



First steps when considering a compensation claim for childhood abuse

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Coming to terms with [childhood abuse](#) is a deeply personal and often painful journey. If you're a survivor considering legal action to pursue compensation due to childhood abuse, the process can feel overwhelming. This blog aims to equip you with the knowledge and resources to navigate Victorian childhood abuse claims effectively.

First and foremost, it's crucial to acknowledge the immense courage it takes to confront past trauma. Abuse claims can be extremely triggering, and reliving painful memories is difficult. Guardian Injury Law understands this and offers unwavering support throughout the legal process. We recognise the arduous work needed to ensure justice for survivors and take a trauma-informed approach in obtaining your instructions. We offer a free initial consultation so it does not cost you anything to know where you stand.

Initial investigations when pursuing childhood abuse compensation

In obtaining your initial instructions, it is important that you try to remember as much as possible about the abuse or conduct that occurred. Certain details about the abuse will help to strengthen your claim and obtain evidence that can be used to support the claim in Court.

At Guardian Injury Law, we will assist you in the process of conducting initial investigations into the circumstances of the abuse or harm that you suffered, no matter how long ago the abuse occurred.

In conducting these investigations, any information you can provide about the following will give your claim the best chance of success.

Location of the abuse

Pinpointing the specific location where abuse occurred is vital. This could be a home address, a school building, church premises or any other location. Details like city, suburb, and even room descriptions can be helpful.

If the abuse occurred in several locations, providing as many details as possible about any/all locations will assist in investigating your claim and determining if multiple defendants may be at fault for the abuse that occurred.

When did the abuse take place?

Depending on how long ago the abuse occurred, trying to recall specific details can be challenging. However, specific dates or years when the abuse happened can help to track down the specific perpetrator or the institution in which the abuse occurred. Even a timeframe (e.g., throughout my primary school years) proves valuable information.

Some survivors have found diaries, pictures or school records to assist them in jogging their memory, which has subsequently been found to be helpful evidence.

Identifying the perpetrator(s)

It is important that you try to provide as much information as possible about the person or people who committed the abuse or harm. Where possible, providing the full name of the person who committed the abuse can help to find documents or evidence pertaining directly to any reports of abuse.

Where you do not remember the name of the person who committed the abuse, descriptions of their appearance, occupations, and any other identifying features become useful in investigating the abuse. Knowing their current status (alive or deceased) is also important.

Nature of the abuse

Childhood abuse can take many forms: physical, sexual, emotional, or a combination of these different types. Informing us of what types of abuse you experienced will help to shape your claim and allow us to best advise you as to its strengths. Sharing details about the frequency and duration of the abuse will also be helpful

Reporting the abuse (if applicable)

If you reported the abuse at the time, let us know who you reported it to (e.g., teacher, parent, police) and when it happened. Official documents and records, police reports or witness statements will significantly strengthen your claim.

Remember, you are not alone. Guardian Injury Law specialises in representing survivors of historical childhood abuse in Victoria. We understand the complexities and sensitivities of your situation. If you or a loved one has suffered childhood sexual abuse, it's crucial to understand your legal rights and options for compensation. After initial investigations are conducted, we will advise you as to the best options for justice to be obtained.

[FREE ADVICE TO FIND OUT WHERE YOU STAND: 1300 700 761](tel:1300700761)

Compensation options for childhood abuse

There are three primary ways to claim compensation arising from childhood abuse in Victoria.

1. Civil common law claim

A common law claim is a claim in negligence. There are generally three elements that must be established to successfully bring a common law claim for childhood abuse. They are:

1. that the perpetrator or an institution owed you a duty of care;
2. that the perpetrator or an institution breached their duty of care when the abuse or harm occurred; and
3. that you suffered an injury as a result of the abuse.

An institution may be found to be responsible for the actions of its employees, and thus, a claim for compensation may be brought against them. This is a legal concept known as vicarious liability.

These types of claims can achieve the highest amounts of compensation for survivors and can consist of pain and suffering damages, past and future economic loss, past and future medical and like expenses which includes medication, care and treatment and aggravated damages.

2. National Redress Scheme claim

The [National Redress Scheme](#) was implemented on 1 July 2018 and is available for survivors of childhood abuse where:

1. the abuse happened before July 2018;
2. an institution was responsible for bringing you into contact with the person who abused you;

3. you were born before 30 June 2010; and
4. at the time of the application, you were an Australian Citizen or a permanent resident.

Previously, the National Redress Scheme precluded claims from survivors who were currently in jail or had received a sentence of more than 5 years. However, recent changes made to the Scheme, which came into effect in 2024, allow for claims to be made by survivors who are currently or were previously incarcerated. To learn more about the recent changes to the National Redress Scheme, please see our blog ["Changes to the National Redress Scheme in 2024 for survivors of child sexual abuse"](#).

The maximum compensation a person can receive under the National Redress Scheme is \$150,000.

It is important to note that if a claim is settled under the National Redress Scheme, you may be precluded from making a civil common law claim.

As the National Redress Scheme does not provide for what can often be significant past and future economic loss as well as medical and like expenses, settling a National Redress Scheme claim could mean that you miss out on a substantial amount of compensation.

As such, we recommend getting in touch with Guardian Injury Law before any claim is settled to make sure you understand your options and to achieve the maximum compensation possible. For more information about the differences between these compensation schemes, see our blog ["Two compensation options for survivors of childhood abuse – civil common law or National Redress Scheme"](#).

3. Section 85B Compensation Application or Sentencing Act claim

If you are the survivor of abuse and the offender has been found guilty of a criminal offence for the abuse, you may be eligible to make a claim for compensation against the individual who abused you.

Importantly, 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 to you.

Compensation available through a Sentencing Act application includes pain and suffering damages, counselling expenses, medical expenses and other expenses incurred as a result of the abuse. However, any claim under the Sentencing Act will take into consideration the financial circumstances of the perpetrator (including their capacity to pay any compensation) and what assets they possess.

For more information about making a Sentencing Act application see our earlier blog, ["Abuse compensation under the Sentencing Act s85B"](#).

Time limits for making a childhood abuse claim

While the path to healing may be long, seeking legal action can be a crucial step towards achieving justice and closure.

For common law claims, the *Limitation of Actions Amendment (Child Abuse) Act 2015* removed the time limit for filing claims related to childhood sexual abuse. This means you can seek justice regardless of when the abuse happened.

The National Redress Scheme will not accept applications after 30 June 2027 and thus any claim made under this scheme will need to be made before this date.

As for *Sentencing Act* applications, these applications should be made within 12 months of the offender either being found guilty or convicted of the offence.

You can read more about time limits for making a claim in our earlier blog, ["Time limits for childhood abuse compensation claims"](#).

How an abuse lawyer can help your claim

If you feel ready to consider seeking compensation due to childhood abuse, Guardian Injury Law stands beside you. We understand the immense strength it takes to confront past abuse. Our team is here to listen, guide, and advocate for you every step of the way. We will guide you through the process and ensure you are thoroughly prepared.

Contacting Guardian Injury Law

[1300 700 761](tel:1300700761)

enquiries@guardianinjurylaw.com.au

This article is of a general nature and should not be relied upon as legal advice. If you require further information, advice or assistance for your specific circumstances, please contact us.