

**STL v Victims of Crime Assistance Tribunal (Review and Regulation) - [2020]  
VCAT 540**

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### VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

#### ADMINISTRATIVE DIVISION

#### REVIEW AND REGULATION LIST

VCAT REFERENCE NO. Z387/2019

#### CATCHWORDS

*Victims of Crime Assistance Act 1996* ; VOCAT not satisfied that the Applicant was the victim of an act of violence; Review of VOCAT's refusal to award assistance; Allegations of sexual abuse when Applicant was 10 years old and younger; Tribunal satisfied that Applicant was the victim of an act of violence and suffered significant injury; Decision of VOCAT set aside; Applicant eligible and entitled to financial assistance including special financial assistance and costs.

**APPLICANT** STL

**RESPONDENT** Victims of Crime Assistance Tribunal (VOCAT)

**WHERE HELD** Melbourne

**BEFORE** Judge Jenkins, Senior Sessional Member

**HEARING TYPE** Hearing

DATE OF HEARING 3 March 2020

DATE OF INTERIM ORDERS 3 March 2020

DATE OF SUBMISSIONS BY  
CONSENT 27 April 2020

DATE OF FINAL ORDERS 1 May 2020

CITATION STL v Victims of Crime Assistance Tribunal (Review and Regulation) [2020] VCAT 540

#### NOTE

On 19 August 2019 the Tribunal found, for the reasons given, that a proceeding suppression order ought to be made under s 17 of the *Open Courts Act 2013 (Vic)* ; and that it was necessary to de-identify the name of the Applicant. Accordingly, the Tribunal made the following orders on its own motion:

1. The applicant in this proceeding must be referred to as STL.
2. Any report of the whole or any part of this proceeding or information derived from this proceeding to the extent that it would disclose the name and address of STL must not be published or otherwise disclosed.
3. These orders apply throughout Australia. The Tribunal's reasons for decisions are published on the AustLII website, which is accessible throughout Australia.
4. This order operates until the death of the applicant.

#### FINAL ORDERS

1. The Tribunal is satisfied on the balance of probabilities that for the purposes of the *Victims of Crime Assistance Act 1996 (VOCA Act)* the Applicant:
  - (a) is a primary victim of an act or acts of violence which is a category A act of violence;
  - (b) has suffered a significant adverse effect as a direct result of an act or acts of violence committed against her; and
  - (c) is eligible to receive assistance.
2. The VOCAT Decision is set aside.

3. The Tribunal awards assistance to the Applicant, in the aggregate sum of **\$15,108.82** pursuant to s 8(1) of the **VOCA Act** for medical and associated expenses; and expenses incurred in exceptional circumstances:
  - (a) incurred to the date of Hearing, totalling **\$6,764.82**;
  - (b) expenses for medication already incurred and anticipated over next 2 years, up to **\$1,000.00**; and
  - (c) expenses incurred during the next 2 years, in respect of any counselling and treatment by her General Practitioner and treating psychiatrist referable to the injury suffered as a result of the act/s of violence, up to a total sum of **\$7344.00**.
4. The Tribunal awards special financial assistance to the Applicant, pursuant to s 8A of the **VOC A Act** , in the sum of **\$10,000.00** being the maximum amount permissible for a category A act of violence.
5. The Applicant is awarded:
  - (a) costs of this proceeding, fixed in the sum of **\$15,000.00** by agreement between the parties; and
  - (b) disbursements totalling **\$1,199.00** comprising Counsel Fees of \$990.00 and Medical Report of Dr O'Brien of \$209.00; and
  - (c) costs and disbursements incurred by the Applicant in her application before the VOCAT to the extent that such costs and disbursements, previously claimed, have not already been paid by the Respondent.

**Judge Jenkins**  
**Senior Sessional**  
**Member**

**APPEARANCES:**

For Applicant                      Ms Elarya George, Solicitor, instructed by YourLawyer.

For Respondent                    Ms Estelle Frawley of Counsel, instructed by the Victorian  
Government Solicitor's Office.

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## REASONS

### NATURE OF APPLICATION

1. On 23 May 2016, the Applicant[1] applied to the Victims of Crime Assistance Tribunal (**VOCAT**), under the *Victims of Crime Assistance Act 1996* (**VOCA Act**) for financial assistance based on allegations that she was a victim of sexual offending in 2008 and 2009 by LT, [2], who was an adult friend of her parents.[3].

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[1] The Applicant is identified as ‘STL’ for the purposes of publishing.

[2] LT is the pseudonym used for the alleged offender at his criminal trial and in the decision of the Court of Appeal, [2016] VSCA 229 .

[3] Section 49 materials, page 1, 103 to 109.

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2. On 12 April 2019, the VOCAT refused to make an award of assistance on the basis that it was not satisfied that an act of violence had occurred (**VOCAT Decision**).
3. On 7 May 2019, the Applicant applied to the Victorian Civil and Administrative Tribunal (**Tribunal**) to review the VOCAT Decision.
4. The Tribunal has jurisdiction to review the VOCAT Decision pursuant to

s 59(1)(a) of the *VOCA Act* .

5. The purpose of the *VOCA Act* is to provide assistance to victims of crime through the provision of a scheme for payment of financial assistance.[4].

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[4] Section 1.

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6. The objectives of the *VOCA Act* are:[5]
  - (a) to assist victims of crime to recover from the crime by paying them financial assistance for expenses incurred, or reasonably likely to be incurred, by them as a direct result of the crime; and
  - (b) to pay certain victims of crime financial assistance (including special financial assistance) as a symbolic expression by the State of the community’s

sympathy and condolence for, and recognition of, significant adverse effects experienced or suffered by them as victims of crime; and

(c) to allow victims of crime to have recourse to financial assistance under this Act where compensation for the injury cannot be obtained from the offender or other sources.

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[\[5\]](#) Section 2.

