Claims Process – survivors of sexual abuse in Victorian government schools

This information sheet explains how survivors of sexual abuse in Victorian government schools can make a claim for compensation from the Department of Education.

A range of additional options and supports available to survivors of sexual abuse in a Victorian government school are also set out below under the section ‘Further information and supports’. These include information on the National Redress Scheme, the Victims of Crime Financial Assistance Scheme and the Department’s Counselling Assistance Program.

**Department’s approach to managing civil claims**

We acknowledge that for many survivors of sexual abuse, seeking compensation may be one part of a long and painful recovery. We also acknowledge the potential for re-traumatisation in the litigation process.

For this reason, the Department follows the [Common Guiding Principles for child sexual abuse civil claims](https://www.justice.vic.gov.au/justice-system/laws-and-regulation/common-guiding-principles-child-sexual-abuse-civil-claims) when responding to claims for compensation. The Department also follows the [Model Litigant Guidelines](https://www.justice.vic.gov.au/justice-system/laws-and-regulation/victorian-model-litigant-guidelines). These guidelines require the State to act with complete propriety, fairness and the highest professional standards.

# Am I eligible for compensation?

You may be eligible for compensation if the sexual abuse was suffered due to a Victorian government school or the Department failing in its duty to protect you from harm and injury.

If you would like to make a claim for compensation, the Department strongly recommends that you seek independent legal advice. An independent lawyer can give you information about your options and legal rights. The following organisations may be able to assist you with options:

* [Law Institute of Victoria referral service](https://liv.asn.au/referral) (liv.asn.au/referral)
* [Federation of Community Legal Centres (fclc.org.au)](https://www.fclc.org.au/)
* [Victoria Legal Aid](https://www.legalaid.vic.gov.au/contact-us).

# Making a claim for compensation (also known as a ‘civil claim’, or ‘personal injury claim’ or a ‘negligence claim’)

**With lawyers**

If you have engaged a lawyer, they will help you to make a claim for compensation.

**Without lawyers**

The Department notes that it is very rare for a survivor to make a claim for compensation without engaging lawyers. There are many law firms and options available for survivors and it is strongly recommended that you seek legal advice. The [Law Institute of Victoria referral service](https://aus01.safelinks.protection.outlook.com/?url=https%3A%2F%2Fliv.asn.au%2Freferral&data=05%7C01%7CLucy.Guthrie%40education.vic.gov.au%7Cb71e9b7dae1343f5774208db99547904%7Cd96cb3371a8744cfb69b3cec334a4c1f%7C0%7C0%7C638272360315023518%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C3000%7C%7C%7C&sdata=T8nHPGPgTTP%2BDZOP85lTGn%2F1QBJYwULSTw5q2rCXYXY%3D&reserved=0) can provide referrals for law firms who can help with claims for compensation.

If you choose not to use lawyers to support your claim, the information below outlines how to make a claim for compensation from the Department. We also recommend reviewing the additional options and supports that might be available. These are set out in the section further below.

To make a claim for compensation without legal representation, you will need to provide the Department with the following information and supporting documentation:

## A written statement which explains what happened to you, including:

* + - Your name
		- Name of the Victorian government school or schools where the abuse occurred
		- Year(s) you attended the school or schools
		- Name of the perpetrator of abuse
		- Any police or other reports made at the time of the abuse, or since, and/or a brief statement of what happened to you, including the date(s) or approximate period of time
		- Any other relevant information you wish to provide

## Proof of identity

Please provide proof of your identity. This can include a certified copy of your driver’s licence, passport, or birth certificate. You only need to provide the Department with one form of proof of identity.

## Supporting medical documentation

To allow the Department to properly assess your claim, please provide a written report from your treating practitioner. This report must include the physical, emotional and/or psychological impact of the abuse, and details of your health condition(s). The medical report should be no more than 12 months old.

## Specific details of the compensation you are seeking

Please tell us about the types of compensation and amounts that you are seeking, for example, compensation for:

* Past or future medical expenses
* Loss of income
* Pain or suffering

# Submitting your claim for compensation (if you are representing yourself, without lawyers)

Please submit your written statement, proof of identity, supporting medical report(s) and details of the compensation that you are seeking to the Legal Division of the Department by email or post.

**Email**

**Email address:** legal.services@education.vic.gov.au

**Subject line:** ‘New Claim’

**Post**

Legal Division, Department of Education

Ground Level, East Wing, 2 Treasury Place

East Melbourne VIC 3002

# What will happen after you submit your claim?

# The Department follows the [Model Litigant Guidelines](https://www.justice.vic.gov.au/justice-system/laws-and-regulation/victorian-model-litigant-guidelines) and the Government’s [Common Guiding Principles – child sexual abuse civil claims](https://www.justice.vic.gov.au/justice-system/laws-and-regulation/common-guiding-principles-child-sexual-abuse-civil-claims). This means the Department acts fairly and promptly, does not rely on overly technical legal arguments and does not ordinarily require confidentiality clauses in the terms of settlement. The Department makes an early assessment of claims and seeks timely resolution where possible.

## Investigation

Once your claim has been received and acknowledged, the Department’s Legal Division (or its external claims managers) will review the information you have provided and any relevant records held by the Department. Part of this process may include contacting people who may have supporting evidence or who were involved in the circumstances of your claim.

Once the Department has carried out initial inquiries, a Department representative will contact you or your lawyer to offer further counselling or therapeutic supports, and to discuss a statement of apology and acknowledgement about the abuse and its impacts, should this be something you would like to explore.

The Department will endeavour to finalise these inquiries as efficiently as possible. However, there are occasions when investigating allegations is difficult and might mean a delay in the resolution of a claim. The Department understands that the time taken to resolve a claim may be distressing for survivors. They will seek to minimise delays where possible.

