

10 April 2026

The Hon. Dr Tony Buti MLA
Attorney General
11th Floor, Dumas House
2 Havelock Street
WEST PERTH 6005

By email: Minister.Buti@dpc.wa.gov.au.

Dear Attorney General

REQUEST FOR A REVIEW OF THE CRIMINAL INJURIES COMPENSATION ACT 2003

The Law Society acknowledges and thanks the government for the significant support that the government, and particularly the former Attorney General, has provided to victims of crime with the removal of the limitation period in historical sexual abuse cases.

The Law Society considers there is one remaining set of victims that the justice system currently fails. The Law Society submits that the *Criminal Injuries Compensation Act 2003* requires reform to better ensure justice for all victims of crime.

Statutory Maximum

The current statutory maximum of \$75,000¹ has now been in place for over 21 years. The maximum applies to all damages including pain and suffering, economic loss, medical expenses and medical reports obtained to support the application.

Unlike other “compensation schemes” there has been no regular increase for inflation or in line with community expectations. A similar comparison is the maximum for weekly payments under workers compensation which has increased over a similar period from \$130,000 in 2003 to \$273,000 in 2024 or the most extreme case, in motor vehicle accidents increasing from \$240,000 in 2003 to \$501,000 in 2024.

Historically, the Criminal Injuries Compensation statutory maximum has been adjusted as follows:

On or after 1 January 2004	\$75,000
Between 1 July 1991 and 31 December 2003	\$50,000
Between 1 January 1986 and 30 June 1991	\$20,000
Between 1 January 1983 and 31 December 1985	\$15,000
Between 18 October 1976 and 31 December 1982	\$7,500
Between 22 January 1971 and 17 October 1976	\$2,000

¹ Section 31 of the Act.

Only a small number of victims currently reach the statutory maximum, but they are the most significantly injured of victims. In 2024, less than 5% of awards met the statutory maximum². Any increase in the maximum would not substantially increase costs of the scheme.

An increase in the statutory maximum would ensure that those victims are more adequately compensated.

Costs

Many applicants need help filing compensation claims, which the Office of Criminal Injuries Compensation does not provide. As a result, lawyers are often involved. The Law Society submits it would be appropriate to permit an additional amount to cover legal costs, which could be claimed in addition to the compensation awarded.

Further, the Act currently only allows for a maximum of \$180 for preparation of submissions in an appeal and \$180 for appearing in the appeal³. Appeals of criminal injuries compensation matters involve the provision of comprehensive written and oral submissions. These appeals can involve complex interpretation of the Act, issues of medical causation and a thorough review of the criminal trial. A similar comparison is the Legal Aid rates allowed for an appeal sentence hearing of \$2,186.00. The Law Society proposes that raising the existing maximum amounts and permitting the recovery of costs through the scheme should be contemplated.

Reform of section 39 of the Act

This section of the Act is as the explanatory memorandum explains: *This is a new provision to prevent persons engaged in criminal conduct claiming compensation.* The Law Society broadly supports the position that those involved in criminal conduct which forms part of the offence should not be entitled to compensation. However, consideration should be given to allowing compensation to those people where their offence is minor and/or has no connection to the offence by which they were injured.

The clearest example of the problematic nature of this section is *Attorney General for Western Australia v Her Honour Judge Schoombie [2012] WASCA 29*. In that case, the applicant was a victim of sexual penetration without consent and unlawful and indecent assault. The applicant was denied compensation on the basis that she had used amphetamines prior to and after the sexual offences. The Law Society submits that section 39 needs urgent reform to ensure injustice to victim-survivors does not occur.

The Law Society welcomes the opportunity to a meet with you to discuss the proposed reforms.

Please contact Ms Susie Moir, Director Advocacy and Professional Development at smoir@lawsocietywa.asn.au or telephone 9324 8646 should you wish to discuss this letter or progress arrangements for a meeting.

Yours sincerely



Judy McLean
President

² Office of Criminal Injuries Compensation Annual report 2024/2025

³ s56 of the Act and s5 of the Regulations.