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7. The Applicant seeks compensation in the form of financial assistance, in accordance with s 8 of the [VOCA Act](#) ; and in addition, the Applicant seeks special financial assistance, in accordance with s [8A](#) of the [VOCA Act](#) .

8. In relation to financial assistance, the Applicant seeks a total sum of \$15,108.82 comprising:[\[6\]](#)

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[\[6\]](#) Section 49 materials, page 41 to 43. These sums have been amended by further written submissions and Amended Statement of Claim, by consent, dated 27 April 2020.

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(a) Counselling Expenses incurred to date of Hearing (Dr O'Brien):

\$1,896.00;

[\[7\]](#)

(b) Specified Medical expenses incurred to date of Hearing (Medical reports; chemist statements; and antidepressants):

\$286.20;

[\[8\]](#)

(c) Counselling expenses anticipated (Dr O'Brien):

\$7,344.00;

[\[9\]](#)

(d) Further Medication expenses incurred and anticipated:

\$1,000.00;

[\[10\]](#)

and

(e) Other expenses incurred to assist recovery (in exceptional circumstances):

\$4,582.62.

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- [7] Amended Statement of Claim dated 6/4/2020.  
[8] Amended Statement of Claim dated 6/4/2020 comprising \$32.10 + \$254.10.  
[9] Amended Statement of Claim dated 6/4/2020; and Letter of Dr Gerald O'Brien dated 16 March 2020, based on 2 years consultations.  
[10] Applicant's Submission to VOCAT for assistance dated 5/12/2016 indicating ongoing reliance upon antidepressant medication.
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9. Section 50 of the **VOCA Act** allows the Tribunal to make an award if satisfied that an act of violence has occurred, the Applicant is a primary victim and the Applicant is eligible to receive the assistance.

#### **NATURE OF REVIEW**

10. There is no question that the Applicant's interests are affected by the VOCAT Decision and accordingly she has standing to seek a review of that Decision. [11].

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[11] **VOCA Act** s 59(1)(c).

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11. On review, the Tribunal has all of the functions and powers of the original decision maker and has the power to affirm, vary, or set aside the decision under review; and may make another decision or substitution or remit the matter to the VOCAT for reconsideration. [12].

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[12] *Victorian Civil and Administrative Tribunal Act 1998* (**VCAT Act**) s 51.

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#### **ISSUES FOR DETERMINATION**

12. This review is to be conducted as a hearing de novo. Accordingly, the Tribunal must determine whether:

- (a) It is satisfied on the balance of probabilities that there was an act of violence, namely, a criminal act or series of criminal acts committed in Victoria which directly resulted in injury;

- (b) The alleged acts were reported to police within a reasonable time and, if not, whether the Tribunal considers that special circumstances brought about that result; and
- (c) If the Tribunal is satisfied that there was an act of violence and there is no mandatory refusal requirement, whether the matter should be remitted to the Respondent for consideration or whether the Tribunal should proceed to consider whether the Applicant is entitled to the relief sought.

## ALLEGED OFFENDING

13. I draw upon the contents of the material filed in the s 49 Statement and the subsequent written submissions.
14. The Applicant alleges that LT sexually penetrated her (by way of digital penetration) numerous times between about 2004 and 2006, when she was aged between 7 to 9 years old, and then again between 2007 and 2008, when the Applicant was 10 years of age.[\[13\]](#)

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[\[13\]](#) Section 49 materials, page 115 to 116.

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15. The Applicant alleges that LT would commit these offences against her when they were alone together.
16. The Applicant's parents were close friends of LT and his wife.
17. The Applicant reported the matter to Police in 2014, when she was aged 16 years old. A Video and Audio Recorded Evidence (**VARE**) was conducted by police with the Applicant on 6 May 2014; and a video recording of her evidence (**Special Hearing**) was conducted on 16 June 2015, at which time she was also cross-examined and re-examined. Both the VARE; the videoed Special Hearing and transcripts of both were provided to the jury at the trial of LT.
18. On 14 May 2014, the Applicant's mother covertly recorded a telephone conversation with LT. She told him that the Applicant had told her that he had sexually abused her years ago. LT denied the allegations and described himself as 'speechless' and 'gobsmacked' with what was being said.
19. On 3 June 2014, Police conducted a record of interview with LT in which he denied all allegations.

## Charges and Proceedings

20. LT was charged with two counts of sexual penetration of a child under the age of 16.
21. The relevant provision at the time when the offences were alleged, namely between 2004 and 2008, was s 45 of the *Crimes Act 1958 (Vic)*.



22. The elements of s 45 of the *Crimes Act 1958 (Vic)* are as follows:

- (a) “A person who takes part in an act of sexual penetration with a child under the age of 16 is guilty of an indictable offence.”
- (b) The maximum penalty for sexual penetration of a child under the age of 10 is a term of imprisonment of 25 years.
- (c) The maximum penalty for sexual penetration against a child within the ages of 10-16 years old, whereby that child was under the care, supervision or authority of the alleged offender is 15 years maximum.

23. This offence is currently prohibited by s 49A of the *Crimes Act 1958 (Vic)* as of the year 2016, when the *Crimes Act 1958 (Vic)* was amended.

24. Following a trial in the County Court in June 2015, LT was found guilty of one charge of sexual penetration of a child under 16 (being the bedroom incident described below);<sup>[14]</sup> and not guilty of the other charge.

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<sup>[14]</sup> Section 49 materials, page 1.

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25. LT was sentenced by her Honour Judge Sexton to four years imprisonment with a non-parole period of 12 months.

