



Government of Western Australia  
Department of the Attorney General

# Criminal Injuries Compensation for Family and Domestic Violence

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# Defining Domestic Violence

- Law Reform Commission of WA (LRC) – shift in terminology from domestic to family and domestic violence
- Domestic violence refers to “behaviour occurring between people who are in or have been in an intimate relationship”
- Family Violence – broader concept covers violence between family members



# Why domestic violence occurs

As noted by Professor Chung and LRC\*\*\*

- Individual pathology –
- Social stressors – poor anger control
- Intergenerational transmission –
- Gendered expectations (inequality)
- Indigenous family violence (multifactorial)
- Coercive control (why not leave?)



# Behaviours which feature in family and domestic violence

- Physical violence and damage to property
- Psychological and emotional abuse\*\*\*
- Sexual violence
- Economic abuse\*\*\*
- Social abuse \*\*\*
- Usually hidden, ongoing and difficult for the “victim” to leave



# Family and domestic violence in Criminal Injuries Compensation

- About 2800 claims per annum
- 62% of claims by women and girls
- About 45% of claims are for FDV
- 75-80% offenders are men (see ABS data)



# Cycle of Violence

- Honeymoon phrase (it was ok in the beginning)
- Tension building – standover (he wouldn't let me go out)
- Explosion – physical violence (“only when he was drunk...”)
- Remorse (I didn't mean it – you made me do it)
- Buyback (I went back to him because he said he would change/would not do it again)



# Gendered experience

- FDV – claimants predominantly female
- Highest concentration in 18-39 year age group
- Affects primary victims and also secondary victims (witnesses/children)



# Time limitations – Section 9

- 3 year claim period
- FDV characteristically ongoing over sustained periods
- Claim times starts at last incident
- Extension of time where just – will be just where coercion evident – fear of reprisals
- Indigenous issues often relevant – remoteness, barriers to reporting, literacy, access to advice





# Reporting – Section 38

- CIC Act is premised on reporting incidents – a kind of mutual obligation – no compensation unless prepared to assist police
- Relevant to DFV where many incidents (during honeymoon period and tension building) are not reported
- Cases make some allowance for non-reporting in DVF situations



# Contributory Conduct- Section 41

- May refuse or reduce and award where contribution to the injury
- Very rarely invoked to refuse an award
- Assessors recognise issues in relation to coercion and control (in extreme cases – Stockholm syndrome)
- May reduce where in breach of VRO (*JDQ* [2010] WADC 93)



## Continuing Relationship -Section 36

- Section 36 prevents an award being made where there is a relationship or connection between the offender and the victim or close relative AND
- The award is likely to benefit or advantage the person who committed the offence
- \*\*\*Closing files or awards in trust as options
- No awards were refused under S36 in 2015/16



# Types of compensation

- Claims can be made for proved offences (where there is a conviction)
- Or alleged offences
- Injuries – pain and suffering
- Loss of income
- Medical expenses – past and future



# Types of compensation

- Medical report fees (interim payments available)
- Travel costs, personal items damage
- May include mental and nervous shock



# Conclusions

- DFV under-reported and probably under-claimed
- Not all forms of DFV are compensable – requires proof of injury (physical or mental)
- Reporting to police an issue in many cases
- Continuing relationship concerns