



Abuse compensation claims against sporting institutions

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Sporting institutions were designed to nurture talent and character. They build teamwork skills and a sense of community. However, some sporting institutions have historically become breeding grounds for abuse. In Victoria, as in many other places, vulnerable individuals, often children, have suffered physical, emotional, and sexual abuse within sporting clubs and organisations.

If you or someone you know has experienced such abuse in a sporting club/organisation, understanding your legal rights and options for seeking [abuse compensation](#) is crucial.

Forms of abuse – physical, emotional and sexual

Abuse in a sporting context can take many forms, leaving lasting physical and emotional scars. It's important to recognise the different types of abuse to understand their impact and seek appropriate help.

Physical abuse can range from excessively harsh training regimes and physical violence disguised as discipline to neglect of an athlete's well-being. Emotional abuse, often underhanded and long-lasting, can involve constant belittling, intimidation, manipulation, and public humiliation. Sexual abuse, the most severe violation, encompasses any sexual act or exploitation perpetrated without consent.

Physical abuse

- Excessive training: Pushing athletes beyond their physical limits leading to injuries, exhaustion, and burnout.

- Physical violence: Hitting, slapping, kicking, pushing, or any other form of physical aggression disguised as discipline.
- Inappropriate physical contact: Unwanted touching, pinching, or any other physical contact that makes an athlete feel uncomfortable or violated.

Emotional abuse

- Verbal abuse: Name-calling, insults, threats, belittling, and constant criticism that undermines an athlete's self-esteem.
- Humiliation: Public shaming, making fun of an athlete's appearance or abilities, or using demeaning nicknames.
- Isolation: Excluding an athlete from team activities, social events, or support systems.
- Manipulation: Using guilt trips, emotional blackmail, or other tactics to control an athlete's behaviour.

Sexual abuse

- Sexual harassment: Unwanted sexual comments, jokes, gestures, or advances that create a hostile or uncomfortable environment.
- Sexual exploitation: Taking advantage of a power imbalance to coerce or manipulate an athlete into sexual activity.
- Sexual assault: Any sexual act committed without the athlete's consent, including touching, fondling and perpetrating sexual actions with a minor.

It's important to remember that any form of abuse is unacceptable, regardless of the sport, level of competition, or the abuser's position of authority.

Common illnesses and conditions due to abuse

The consequences of abuse in sports can be far-reaching and devastating, impacting an athlete's physical, emotional, and psychological well-being.

These effects can linger for years, even decades after the abuse has ended:

- Eating disorders: Emotional abuse, particularly in sports that emphasize appearance or weight, can contribute to the development of eating disorders like anorexia nervosa or bulimia.
- Substance abuse: Some athletes may turn to drugs or alcohol to cope with the emotional pain and trauma of abuse.
- Self-harm: In severe cases, athletes may engage in self-harm behaviours like cutting or burning as a way to release emotional pain.
- Depression: The emotional pain and trauma of abuse can lead to feelings of sadness, hopelessness, and despair.
- Anxiety: Athletes may experience excessive worry, fear, and nervousness, especially in situations that remind them of the abuse.

- Post-Traumatic Stress Disorder (PTSD): This serious mental health condition can develop after experiencing or witnessing a traumatic event, such as abuse. Symptoms include flashbacks, nightmares, intrusive thoughts, and hypervigilance.
- Emotional numbing: Some athletes may dissociate from their emotions as a way to cope with the pain of abuse, leading to feelings of detachment and emptiness.
- Cognitive difficulties: Abuse can affect an athlete's ability to concentrate, remember things, and make decisions.
- Emotional dysregulation: Difficulty managing emotions, leading to outbursts of anger, sadness, or other intense feelings.
- Chronic mental health problems: Depression, anxiety, PTSD, and other mental health conditions can persist or recur throughout an someone's life.
- Career challenges: The emotional and psychological impact of abuse can interfere with an athlete's ability to perform well in their sport or pursue a successful career (whether in sport or elsewhere).
- Intergenerational trauma: The effects of abuse can be passed down to future generations, as survivors may struggle to create healthy family environments.

Holding Victorian sporting institutions accountable for abuse

Sporting institutions in Victoria, from local clubs to state-level organisations, have a legal and moral obligation to protect the individuals under their care. This duty of care includes creating a safe environment free from abuse, implementing robust policies and procedures to prevent misconduct, and taking swift and appropriate action when allegations of abuse arise. When institutions fail in this duty, they can be held legally responsible for the harm caused.

In Victoria, several legal avenues to seek compensation may be available to survivors of abuse:

National Redress Scheme

The National Redress Scheme was introduced following the recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse. Claims can be brought if the institution responsible has joined the Redress Scheme. A list of those [institutions that have joined the scheme can be found here](#). Several sporting clubs, associations and even sports grounds have signed up to be participants to the National Redress Scheme, allowing people who have suffered abuse through these organisations to seek compensation.

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.

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 (see below).

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.

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.

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.

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For more information about the differences between the Redress scheme and common law claims, see our blog ["Two compensation options for survivors of childhood abuse – civil common law or National Redress Scheme"](#).

Civil common law claim

Negligence is the basis for most civil claims (common law claims) related to childhood abuse. To succeed in a common law claim for abuse, generally, three key elements must be proven:

1. The abuser (or the institution) had a legal responsibility to care for your well-being (a "duty of care").
2. The abuser (or the institution) failed to meet that responsibility, and this failure allowed the abuse or harm to occur (a "breach of duty").
3. You suffered harm as a direct result of the abuse (resulting "injury").

Sporting institutions can be held legally responsible for the actions of their employees (coaches, trainers, staff, etc.) who commit abuse. This is known as "vicarious liability." Therefore, a compensation claim can be made against the institution itself.

These types of claims often result in the highest compensation amounts for survivors. Compensation can cover various losses, including:

- pain and suffering;
- lost income, both past and future;
- medical and related expenses. This includes medication, care, and treatment;
- additional damages (compensation) for particularly egregious circumstances known as aggravated damages.

Time limits for common law claims due to abuse

Importantly, there is **no time limit** to file a common law claim for childhood sexual abuse. You can pursue justice no matter how long ago the abuse occurred.

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.

These applications should be made within 12 months of the offender either being found guilty or convicted of the offence.

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

Can I claim compensation under all three of the options?

Depending on the circumstances of the injuries you have suffered, you may be able to make a claim for compensation under more than one of the above pathways.

Where you have suffered abuse from an individual in connection with an institution (e.g. a coach who perpetrated abuse and was employed by a sporting club), it is possible for both a section 85B *Sentencing Act* application and civil, common law claim to be made.

The *Sentencing Act* application can be made directly against the perpetrator/s of the abuse, where the perpetrator/s own assets and would be in a financial position to pay any compensation amount awarded by the Court. Further compensation could then be sought against the institution for breaching its duty of care by failing to take adequate measures to stop the abuse.

However, making a claim under both these options may affect the quantum or amount of compensation you may be able to receive. It is imperative that you speak to an experienced abuse compensation lawyer who can help you develop a strategy for obtaining the maximum amount of compensation.

If you receive compensation through an application to the National Redress Scheme, **you will be precluded** from making a further civil common law claim. Again, we recommend that you speak with an experienced abuse compensation lawyer **before** settling any claim with the National Redress Scheme.

How an abuse lawyer can help

We understand, through our experience with these types of claims, how challenging a process it can be for survivors of physical and sexual abuse. At Guardian Injury Law, we aim to deliver our services in a trauma-informed manner. We will listen to your story and advise you on all potential compensation options available to you.

Contacting Guardian Injury Law

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