26. LT appealed his conviction to the Victorian Court of Appeal.

27. On 21 September 2016, the Court of Appeal found (by majority) that the guilty verdict was unsafe and unsatisfactory and entered a judgement of acquittal. <sup>[15]</sup> In their reasons, the majority noted:

- (a) the Applicant’s evidence concerning the bedroom incident is “*irreconcilable with the evidence of her mother*”;<sup>[16]</sup> and
- (b) evidence was adduced from the informant that LT had no prior conviction. His good character bears on the assessment of the credibility of his denials in the record of interview.<sup>[17]</sup>

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<sup>[15]</sup> *Tandy (a pseudonym) v The Queen* [2016] VSCA 229 per Priest JA and Cavanough AJA; Beach JA dissenting (21 September 2016); Section 49 materials, pages 53 to 71, 73.

<sup>[16]</sup> Section 49 materials, page 60.

<sup>[17]</sup> Section 49 materials, page 61.

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28. On 1 April 2019, the VOCAT held a hearing at Geelong.
29. On 12 April 2019, the VOCAT Member delivered the VOCAT Decision with reasons and determined:
- (a) that it was not satisfied on the balance of probabilities that the Applicant was a victim of crime under s 59 of the *VOCA Act* and refused to make an award of assistance;<sup>[18]</sup>
  - (b) to make an award of costs for \$1,750.00 for solicitor's preparation fees.<sup>[19]</sup>

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<sup>[18]</sup> Section 49 materials, page 16.

<sup>[19]</sup> Section 49 materials, page 15. It is noted that at paragraph 5 of the Applicant's submissions, dated 16 January 2020, the Applicant states that "*The Tribunal Member also refused to award costs of the hearing to the Applicant's Counsel and Solicitors.*" It appears that costs were awarded for solicitor's preparation fees, but no costs were awarded for Counsel's fees.

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30. In summary, the VOCAT Member had particular regard to the following:
- (a) The evidence of the Applicant in her VARE and Special Hearing;
  - (b) Perceived inconsistencies between the Applicant's evidence and the evidence of her mother at trial;
  - (c) The way in which the alleged offending of LT was reported to Police;
  - (d) LT's denial of all allegations in his Police record of interview; and
  - (e) The fact that the Applicant worked in the business of LT's wife, where LT would sometimes be present.

#### **STANDARD OF PROOF**

31. Section 31 of the *VOCA Act* provides that the relevant standard of proof for any questions of fact to be decided is the balance of probabilities. In applying such standard to the current application, in the context of a contested act of violence, it is appropriate to have regard to the principles enunciated in *Briginshaw v Briginshaw*. <sup>[20]</sup>

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<sup>[20]</sup> 60 CLR 336.

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32. The Tribunal must reach a comfortable level of satisfaction in finding the matter(s) proved on the balance of probabilities, consistent with the seriousness of the allegations and reflecting the serious consequences of any finding.
33. In *Medical Board of Australia v Alkazali*, [21] the approach to be applied by the Tribunal was recently restated:

In *Con Karakatsanis and Tony Karakatsanis v Racing Victoria Limited*, [22] the Court of Appeal again had occasion to consider the *Briginshaw* test in the context s 140 of the *Evidence Act 2008*. The Court observed that while the considerations embodied in the *Briginshaw* test are now reflected in s 140 of the *Evidence Act 2008*, that Act only applies to proceedings in a Victorian court, [23] which is defined to include persons or bodies required to apply the laws of evidence. The *VCAT Act* makes plain that the Tribunal is not bound by the rules of evidence. Accordingly:

...provided that the Tribunal acted fairly and on the basis of relevant evidence (ie evidence rationally affecting the assessment of the probabilities of the facts in issue), it could not be readily concluded that it acted contrary to the law... it was entirely proper for the Tribunal to take the approach that it did and require that it be ‘comfortably satisfied’ of the facts in issue. [24].

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[21] [2017] VCAT 39 per Judge Jenkins at [36].

[22] [2013] VSCA 305.

[23] *Evidence Act 2008*, s 4.

[24] [2013] VSCA 305 at [36]-[37].

34. In the current case, the gravity of the consequences flowing from a decision do not correspond to consequences in disciplinary proceedings before the Tribunal. However, a finding in favour of the Applicant necessarily involves a finding of criminal conduct on the part of LT, albeit not to the requisite criminal standard. Accordingly, the Tribunal must exercise particular care in thoroughly examining the evidence and must be ‘comfortably satisfied’ of the occurrence or existence of the fact in issue before it can be found.
35. The Respondent indicated that, consistent with the approach set out in *Macedon Ranges Shire Council v Romsey Hotel Pty Ltd*, [25] it sees its role as being to assist the Tribunal in reaching the correct and preferable decision rather than defending the original decision.

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[25] [2008] VSCA 45.

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36. The Applicant contends that on the balance of probabilities the Tribunal should make a finding that she was a victim of crime, having regard to the following:

- (a) The jury found LT guilty of the crime at first instance;
- (b) The jury had the advantage of assessing the Applicant and her mother's evidence personally;
- (c) The jury also had the advantage of assessing the evidence at trial, about three and a half years earlier than the VOCAT Member; and
- (d) The decision of the Court of Appeal to acquit LT has no direct bearing on whether the act of violence occurred on the balance of probabilities.

#### **EVIDENCE OF AN ACT OR ACTS OF VIOLENCE**

37. The primary consideration in this case is whether the Applicant can satisfy the Tribunal that she was in fact the victim of an 'act of violence'. An act of violence, as defined in sub-s 3(1), means:

a criminal act or a series of related criminal acts, whether committed by one or more persons, that has—

- (a) occurred in Victoria; and
- (b) directly resulted in injury or death to one or more persons, irrespective of where the injury or death occurs ...

