

# VICTIMASSISTQUEENSLAND



# Acknowledgement of Country

I would like to respectfully  
acknowledge the  
Traditional Owners of the land  
on which we gather today,  
and pay my respects to Elders  
past, present and emerging.

# About this training session

By the end of this session you will be able to confidently:

1. explain Victim Assist to your clients
2. help victims apply for financial assistance through Victim Assist
3. explain the limitations of available assistance and build realistic expectations
4. help victims understand our decisions and what to do if they disagree



# Victim Assist Queensland

## What is our purpose?

Victim Assist works under the *Victims of Crime Assistance Act 2009*, helping victims of violent crime (including all forms of domestic and family violence) to recover from their injuries.

- We provide financial assistance to eligible victims
- We support the victim services sector through information, coordination, research, education and funding
- We assist government and non-government agencies to comply with the Charter of Victims' Rights and manage complaints made in relation to the Charter.

# The legislation

Throughout this presentation I will refer to 3 legislative time periods:

**1) *Criminal Offences Victims Act 1995* (COVA)**

Commenced 18 December 1995 – Repealed 1 December 2009

Available at: <https://www.legislation.qld.gov.au/browse/repealed>

**2) *Victims of Crime Assistance Act 2009* (VOCCA)**

Commenced 1 December 2009 – Amended 1 July 2017

**3) *Victims of Crime Assistance Act 2009* (VOCCA 2)**

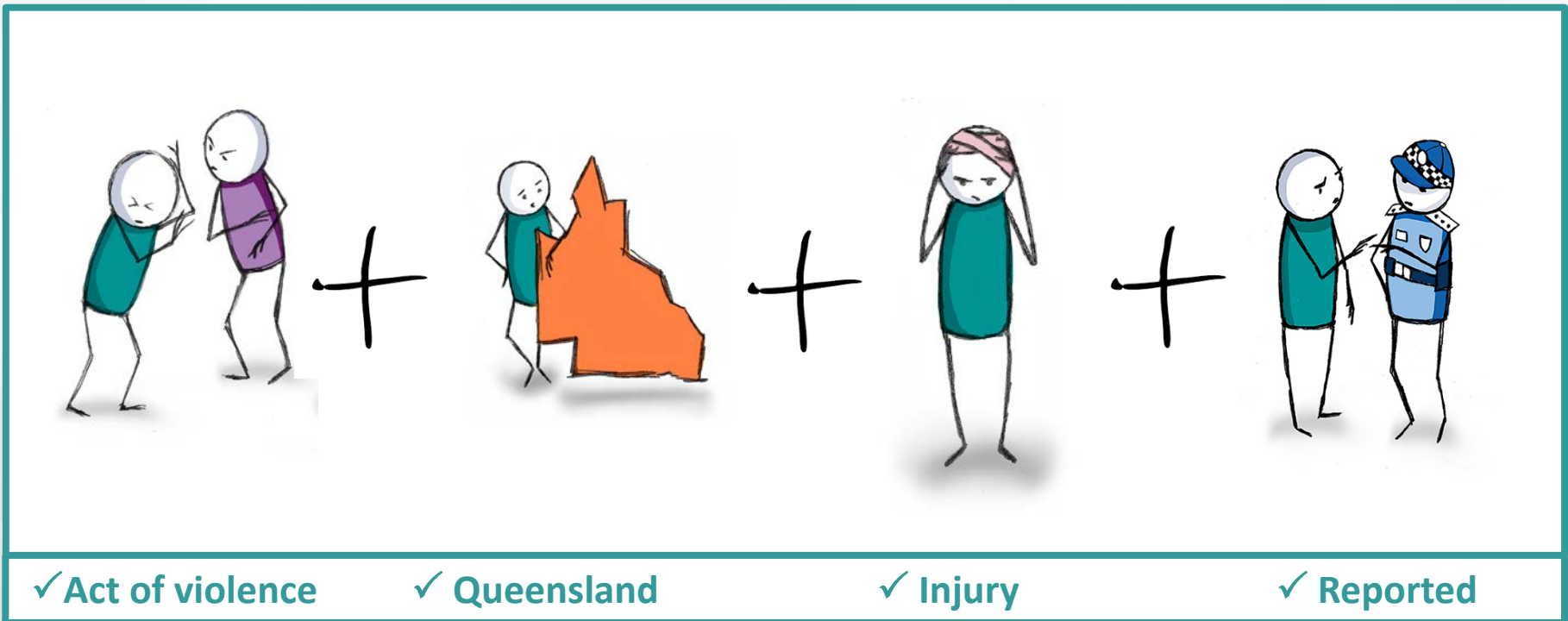
In force: 1 July 2017 – present

Available at: <https://www.legislation.qld.gov.au/browse/inforce>

# Who can receive financial assistance?

For offences committed after **1 December 2009**, an applicant needs to provide enough information to confirm 4 things<sup>^</sup>

