



16 December 2008

The Hon. John Hatzistergos  
Attorney General of NSW  
GPO Box 5341  
SYDNEY NSW 2000

Dear Attorney-General,

**RE: PROPOSED CHANGES TO STREAMLINE VICTIMS COMPENSATION  
APPLICATION PROCESS**

**Combined Community Legal Centres' Group**

The Combined Community Legal Centres' Group (NSW) Inc ("the Combined Group") is the peak organisation for community legal centres in New South Wales. Community legal centres provide legal advice, casework, referral, education, law reform and support for disadvantaged clients and communities throughout the State.

Applications for victims compensation account for a substantial proportion of the work of community legal centres in New South Wales. The majority of these clients are women and children who are survivors of sexual assault, child abuse or domestic violence.

The Combined Group, through its Domestic Violence / Victims Compensation Sub-Committee, has been actively involved in responding to various reviews of, and amendments to, the victims compensation legislation since its inception. We are well placed to assess the impact of the current victims compensation scheme on the most vulnerable applicants and to provide insight and feedback to the NSW Government on any proposed changes to the victims compensation application process.

**Our concerns**

We note the recent announcement by the Attorney General that "the Attorney-General's Department will streamline the compensation claim process by reducing the instances where legal fees are required to be paid" (11 November 2008). We understand from the Attorney General's speech in parliament on 11 November 2008, that this will be achieved by requiring Victims Services staff to deal with 'straightforward' cases (NSW Legislative Council Hansard Transcript). It is unclear how the proposed changes will be achieved.

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It is our experience that applications for victims compensation are rarely straightforward, especially for clients who have experienced domestic violence, sexual assault and child sexual assault. These types of criminal violence, by their very nature, are complicated, hidden and messy. Victims may also be able to make more than one claim for unrelated acts of violence and this requires considerable analysis of the facts and legislative provisions to determine how many claims applicants may be entitled to make.

It is our experience that victims of domestic violence, child sexual and sexual assault:

- face significant barriers in accessing the justice system and enforcing their rights;
- significantly under-report the violence to police or health practitioners due to fear of retribution and shame;
- have long histories of violence involving different types of abuse (e.g. the one victim may have experienced domestic violence, sexual assault and child sexual assault) and sometimes involving multiple offenders, and
- frequently do not disclose or talk about these crimes until many years after they occurred.

**To ensure the best outcome for an applicant for victims compensation** all of the above issues must be considered carefully and extensively when:

1. providing initial advice to a client regarding their eligibility for compensation;
2. assessing the types of claims that can be made, including a detailed analysis of the facts and legislative provisions;
3. drafting and submitting the initial applications for lodgement, and
4. drafting the final submissions to the Victims Compensation Tribunal prior to determination.

In addition, many of our clients:

- due to the nature of the violence they have suffered, are often highly traumatised, which impairs their ability to communicate effectively and accurately, without significant time and support;
- are Aboriginal and for cultural and historical reasons are reluctant to divulge details of abuse and will only do so if there is a relationship based on trust and absolute confidentiality;
- are from culturally and linguistically diverse backgrounds where there are significant language and cultural barriers to overcome in gaining comprehensive and accurate instructions;
- have physical, intellectual and psychiatric disabilities which hamper their ability to provide detailed instructions about their history of violence without significant time and support;
- have low-rates of literacy;
- have out of time applications, and
- possibly have multiple applications relating to various acts of violence and / or multiple offenders

It is imperative that careful consideration be given to the criteria, and the process, used to deem a matter as 'straightforward'.

## **Consultation**

We anticipate the Attorney General will need to consult widely with relevant stakeholders about the proposal and we welcome the opportunity to participate in such consultation. Representatives of the Combined Group would like to meet with the Attorney General to discuss the proposed changes, together with a number of other matters concerning victims compensation law.

Please contact Rachael Martin at Wirringa Baiya Aboriginal Women's Legal Centre on (02) 9569 3847 or Pip Davis at Hawkesbury Nepean Community Legal Centre on (02) 4587 9599 to discuss the consultation process and to organise a meeting.

Yours faithfully,

Rachael Martin  
Co-convenor  
Domestic Violence / Victims Compensation Subcommittee  
Combined Community Legal Centres' Group (NSW) Inc