38. The sexual offending is alleged to have occurred in three separate time periods as follows:

- (a) First, when the Applicant was 7 or 8 years old, LT touched the Applicant's breasts and vagina, on approximately 5 occasions, when he visited her home with his family to socialise with her parents, mostly on a Friday night. The Applicant could not remember any other detail as to date or circumstance. In her VARE, the Applicant said, in part:

Whenever my parents were out of the room ... he would come and talk to ... me and my brothers ... He would come up to me and, like, just games or something and I didn't really know what was going on but he kept touching me in areas that I didn't really feel comfortable with. And that went on for a bit and it got worse each time because eventually he would start, like, pulling down my pants or something and every time I would try to pull them up and he would just laugh and start pulling them back down again. And I don't remember everything but I do remember once he had his hands down there and he started ... like ... to feel around and everything and I said 'stop' but again he still laughed. And eventually whenever I said I was going to tell my mum he ... just said, like 'as if they believe you'.[\[26\]](#)

These acts were not the subject of any criminal charge (**uncharged acts**);[\[27\]](#)

- (b) Secondly, when the Applicant was around 8 years of age, her mother drove her and her brothers to LT's house one night to collect something. Her mother went inside the house, leaving all the children to wait in the car. LT came and took the Applicant out of the car, ostensibly to show her the stars, giving her a piggyback ride. LT took her to a couch or a chair to look at the stars. Whilst the Applicant was standing on the chair facing LT, he was quiet and put his hand under her clothes and inserted his finger inside her vagina (**star gazing incident**);[\[28\]](#) and
- (c) Thirdly, when the Applicant was 10 years old, LT attended her home to assemble a cupboard in her bedroom. The Applicant was already asleep in bed. Whilst the Applicant's mother left home to pick up her husband from work, LT woke the Applicant and took her from her bed. In her VARE and Special Hearing, the Applicant gave evidence that LT pulled her pyjama pants down and she pulled them up. LT pulled her pants down again and laughed. They were now both on the floor. LT inserted his fingers into her vagina. The Applicant believed that her mother saw this incident when she looked into the bedroom and the Applicant said to her mother, "*He is hurting me*" (**bedroom incident**).[\[29\]](#) This incident is described in more detail below.

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- [\[26\]](#) Section 49 materials, page 121.  
[\[27\]](#) Section 49 materials, page 3 to 4, 121, 128.  
[\[28\]](#) Section 49 materials, page 4, 131 to 134.  
[\[29\]](#) Section 49 materials, page 4 and 5, 122 to 128.
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39. In her VARE,[\[30\]](#) in relation to the bedroom incident, the Applicant said that:[\[31\]](#)

The last time that it happened ... Mum ... asked him to set up a cupboard or something in my room but he was meant to do it outside of my room because I was asleep at the time and during that ... Mum was going to pick up dad and he said ... Because he kept coming into my room and he was trying to wake me up and my mum said ... 'Can you do that outside' and he goes 'no she will be fine. Can you go ... Pick up [Applicant's father] ... and ... after that I was awake and he started ... touching me again ... and I said 'can you please stop' and he wouldn't. And by the time Mum got home she walked in and he didn't know, he was laughing and then he looked up and he was really quiet and he stopped. And I looked over and I said to Mum 'he's been hurting me' and then he quickly stood up and said 'I've got to go' and quickly left and it stopped completely. .

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- [\[30\]](#) VARE conducted by on 6 May 2014.  
[\[31\]](#) Section 49 materials, pages 121-122.
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40. The Applicant further described LT trying to wake her and kept poking her. She woke up, her mother left (to pick up her father), LT started working on the cupboard; they were talking, then he came over to the Applicant again and touched her. She could not remember how but she was lying on the floor, he pulled her pants down whilst she tried to pull them up, he kept pulling them down and feeling around her vagina and 'poke me ... inside'.

Then I remember him going quiet because mum saw it.

She did not see her mother come into the room but said she only knew she was there because LT went quiet, stood up quickly and said 'I've got to go'. Her mother did not say anything. The Applicant said her mother checked to see if she was ok.

41. The Applicant made no further complaints of abuse subsequent to the bedroom incident.
42. The Applicant first complained about the alleged offending to her then boyfriend (**BF**) in about January or February 2014. BF made a statement to Police dated 24 May 2014<sup>[32]</sup> in which he said that about three or four months previously, when he was with the Applicant in her bedroom, she was upset and had not slept for a couple of nights. When he asked her what was wrong, she said she would tell him if he promised not to tell anyone. She then said that an old family friend used to touch her when she was younger; she had started to remember and could not stop thinking about it. He had fingered her, and she told him not to.

Sometimes if she put her hands to push him away he would hold her hands above her head. Sometimes if she told him to stop he would laugh at her, especially if there was no one else around ... A couple of times when her family went out or when they were home he would try and get into her bedroom on her own then he would assault her ... She remembered one time when her Mum walked in, but wasn't sure about it ...

When she told me all of this she started tearing up, she just seemed devastated. When she finished telling me she started crying.

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<sup>[32]</sup> Section 49 materials, page 143-144.

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43. BF encouraged the Applicant to tell her mother and see if she remembered anything. The Applicant did not want to tell her mother at the time but told BF she would once she gained enough confidence. In the meantime, BF noticed the Applicant continuing to get upset, stressed and falling behind in her schoolwork. When he questioned her again, she told him that it was hard to get all her work done because the assault was always on her mind.
44. On about 25 April 2014, when the Applicant and her mother were at home and had an argument about the Applicant cleaning up her room, they had the following exchange:<sup>[33]</sup>

A: You know why I'm like I am

M: What do you mean?

A: You know [LT] abused me

M: what?

A: Yes you do

M: What do you mean?

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[33] Statement to Police of the Applicant's mother dated 14 May 2014, Section 49 materials, pages 171-172.