VOCAA s.25, 25A, 25B & 81



<sup>^</sup> An additional criteria applies for offences committed prior to 1 December 2009 – in most cases (except homicide) the offender needs to be convicted in a District or Supreme Court – *Criminal Offences Victims Act 1995*

# Has there been an act of violence?

*“An act of violence is a crime or series of related crimes...”*

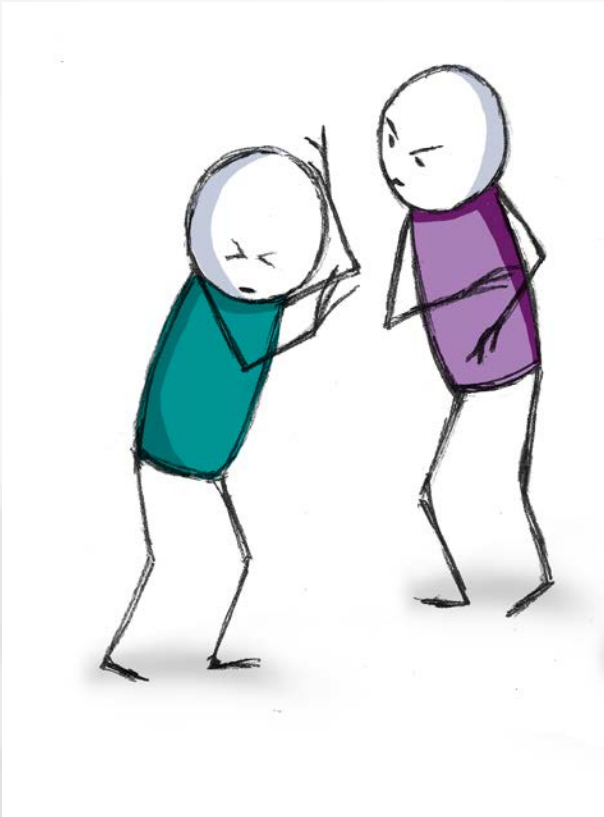
*Victims of Crime Assistance Act 2009 (VOCAA), s 25*

From **1 July 2017 (VOCAA 2)**, an act of violence also includes an act of domestic violence

- *Domestic and Family Violence Protection Act 2012, s.8-10*
- transitional provisions will apply for a series of domestic violence that began before and/or ended after this date

*“A crime is an act or omission constituting a prescribed offence – an offence committed against the person of someone [including] attempting to commit or conspiring to commit”*

*Victims of Crime Assistance Act 2009 (VOCAA), s 25A*





# What is an act of violence?

## 1. Financial assistance can only be provided to a victim of an “act of violence”.

Homicide or  
Attempted  
Homicide

Grievous Bodily  
Harm & other  
Physical Assaults

Sexual Offences

Domestic and  
family violence

Dangerous Driving  
Causing Death or  
Grievous Bodily  
Harm

Burglary with  
violence or robbery

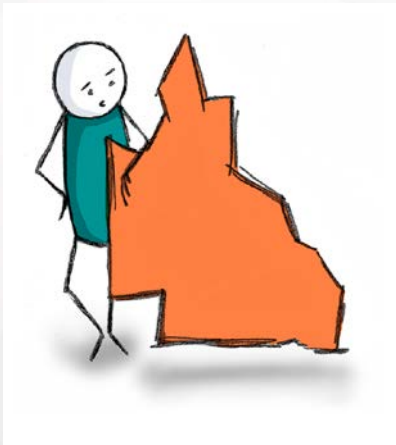
Stalking,  
Kidnapping or  
Deprivation of  
liberty

Cruelty to children  
under 16

Other personal  
offences can be  
considered on a  
case-by-case basis



# Did the violence occur in Queensland?



*“... that – are committed in Queensland”*

*Victims of Crime Assistance Act 2009 (VOCAA), s 25*

- It does not matter where the victim usually lives.
- The only thing we consider is where the violence, that caused the injury, happened.

*For a multi-jurisdictional series*

- The injury the application is anchored to must be a direct result of an offence(s) that were committed in Queensland.