## Independent Medical Assessment

Depending on the nature of your claim, the Department may also ask you to attend an independent medico-legal assessment. The purpose of this assessment is to help understand the extent of your injuries. If you are asked to attend a medical assessment, the Department will pay all reasonable costs associated with the assessment. This includes travel to and from your appointment. You will also receive a copy of the medical report for your records.

## Resolution of your claim

Once the Department’s inquiries are completed, the Department will inform you of the outcome of your claim in writing. If your claim is successful, you may be asked to sign a release. This is a legal document that will set out the terms of agreement and compensation to be paid to you. This document may release the Department from any further payments. The Department strongly recommends that you seek independent legal advice prior to signing a release, although you are not obliged to do so.

# Privacy protection

The Department must comply with Victorian privacy law when collecting and handling all personal and health information. To read more about this, please refer to the Department’s [Privacy Policy](https://www.education.vic.gov.au/Pages/privacypolicy.aspx).

# Contact

If you have any questions about this process or any aspect of making a legal claim against the Department, please email us at legal.services@education.vic.gov.au or call us on (03) 9637 3146.

# Further information and supports

### **National Redress Scheme**

The National Redress Scheme is a Commonwealth scheme that provides support to people who experienced institutional child sexual abuse. It was developed in response to the Royal Commission into Institutional Responses to Child Sexual Abuse.

The National Redress Scheme offers three things:

* Counselling
* A Redress payment, and
* A direct personal response from an institution (for example an apology).

You can apply for the National Redress Scheme if:

* you experienced sexual abuse when you were a child (under 18 years of age), and
* the abuse happened before 1 July 2018, and
* an institution was responsible for bringing you into contact with the person who abused you, and
* you were born before 30 June 2010, and
* at the time you apply, you are an Australian citizen or a permanent resident.

For information about how to apply for the National Redress Scheme, visit: [National Redress Scheme](https://www.nationalredress.gov.au/).

### **Victims of Crime Financial Assistance Scheme**

The Victims of Crime Financial Assistance Scheme provides financial assistance to victims to help them recover from violent crimes.

The scheme helps with costs that arise from being a victim of a violent crime, such as:

* counselling
* medical expenses
* loss of earnings
* other expenses that would help a victim recover

For information about the scheme, visit: [Victims of Crime Assistance Tribunal](https://vocat.vic.gov.au/).

## Apologies and acknowledgments

The Department understands that acknowledging and apologising for the pain, suffering and trauma that survivors of child abuse have experienced, and the ongoing impact on their lives, is an important part of the healing process.

Survivors of sexual abuse deserve care and protection from the institutions that harmed them. Instead, the people and institutions entrusted with their care, failed them.

If you are a current student who is the victim of sexual abuse at a Victorian government school, the Department will work with you and your parents/carers to deliver an acknowledgment and apology. The Department is also committed to working with survivors of historical sexual abuse to acknowledge and apologise for the harm that occurred while they were in the care of a Victorian government school and this process will usually occur as part of a direct personal response through the National Redress Scheme or through the litigation process.

## Access our counselling assistance program

We can offer financial assistance for counselling to current and former students who report having been abused at a Victorian government school. These payments are known as counselling assistance payments. The payments are to assist survivors of sexual abuse to access appropriate therapeutic services, without having to file legal proceedings or lodge a negligence claim.

You can apply for financial assistance for counselling by emailing:

* incident.support@education.vic.gov.au

Accepting an offer of counselling assistance payments will not prevent you from seeking compensation or bringing a legal claim against the department.

Counselling assistance may also be available for family members. If this would help you or your family, please email incident.support@education.vic.gov.au.

## Specialist support services

The following specialist support services and helplines offer support for children and adults who have been victims of abuse. They can also provide advice for support options for family members.

* The Centres Against Sexual Assault ([CASA](https://casa.org.au/contact-us/)) can provide free confidential counselling and support to victim-survivors and other family members and friends who have been impacted by sexual assault. If you would like to access this support, contact your local [CASA](https://casa.org.au/contact-us/). CASA is able to support victim-survivors in reporting sexual abuse.
* The [Sexual Assault Crisis Line](https://www.sacl.com.au/) is a statewide, after-hours, confidential telephone counselling service for people who have experienced both past and recent sexual assault.
Phone 1800 806 292.
* [Blue Knot](https://blueknot.org.au/) supports adult survivors of childhood trauma and abuse, parents, partners, family, and friends, as well as the professionals who work with them. Phone 1300 657 380.
* Kids Help Line offer free, private, and confidential, telephone and online counselling service, for young people aged between 5 and 25. Phone 1800 551 800.
* [13 YARN](https://www.13yarn.org.au/?gclid=EAIaIQobChMI1_G1sZ3AggMVfYVoCR28nAPfEAAYASAAEgKNMfD_BwE) is a national crisis support line for Aboriginal and Torres Strait Islander people in crisis. They offer a culturally safe and confidential one-on-one over the phone yarning opportunity and support with a trained Lifeline Aboriginal and Torres Strait Islander Crisis Supporter for mob who are feeling overwhelmed or having difficulty coping. Phone 13YARN (13 92 76)
* [Lifeline](https://www.lifeline.org.au/) is available for anyone across Australia experiencing a personal crisis or thinking about suicide. Phone 13 11 14, or text 0477 131 114 at night (6 pm to midnight AEDT).

### **Feedback**

We are committed to improving how we engage with you as survivors of child sexual abuse, and those that support you. Please email the Sexual Harm Response Unit to provide your feedback or to request a phone call at a time that would best suit you:

* sexual.harm.response@education.vic.gov.au