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45. In her Statement to Police, the Applicant's mother said she was in shock when the Applicant told her that she (the mother) saw LT abusing her when she walked in on them when he was making the cupboard. Her mother recalled an occasion when LT did attend their house to make up a cupboard for the Applicant's room. LT was in the Applicant's bedroom and she was in bed asleep. The mother had to leave to pick up her husband from work. LT told her to leave and he would stay. She could not recall how long she was away but when she returned she went into the Applicant's bedroom, the door was open and the light was on and she remembered seeing LT over the Applicant's bed; he was nowhere near the cupboard and the cupboard was finished and put together. In her Statement she said further:

I remember thinking at the time that I wasn't happy that he was standing over her bed. I couldn't see what he was doing. I certainly didn't think or know he had been doing something inappropriate. I don't think I said anything. I can't remember if [LT] said anything but he left the house pretty quick, but didn't think anything of it at the time because he had finished the cupboard.

That same night, I received a phone call from his wife not long after he had left. At the time I didn't think anything of the phone call, in fact I was a little surprised by it. [His wife] said that [LT] was concerned about what I was thinking when I walked into [the Applicant's bedroom].

46. The Applicant told her mother that LT touched her 'down there'; it commenced when she was about 7 or 8 and finished when she was 10, the last occasion being when the mother walked in on them in her bedroom.

47. The Applicant's mother further stated that when the Applicant was about 14 years old, LT's wife asked the Applicant's mother if the Applicant could work as a volunteer in her costume dress shop 'to provide her with confidence and help her handle money'. The mother thought it was a good idea and encouraged the Applicant to do so. The mother stated that the Applicant worked for nearly 2 years as a volunteer but in the last year:

she used to complain every day and didn't want to go. I had to encourage her and nearly force [her] to go. I told her [LT's wife] needed her. LT was often there to help out, I'm not sure if him being there had anything to do with [the Applicant] not wanting to go, but in hindsight I fear maybe it was.

48. Police interviewed LT on 3 June 2014. He denied the allegations. In the course of the interview, LT denied ever putting up a cupboard in the Applicant's house or in her bedroom; and he denied standing over her and leaving the house when her mother walked in. LT agreed that he had stargazed with the Applicant, although not in the location or on the occasion suggested. He also agreed that he had piggy-backed her from time to time, with his wife going 'crook' about it due to his bad back. LT also agreed that he had been in the Applicant's room on two or three occasions when she had asked him to do something for her, such as looking at her schoolwork.
49. I have carefully considered the above evidence and all of the material presented in the s 49 Statement and I am comfortably satisfied, on the balance of probabilities, that the Applicant was the victim of an act or acts of violence committed in Victoria which directly resulted in injury. My reasons follow.
50. I note that the majority in the Court of Appeal (who were of course concerned with a higher evidentiary burden, beyond reasonable doubt), and the VOCAT Member, placed significant weight upon the mother's evidence, which was interpreted as contradicting the evidence given by the Applicant at trial. In my view, for the purpose of the current application, such interpretation is misconceived and misplaced. I have had regard to the following:
- (a) The mother did not give evidence that the bedroom incident did not or could not have happened, she simply could not remember seeing any inappropriate conduct;
  - (b) Both the Applicant and her mother gave consistent evidence that:
    - (i) LT did attend their home on one occasion when he assembled a cupboard in her bedroom;
    - (ii) the mother left the home for a period to collect her husband from work;
    - (iii) upon returning home, the mother entered the Applicant's bedroom and found LT still there; and
    - (iv) LT left quickly without saying anything to the mother.
  - (c) The mother expressed disquiet to find LT still in the bedroom, with the light on and standing over her daughter's bed when the cupboard was finished;
  - (d) The mother also recalled a later telephone call the same night from LT's wife, questioning whether the mother was concerned about what she saw in the bedroom; and
  - (e) The mother effectively dispels any suggestion that the Applicant initiated working for LT's wife.
51. I further agree with submissions made on behalf of the Applicant, namely:
- (a) There was no evidence, other than the fact that her mother was also a victim of sexual assault as a child, to indicate the mother's state of mind at the time of the



incident. There could be no way of knowing how the Applicant's mother would have reacted in the circumstances described by the Applicant;

- (b) When assessing victims of child sexual abuse, Vice President Judge Hampel acknowledged [34] that:

It is not widely known that trauma victims will often experience and recount sensory memories of the events, rather than giving a chronological account of events. It is also not widely known that adults recounting childhood traumatic events will do so by reference to the fear memories of the child they were at the time of the events.

- (c) It is unknown what the mother exactly saw on the day that the act of violence took place as the matter was reported years after the event took place;
- (d) The mother did not give evidence before the VOCAT; and
- (e) The relationship between the Applicant and her mother at the time the act of violence was reported to the Police was apparently problematic, as the Applicant confronted her about the act of violence, in an argument, before reporting it to Police.

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[34] *FG v Victims of Crimes Assistance Tribunal* [2011] VCAT 2449 at [37].

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52. I refer to the dissenting judgement of Beach AJA on appeal in which he acknowledged significant discrepancies between the evidence of the Applicant and her mother. However, after also referring to the careful instructions to the jury given by the trial judge as to the way they should assess the evidence, his Honour made the following comments, which I also endorse: [35].

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[35] *Tandy (a pseudonym) v The Queen* [2016] VSCA 229 at [63]–[68].

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It is trite that this Court cannot know what path of reasoning the jury (or individual jurors) may have engaged in. Some observations, however, can be made. First, the complainant was approximately ten years of age at the time of the alleged offending. The complainant's evidence was, however, not first given until some six years later, with cross-examination occurring a year after that. The jury may well have reasoned that, while the complainant might have been shown to be wrong in respect of some of the detail identified in the majority reasons, the complainant was unshaken in her core allegation. Plainly, in compliance with the judge's charge, the jury could have rejected aspects of the complainant's evidence, while accepting other parts, including a critical or core element.

Secondly, it was open to the jury to regard some of the complainant's mother's evidence as, at least, improbable; alternatively, if probable then, perhaps, supportive of the complainant. For example, in evidence-in-chief, the complainant's mother gave the following answers to the following questions:

You went to [BT's] bedroom?---Yes.