# Was a person injured?



*“that – directly result in the death of, or injury to, 1 or more persons, irrespective of where the death or injury happened”*  
*Victims of Crime Assistance Act 2009 (VOCAA), s 25*

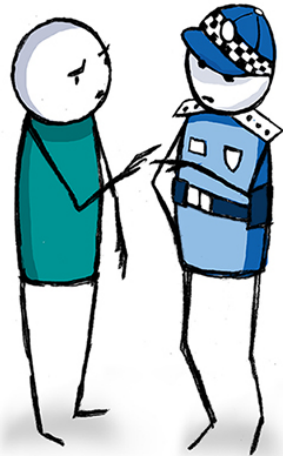
Meaning of injury is defined in VOCAA, section 27.

Best-practice – include supporting information, from a relevant health practitioner, about the applicant’s injury.

- While we can obtain some of this information from police, courts, or hospitals it is more efficient to include information from a treating health practitioner (eg. the applicant’s GP)



# Was the violence reported?



Unless there is a reasonable excuse, the violence must be reported to:

- *a police officer or*
- *for an act of violence against a special primary victim (SPV) – a police officer, the victim’s counsellor, psychologist or doctor, or a domestic violence service.”*

*Victims of Crime Assistance Act 2009 (VOCAA), s 81*



A special primary victim report needs to include detailed information about what happened, to whom, where and when. A template is available upon request.

# Building realistic expectations

Every person's situation is different and the types of things we can help with will differ from person to person.

The amount we can help with and the types of expenses we can cover will depend the nature of the victims injuries, details of the crime and if they are a **primary**, **secondary** or **related** victim.



# Types of applicants

## Primary victim

This is a person who is injured or dies as a direct result of an act of violence committed against them.

## Secondary victim - parents

A person who is injured as a direct result of becoming aware of an act of violence (only applies to a parent/guardian of a primary victim who was less than 18 years old at the time of the act).

## Secondary victim - witnesses

A person who is injured as a direct result of being at the scene and witnessing an act of violence.

## Related victims

A person who, at the time of an act of violence, was either: a close family member of; a financial dependant of a person who has died as a result of an act of violence. This may include a partner/spouse, child, brother/sister, or parent. Under Aboriginal tradition or Torres Strait Island custom, this may also include a person who is regarded as a close family member.

## Funeral expenses

If a person has died as a result of an act of violence – we may be able to reimburse or pay for some funeral expenses (up to \$8,000).

# Types of applicants

## Domestic violence victims

When working out the correct category for DFV applications – please refer to the *Domestic and Family Violence Protection Act 2012* (DFVP).

- Victims of offences described in DFVP sections 8 and 9 should apply as a **primary victim**.
- Victims of offences described in DFVP section 10 should apply as a **secondary victim – witness**.

DFVP is available at: <https://www.legislation.qld.gov.au/view/html/inforce/current/act-2012-005#pt.2-div.2>



# Who is a primary victim?

## Primary victim

We may be able to help with:

- medical and counselling expenses
- loss or damage to clothing worn at the time of the incident
- loss of income incurred in the first two years immediately following the act of violence (up to \$20,000)
- in exceptional circumstance – some other expenses (ie. relocation or safety)

We may also give a special assistance payment of up to \$10,000.





# Financial assistance for witnesses



## Secondary victim - parents

We may be able to help parents with:

- medical and counselling expenses
- in exceptional circumstance – loss of income incurred in the first two years after becoming aware of the act of violence (up to \$20,000)
- in exceptional circumstance – some other expenses (ie. relocation or safety)

## Secondary victim - witnesses

We may be able to help witnesses with:

- medical and counselling expenses
- If you witnessed a homicide, in exceptional circumstance, we may also be able to help with:
  - loss of income incurred in the first two years immediately following the act of violence (up to \$20,000)
  - some other expenses (ie. relocation or safety)

# Help when someone has died

## Related victims

We may be able to help with:

- medical and counselling expenses
- loss of money expected to be received from the deceased in the first two years immediately following the death of the victim (up to \$20,000)
- in exceptional circumstance – some other expenses (ie. relocation or safety)

We may also give a distress payment of up to \$10,000.

