



## Do I have to report my abuse to police to claim compensation?

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If you are contemplating getting advice about a compensation claim for abuse in Victoria, you might be wondering whether it is a requirement that you report the abuse to police. Whether you need to report the abuse to police to make a claim depends on the type of claim to be pursued. We explore the requirements of each type of abuse compensation claim below and when it is a requirement to report the abuse to police prior to claiming compensation.

### When do I not need to report the abuse to police?

There are two types of claims in Victoria where you do not need to report the abuse to police. They are:

1. A common law claim in negligence; and,
2. An application to the National Redress Scheme.

You can read more about these two types of claims in our earlier blog, [“Two compensation options for survivors of childhood abuse – civil common Law or National Redress Scheme”](#).

### What is a common law claim for abuse?

A common law claim is a negligence claim usually pursued against an institution, such as a school, Government Department, sporting body or religious order. In order to be successful, claimants must establish three things:

1. That they were owed a duty of care by the institution;
2. That the institution breached its duty of care when the claimant was abused; and
3. The claimant has suffered an injury (usually psychological but not always) as a result of the abuse.

If these elements are established, then the claimant can pursue damages for pain and suffering and potential economic loss against the institution.

## What is the National Redress Scheme?

A Redress Application is a much narrower application than a common law claim. It is a claim for compensation available to survivors of childhood sexual abuse in institutional settings only.

Unfortunately, institutions must opt in to the Scheme, meaning it cannot be brought against every institution. For further information about this type of claim, visit our earlier blog, [“National Redress Scheme for survivors of childhood sexual abuse”](#).

Neither of these applications requires the abuse to be reported to the police to be eligible for compensation, however, it can be helpful to do so.

## When do I need to report the abuse to police?

There are two types of claims in Victoria where you are required to report the abuse to police to make a claim for compensation.

They are:

1. Section 85B *Sentencing Act* claim;
2. Victims of Crime Assistance Tribunal (VOCAT) claim.

### Abuse claims under the *Sentencing Act*

A s85B claim is a claim made under the *Sentencing Act* for compensation against an individual offender. It is a requirement that the offender has been found guilty of a criminal offence related to the abuse for this option to be available. It is, therefore, necessary that the abuse has been reported to the police.

For further information about this type of claim, visit our earlier blog, [“Abuse compensation under the \*Sentencing Act\* s85B”](#).

VOCAT claims are dealt with by the Victims of Crime Assistance Tribunal. The Tribunal can make payments to eligible victims of violent crimes where:

1. the crime happened in Victoria;
2. the crime was reported to the police within a reasonable time; and
3. the crime directly led to the victim suffering an injury.

In determining whether to award financial assistance, the Tribunal must have regard to:

- whether the crime was reported to police within a reasonable time; and,
- the assistance provided by the applicant to police to investigate or prosecute the alleged crime.

The Tribunal must refuse to make an award of financial assistance if they find the applicant (the abused person) did not report the crime to police within a reasonable time and/or they failed to assist police with their investigations unless they find that special circumstances exist.

For further information about this type of claim, visit our earlier blog, [“Victims of crime compensation Victoria”](#).

## Benefits for your compensation claim if you report the abuse to police

If reporting the abuse to police is something you're considering, this can assist any common law claim you may pursue. This is because if the person is charged and found guilty in a criminal court of the abuse, the guilty verdict can help substantiate your allegations for a civil claim.

If you have reported the abuse to police and the person was not found guilty, this can make the claim more difficult but not impossible. This is because there are different standards of proof in criminal and civil law in Victoria. To find someone guilty of a criminal offence, it must be proved beyond reasonable doubt that they committed the crime. That is a very high standard of proof.

For a civil claim, the standard of proof is 'on the balance of probabilities', which effectively means it is more likely than not that the allegation occurred.

The differences in the standard of proof can be vitally important in any prospects of a claim for compensation due to abuse. It can involve a complex assessment, and we recommend you seek legal advice to ensure you maximise any potential compensation.

[It costs you nothing to find out where you stand: 1300 700 761](#)

## Police investigations and prosecution may delay your common law claim

One thing to be aware of is that if the matter has been reported to police and there are ongoing investigations, ordinarily, we would wait to issue a civil claim until the criminal proceedings have been finalised. This is because if there is a finding of guilt, it can be used in support of your claim.

There can be exceptions to this if a person is unwell or other factors necessitate the claim being issued sooner.

This does not mean you need to wait to get legal advice, as there are many steps and investigations to be undertaken by your lawyer before the claim would be ready to issue in court.

## What if I don't want to report the abuse to police

This is a completely personal choice, and we know from our experience that many survivors do not choose to report the abuse to police.

At Guardian Injury Law, we have had experience bringing claims for many survivors where the abuse has not been reported to the police. So, do not consider your options closed if you choose not to report your abuse to police.

## Get help from a lawyer experienced in abuse claims

All four of these types of claims are difficult to navigate without the assistance of an experienced abuse or VOCAT lawyer. We acknowledge how difficult a process this can be for survivors, and we aim to deliver our services in the most trauma-informed manner possible. It costs you nothing to find out where you stand, and for viable claims, we offer 'no win no fee' arrangements.

### Contacting Guardian Injury Law

[1300 700 761](tel:1300700761)

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