Your SMLS worker will assist you in making this extension of time application

4. Restrictions on Eligibility

VOCAT will refuse an application if:

- a) The Applicant has not reported the sexual assault to the police before they make their VOCAT Application (except in special circumstances)
- b) The Applicant has not provided reasonable assistance to the police about investigating the sexual assault
- c) The Applicant has colluded with the offender when making the application
- d) The Applicant has already made a previous application concerning the same sexual assault

Awards Available to Primary Victims

The amount and types of awards available to victims depends of the type of victim and also the type of sexual assault that was committed by the offender. Possible awards include:

1. Expenses incurred or likely to be incurred

VOCAT can grant primary victims a maximum financial award of \$60,000 for expenses incurred or likely to be incurred as a result of the sexual assault. This may include things such as; counselling expenses, medical expenses, loss or damage to clothing worn at the time of the sexual offence and up to \$20,000 for loss of earnings suffered as a direct result of the sexual assault. Please note that loss of earnings can only be claimed for a maximum of 2 years from the date of the sexual assault.

2. Special Financial Assistance

Special Financial Assistance is only available to primary victims who have suffered a significant adverse effect as a direct result of the sexual assault. An Applicant cannot claim special financial assistance if the sexual assault took place before 1 July 2000. The award is based on the category of sexual assault committed. There are minimum and maximum monetary amounts available for each category.

The “*Category A Victim*” may be awarded between \$3,500 and \$7,500 in special financial assistance if the sexual assault occurred between 1 July 2000 and 1 July 2007. However if the sexual assault occurred after 1 July 2007 then the Category A Victim may be awarded between \$4,667 and \$10,000. Please note that where a person has been the victim of a series of related sexual assaults by the same offender, VOCAT would only make one award of special financial assistance to the maximum amount of \$7,500 or \$10,000.

The “*Category B Victim*” may be awarded between \$1,000 and \$2,500 in special financial Assistance if the sexual assault occurred between 1 July 2000 and 1 July 2007. However if the sexual assault occurred after 1 July 2007 then the Category B Victim may be awarded between \$1,300 and \$3,250.

3. Other Expenses

In exceptional circumstances, the primary victim may be awarded up to \$60,000 in other expenses that they actually or reasonably incurred in assisting the victim’s recovery from the sexual assault. Examples of other expenses that are regularly claimed by victims include (but are not limited to): self defence courses, further study/tuition/educational courses, a personal computer, fitting the home with a security alarm, future counselling and therapy, new bed/bedding/manchester, replacing clothing or items damaged during the sexual assault, relocating to a new home and in exceptional circumstances the cost of a vacation/holiday.

To be awarded any of these other expenses the victim needs to establish that these expenses will assist them in the recovery of the sexual assault.

Awards Available to Secondary Victims

Secondary Victims of Crime may be awarded up to \$50,000 in financial assistance. Secondary Victims can claim the same awards as primary victims except for the award of special financial assistance.

Five Steps in Making a VOCAT Application

1. Initial Interview

The primary and/or secondary victim has to attend an initial interview with a SMLS worker at Springvale Monash Legal Service ("SMLS"). The SMLS worker will provide all of the legal service in making a VOCAT application under full supervision of a registered solicitor.

2. VOCAT Application

The SMLS worker will fill out a VOCAT Application form which they will get you to sign on site in front of a lawyer, or off site and officially witnessed by a Pharmacist, Lawyer or Police Officer etc. You will also need to sign five authority to act forms which the SMLS worker will use to receive confidential information about you from the Police and SECASA.

3. Reports from Counsellors/Psychologists

Your application will need to include a report written by a counsellor, psychologist or psychiatrist. If you are attending SECASA a report will also be provided by your SECASA Counsellor. On your behalf, the SMLS worker will request a written report from your SECASA counsellor and make an appointment on your behalf to a Psychologist to write a report to accompany your application.

4. Proof of Expenses

You will need to get tax invoices with ABN numbers for each of the items you wish to claim from VOCAT. For other items such as medical, hospital and pharmacy costs, please request a print out of all expenses incurred from the relevant provider. Please note that a quote is not sufficient. When requesting tax invoices from businesses please specifically request that you need the receipt to be a 'tax invoice with an ABN number on it' and not simply a quote for a good or service. Please note that you will have four months to lodge your two counsellor/psychologist reports and all of your tax invoices with VOCAT. However, if you cannot get all of the reports or invoices within the four month period then the SMLS worker can apply for a time extension on your behalf.

5. Hearing

It should take between 12-18 months for your application to be heard in VOCAT from the time you submit your VOCAT application. Before the final hearing, there may be one or more direction hearings where the Tribunal may want to identify facts or ask questions about your VOCAT application to your Barrister. You do not need to attend any direction hearings, but you will need to attend the final hearing. For all of the hearings your SMLS worker will brief and book a Barrister on your behalf which is paid for by the government. The Final hearing is quite informal and you will not be put in the witness box to provide evidence, but rather the Tribunal member will ask you questions while you are seated next to your barrister.

If you would like more information about the VOCAT process you can ask your SMLS worker or visit www.vocat.vic.gov.au.

Please call the SECASA Crisis Line on (03) 9594-2289 if you ever need any over the phone counselling or support.