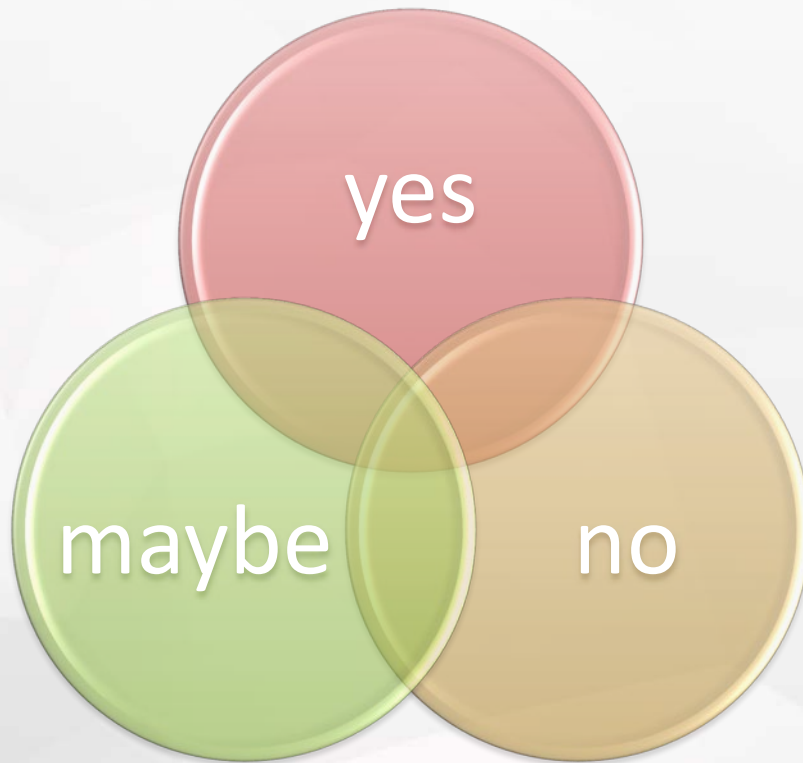
## Funeral expenses

If a person has died as a result of an act of violence:

- we may be able to reimburse or pay for some funeral expenses (up to \$8,000).



# Exceptional circumstances



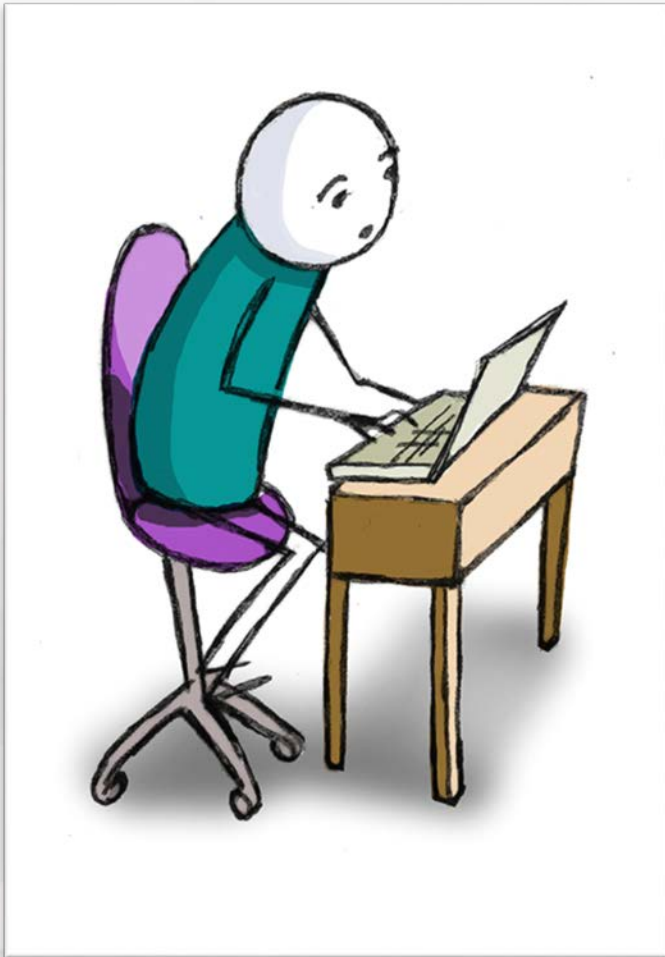
Under the Act, many expenses may be claimed “if exceptional circumstances exist for the victim”.

*“exceptional circumstances exist for a victim of an act of violence if, because of the victim’s circumstances or the nature of the act, the act has had an **unusual, special or out of the ordinary** effect on the victim.”*

VOCAA s.28

It is important to remember this is not a catch all for any expense that cannot be covered under another provision of the Act.

# How to apply



An applicant must complete a financial assistance application form and provide supporting information such as:

- ✓ medical information about their injuries and treatment required
- ✓ verification of their identity
- ✓ quotes, receipts and invoices

VOCAA s. 52

Financial assistance forms are available at:

[www.qld.gov.au/victimsapply](http://www.qld.gov.au/victimsapply)

# Victim Assist Guidelines

Under the Act, the Director General of the Department of Justice and Attorney-General may make guidelines about – the performance of a function or exercise of a power by the scheme manager or a government assessor.