What did you see when you went to BT's bedroom?---Um, the cupboard was finished, the light was on and [the applicant] was standing over [BT's] bed.

Are you able to describe what you saw?---Yes, my daughter looking at me but I couldn't see anything. All I just saw was my daughter's eyes looking at me.

You said [the applicant] was over [BT's] bed?---Yes.

What part of the bed, do you say he was at, when you first saw him?---Wasn't near her face, it was in the middle part. It wasn't near her face because I could see her eyes.

Was he standing or what; what did you see?---Standing, yeah.

His feet were on the floor beside the bed?---Yep.

You say he was over [BT's] bed?---Yes.

What do you mean by that?---He was just over [BT's] bed, standing over [BT's] bed, yeah.

What about the cupboard?---The cupboard was made up.

All right, did you — you saw [the applicant] standing over [BT's] bed?---Yeah.

You saw [BT] looking at you?---Yeah.

What did you next see?---The next thing, [the applicant] walked past me and, um, he walked out, went home.

Did he say anything to you as he left?---No, I don't think he did. I can't recall, but he left pretty quick.

Thirdly, some of differences between the complainant's evidence and her mother's evidence are capable of being reconciled on the basis that, while [the mother] was giving evidence of what she actually saw and heard, the complainant gave evidence of what she perceived or believed her mother saw and heard. Moreover, these were the perceptions of a ten-year old child recounted years later. It is not an infrequent occurrence that one witness will give evidence of conveying a matter to another witness, only to have the other witness say that no such matter was in fact conveyed.

...

As has been said most recently by the High Court, in our system of criminal justice in relation to allegations of serious crimes tried by jury, it is the jury that is the constitutional tribunal for deciding issues of fact. [\[36\]](#). This Court must not substitute trial by an appeal court for trial by jury. [\[37\]](#). Having conducted my

own independent assessment of all of the evidence, I am unable to conclude that the jury must have entertained a doubt about the applicant's guilt in respect of charge 2.

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[36] *R v Baden-Clay* [2016] HCA 35 at [65] .

[37] *Ibid* at [66] .

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53. This Tribunal is of course only concerned with the civil burden of proof described above. I do not accept that the discrepancies between the Applicant's evidence and the mother's evidence bear upon the credibility and reliability of the Applicant's allegations of sexual offending. She was unable to recall specific details, including times and dates. However, she did recount quite clearly and consistently the nature and general circumstances of the offending. Furthermore, taking account of the relationship between LT and his wife and the Applicant's parents, I accept that LT did have the opportunity to commit the offending in the manner alleged.
54. It is sufficient that I am satisfied that an act of violence was committed against the Applicant in the manner alleged in the bedroom incident. I am also satisfied that the Applicant was the victim of earlier acts of violence, in the nature of the allegations encompassed by the uncharged acts and the star gazing incident.
55. I am further satisfied, that in the circumstances of this case this application should not be remitted to the Respondent for further consideration. Rather, it is appropriate that this Tribunal proceed to make the determinations as to the Applicant's entitlements and relief.

## ELGIBILITY FOR ASSISTANCE

### Did the Applicant suffer an injury?

56. Section 8 of the *VOCA Act* states that a primary victim may be awarded by the Tribunal assistance of up to \$60,000.00 plus any special financial assistance awarded in accordance with section 8A of the *VOCA Act* .
57. The award of assistance may be made up of amounts, including:
- (a) for expenses actually incurred, or reasonably likely to be incurred, by the primary victim for reasonable counselling services; [38] and
  - (b) for medical expenses actually and reasonably incurred, or reasonably likely to be incurred, by the primary victim as a direct result of the act of violence'. [39] .

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[38] Section 8(2)(a) .

[39] Section 8(2)(b) .

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58. A 'primary victim' is defined as 'a person who is injured or dies as a direct result of an act of violence committed against ... her'.[\[40\]](#).

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[\[40\]](#) Sub-sections 3(1) and 7(1).

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59. Sub-section 3(1) of the [VOCA Act](#) defines 'injury' as actual physical bodily harm, mental illness or disorder, pregnancy or a combination of such. The definition of injury is expanded by sub-s 3(2) of the [VOCA Act](#) which deems a person to have suffered an injury if the VOCAT is satisfied on medical or psychological evidence that treatment or counselling is required as a result of trauma associated with an act of violence.

60. In addition to the assistance available under sub-s 8(1), or as an alternative if the applicant cannot establish an injury, 'special financial assistance' may be awarded to a person who has suffered 'any significant adverse effect as a direct result of an act of violence committed against ... her' and the Tribunal is satisfied that: [\[41\]](#).

- (a) an 'act of violence' was committed against her;
- (b) she has 'experienced or suffered a significant adverse effect as a direct result of that act of violence'; and
- (c) 'that act of violence is a category A, B, C or D act of violence' for the purposes of the [VOCA Act](#).

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[\[41\]](#) Sub-section 8A(2).

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61. Section 8(3) of the [VOCA Act](#) provides that in exceptional circumstances, there may also be included in the limit of \$60,000.00, an amount for other expenses actually and reasonably incurred, or reasonably likely to be incurred, by the primary victim to assist his or her recovery from the act of violence.

62. The Applicant has suffered a category A act/s of violence. In addition, in my view she has suffered a significant adverse effect, as detailed in the medical reports below, as a result of such violence.

63. I am comfortably satisfied, on the balance of probabilities, that the Applicant suffered a significant and ongoing injury in the nature of a mental illness or disorder, as a direct result of the act/s of violence, which has required and continues to require ongoing medical treatment and counselling.

64. I am satisfied that the injury is established by the Applicant's Victim Impact Statement,<sup>[42]</sup> the history which she has given to health professionals; and, the assessments made in reports provided by various treating health professionals.