VOCAA s.131

These guidelines provide clarity about what expenses may be claimed.



Search – 'Victim Assist Guidelines'



If exceptional circumstances exist, a victim may ask for help with security or relocation expenses. There is a guideline that cover these types of expenses.

# Applying on behalf of someone else

**In most cases a victim will complete the application form themselves.**

Sometimes another person will need to complete the application form on behalf of the victim. For example:

- A parent may apply on behalf of their child (under 18)
- A guardian or administrator may apply on behalf of a person with impaired capacity

**In these instances the parent/guardian/administrator must sign the form.**

# Supporting a victim who is applying for financial assistance

**In most cases a victim will complete the application form themselves.**

Sometimes another person may provide support to a person when they are completing their application form.

For example:

- A victim support service may guide and support a victim when they are complete their form.
- A victim may engage a lawyer to help them with their application.

**In these instances the victim must sign the form.**



# Help with legal fees

A victim<sup>#</sup> may claim *up to* \$500 for legal costs incurred by the victim in applying for assistance under this Act.

VOCAA s. 38, 41, 44 & 48 - # does not include witness less serious and funeral applications



The victim may only claim fees that directly relate to the making of an application for financial assistance under the Act.



The victim cannot claim fees for any other matter – including fees relating to other matters resulting from the act of violence, such as legal representation, family court matters or domestic violence orders.

Limitations apply – if you are working within a Government funded service, please check your funding service agreements prior to applying for legal fees.

# Help with legal fees

**A Director-General Guideline for claiming legal expenses was released in April 2019.  
This clarifies what legal expenses may be claimed.**



**Search – ‘Victim Assist Guidelines’**

# Offender Debt Recovery

“The Department of Justice and Attorney-General (DJAG) can seek recovery of amounts paid as financial assistance or criminal injury compensation to victims, from the **convicted** offender/s”

Recovery of debt is managed by DJAG’s Offender Debt Recovery team (ODR). Victim Assist notifies this team **after** financial assistance is granted.

ODR will only commence recovery **after** the offender is convicted. This may be a number of months or years after the victim received financial assistance.

# Offender Debt Recovery

“A **victim** may make a request to the scheme manager for a **suspension** of the recovery of the debt if there is reasonable concern seeking recovery of the debt may cause further harm to the victim”

**Option 1** — Write to [VictimAssist@justice.qld.gov.au](mailto:VictimAssist@justice.qld.gov.au) and tell us why you would like the debt suspended.

**Option 2** — Write to [VictimAssist@justice.qld.gov.au](mailto:VictimAssist@justice.qld.gov.au) and ask to be notified when the recovery of debt process commences.

# Questions



# VICTIMASSISTQUEENSLAND

## Victims' rights





# How do we build trust in the system?

We all need to work together to reinforce a sense of trust in the criminal justice system and help victims overcome their reservations about reporting crime.



The Charter of Victims' Rights helps victims rebuild a sense of control and make informed choices.



# Charter of Victims' Rights

The *Victims of Crime Assistance Act 2009* (VOCAA) sets out a Charter of Victims' Rights.

To advance the interests of victims, the Charter declares rights that are to be observed – as far as reasonable and practical - by prescribed persons in dealing with victims.

VOCAA s.6C



# Who has responsibilities under the Charter?

A prescribed person includes:



- A government entity
- A government funded entity
- An officer, member or employee of a government or government funded entity.

# Charter of Victims' Rights



[www.qld.gov.au/victimsrights](http://www.qld.gov.au/victimsrights)

1. You should take the needs of the victim account and treat them with respect, courtesy, compassion and dignity.
2. You should protect the victim's privacy and not share their personal information unless the law allows it.

# Charter of Victims' Rights

A victim should also be given information about services that can help them recover.



# Charter of Victims' Rights



<https://www.youtube.com/watch?v=CyCE8d6N9-M>

# Charter of Victims' Rights

If the victim thinks a Queensland Government agency or government funded organisation has not complied with the Charter they have the right to make a complaint. They can complain directly to the relevant organisation or talk to Victim Assist.





# Questions





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[www.qld.gov.au/victims](http://www.qld.gov.au/victims)

1300 546 587

[VictimAssist@justice.qld.gov.au](mailto:VictimAssist@justice.qld.gov.au)