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<sup>[42]</sup> Section 49 Statement pages 180-187.

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65. I rely upon the following assessments by treating health professionals:

- (a) Dr Kirsten Rose, Mental Health Clinician (Clinical Psychologist), by letter dated 11 December 2015,<sup>[43]</sup> advised that the Applicant had attended a total of 36 counselling sessions, 21 with Dr Rose of Headspace;<sup>[44]</sup> and the remainder with another psychologist. The Applicant had indicated that she proposed to continue further psychotherapy. Dr Rose further advised that:

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<sup>[43]</sup> Section 49 Statement page 29.

<sup>[44]</sup> Headspace National Youth Mental Health Foundation.

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[The Applicant] had reported symptoms of anxiety, mood disturbance, emotional dysregulation and interpersonal difficulties in the context of post-dramatic stress related to childhood sexual abuse.

- (b) By letter dated 3 February 2016, Dr Bernard Jenner, consultant paediatrician and family therapist, reported that:

[The Applicant] is a patient of mine with severe clinical depression, generalised anxiety disorder including post-traumatic stress disorder (dating back several years), learning difficulties, intrinsic attention difficulties (since starting school) and prolonged QT heart syndrome. The impact of the Emotional and Sexual Abuse she experienced over a prolonged period as a younger child, has been enormous and life defining on [the Applicant's] personality, emotional wellbeing, ability to maintain relationships and education.

[The Applicant] will have lifelong self-esteem and trust issues. This has and will have an adverse impact on her future relationships, moods, behaviour, educational and career attainment and parenting. [The Applicant's] depression and poor self-esteem has resulted in suicidal attempts and ideation. [The Applicant] requires long standing counselling support.

- (c) By letter dated 25 February 2016, Dr Luke Khongmen, General Practitioner, reported that:<sup>[45]</sup>
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[The Applicant] is suffering with depression, anxiety and post-dramatic stress disorder following sexual abuse since she was a young child. This has impacted significantly on her personality, her well-being, her relationships and education.

She has been on regular antidepressant medications and has been seeing a psychologist. She will need long standing counselling.

- (d) In her Initial Report, recommending more than five hours of counselling, dated 14 July 2016, [46] Dr Rose noted that the Applicant had been referred to Headspace on 16 September 2014 by the Royal Children's Hospital, Mental Health. The Applicant had reported multiple acts of sexual assault committed against her by an adult male perpetrator when she was a minor. A Clinical Psychology Assessment Interview found that the Applicant met diagnostic criteria for a diagnosis of post-dramatic stress disorder which is directly related to the alleged acts of sexual violence committed against her. Upon referral to Dr Rose, the Applicant did not feel ready to engage in trauma focused therapy. Instead, goals were set to address trauma-related symptoms. I also note the Applicant's Statutory Declaration dated 15 January 2020: [47]

I struggle to talk about my abuse with my Psychiatrist due to feeling so traumatised and anxious. Whenever I've previously tried to explain the incident it immediately takes me back to the time of when the abuse occurred.

When I first started seeing Dr O'Brien, it was in his best interest to say it would be more traumatic to speak about the abuse whilst the court proceedings continued.

- (e) By letter dated 9 January 2020, Dr Gerald O'Brien, Adolescent and Family Psychiatrist, reported that in relation to the Applicant's previous abuse experience:

She is very clear that she has tried to discuss her abuse experiences with a number of therapists over the years and remains unable to do so. It is therefore my view that continued efforts to make this happen will be unsuccessful and perhaps more importantly I believe are damaging for [the Applicant]. It is my belief that whilst [the Applicant] has in all probability been significantly harmed by her abuse she continues to be significantly harmed by the ongoing legal process ...

I feel that [the Applicant] could benefit significantly from ongoing therapy for her PTSD ...

- (f) By letter dated 16 March 2020, in response to enquiry, Dr Gerald O'Brien reported that:

The actual number of [ongoing] appointments required is impossible to determine given the uncertain nature of [the Applicant's] clinical progress. However, if you wish me to estimate I suggest that monthly appointments for 2-3 years is broadly accurate. I currently charge \$306 per appointment.

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[46] Section 49 Statement pages 30-34.

[47] Filed with the Tribunal.

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66. I also note the Applicant's Victim Impact Statement made 8 August 2015, in which she states, in part:[48]

I was too young to understand what was going on until I was 13 years old. After I realised what had happened, I became depressed, empty, scared and turned to self-harm to deal with the pain.

During my first years of high school, well after the abuse, I turned to self-harm, depression and had also attempted suicide more than once at the age of 14, 15 and 16.

I have and am currently seeing a counsellor at headspace to help keep my depression at bay. I am also terrified to make new friends or apply for jobs in fear of being hurt again.

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[48] Section 49 Statement pages 182-184.

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67. The Applicant submits that she has been prescribed medications since 2014, and that the commencement of the treatment came about the same time the incident was reported to Police.
68. I note that in the original application to the VOCAT, and included in the Amended Statement of Claim, is an amount representing the costs of renovations to the Applicant's family home. For the reasons advanced in the Applicant's original submissions, I accept that the circumstances of the offending, which took place in her bedroom, created an exceptional circumstance which could seriously prejudice the Applicant's recovery and sense of security and wellbeing. Accordingly, I agree that the expenses incurred on the Applicant's behalf to secure a safe environment in the family home were both necessary and reasonable.
69. In my view, there are clearly exceptional circumstances in this case to award the Applicant the reasonable expenses which she has incurred and will incur to assist her in her recovery. I am comfortably satisfied on the basis of the medical evidence and the evidence given by the Applicant before the Tribunal, that an amount for future medical and related expenses should be awarded for the next two years, during which time the Applicant is reasonably likely to require continued psychiatric and/or psychological treatment and counselling.

**Did the Applicant report to Police within a reasonable time?**

70. Section 52(1) of the VOCA Act provides that the Tribunal must refuse to make an award of assistance if:

- (a) it is satisfied that—

- (i) the act of violence was not reported to the police within a reasonable time ...

...

unless the Tribunal considers that special circumstances brought about the result.

71. Section 53 provides that in considering whether the act of violence was reported to the police within a reasonable time, the Tribunal may have regard to any matters that it considers relevant including:

- (a) the age of the victim at the time of the occurrence of the act of violence;
- (b) whether the victim is intellectually disabled within the meaning of the **Disability Act 2006** or mentally ill within the meaning of the **Mental Health Act 2014** ;
- (c) whether the person who committed, or is alleged to have committed, the act of violence was in a position of power, influence or trust in relation to the victim;
- (d) whether the victim was threatened or intimidated by the person who committed, or is alleged to have committed, the act of violence or any other person;
- (e) the nature of the injury alleged to be suffered by the victim.

72. In this case the Applicant reported to police approximately 6 years after the bedroom incident.

73. I am comfortably satisfied, on the balance of probabilities, that the Applicant reported the act /s of violence to police within a reasonable time. I have made such finding having regard to the following:

- (a) The Applicant was a prepubescent child, aged between 7 and 10 years at that time of the offending;
- (b) According to the medical evidence, the Applicant had suffered ‘intrinsic attention difficulties (since starting school) and prolonged QT heart syndrome’ (Dr Jenner’s report above) in her childhood;
- (c) At the time of the offending, LT was a close friend of her parents and frequent visitor to her home. Accordingly, LT was in a position of power, given the young age of the Applicant; and a position of trust, given the relationship of LT with the Applicant’s family;
- (d) LT told the Applicant, to the effect that, she would not be believed if she complained to her mother, a comment which could reasonably have the intention and effect of intimidating a young vulnerable child. I endorse the comments of Vice President Judge Hampel [\[49\]](#) that:



It is all too common that children who have been sexually abused do not disclose the abuse at the time. Their youth, powerlessness, fear, and inability to fully appreciate at the time what is being done to them or how wrong it is all militate against timely reporting.

and

- (e) The medical evidence clearly indicates that the Applicant has suffered significant and ongoing emotional trauma because of the act/s of violence and still experiences significant difficulties in talking at any length about her abuse to her treating health professionals.

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[49] In the matter of *FG v Victims of Crime Assistance Tribunal* [2011] VCAT 2449 at [46].

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74. In my view, the delay in the Applicant's report to police and earlier complaint to her boyfriend and mother is not unreasonable and is entirely explicable in the context of the above circumstances. Indeed, it is not uncommon for child victims of sexual abuse to be unable to make a complaint or report to police until well into their adulthood.
75. I acknowledge the list of cases summarised in the Respondent's Legal Contentions which considered whether special circumstances existed. I do not agree that 'special circumstances' equate to 'out of the ordinary'. However, there are clearly a range of circumstances where the Tribunal can properly find that the report to police was made within a reasonable time, although not made as soon as possible after the alleged offending.
76. In this case, for the reasons indicated, I have no hesitation in finding that the report to police was made within a reasonable time having regard to the special circumstances which explain and account for the delay in reporting to police.

#### **Is the Applicant entitled to special financial assistance?**

77. Section 8A of the *VOCA Act* provides that special financial assistance can be awarded where the primary victim has suffered a 'significant adverse effect'. A significant adverse event is defined as including any grief, distress, trauma or injury experienced as a direct result of the act of violence.
78. The amount of special financial assistance that may be awarded is governed by sub-ss 8A(3), (4) and (5) and the *Victims of Crime Assistance (Special Financial Assistance) Regulations 2011 (Regulations)*. There are four elements to the legislative scheme.
79. First, the amount of financial assistance depends on the category of the act of violence. Schedule 1 of the Regulations specifies the acts of violence and classes of an act of violence that are categorised as category A, B, C or D.
80. Any offence that involves the sexual penetration of a person is a category A act of violence.[50]

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[50] Regulation 6.

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81. Secondly, for each category of an act of violence the minimum and maximum special financial assistance that may be awarded is set out in the Table in sub-s 8A(5).
82. Thirdly, the amount of special financial assistance that may be awarded is limited by reference to whether the Tribunal is satisfied that the applicant has experienced or suffered any significant adverse effect or any injury as a direct result of the act of violence. [51] Injury in turn is defined to mean: actual physical bodily harm; or mental illness or disorder or exacerbation thereof; or pregnancy; or any combination of such matters.
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[51] Section 8A(4) .

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83. Fourthly, the Regulations provide for an ‘uplift’ of assistance to a higher maximum in certain circumstances where, as a direct result of the act of violence, the victim has suffered a ‘serious injury’ or a ‘very serious physical injury’ .[52] .
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[52] Regulations 5, 7 & 8.

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84. The Schedule to the Regulations sets out the offences that comprise each category of acts of violence for which special financial assistance may be awarded. .
85. Pursuant to sub-s 8A(5) of the **VOCA Act** , for a category A act of violence the minimum amount of special financial assistance that may be awarded is \$4,667.00, and the maximum amount is \$10,000.00.
86. As indicated above, I am comfortably satisfied on the balance of probabilities that the Applicant, having been the victim of a category A act/s of violence, she has suffered a significant adverse effect which is ongoing and requires ongoing medical treatment in the form detailed in the medical reports. I am readily satisfied that having regard to the injury already suffered by the Applicant and continuing, and the significantly adverse impact upon her emotional and social life and education that she is entitled to the maximum award which I can make under sub-s 8A(5) of the **VOCA Act** , namely \$10,000.00. .

## **COSTS**

87. The Applicant applies for costs against the Respondent if the Tribunal determines the matter in favour of the Applicant, including costs incurred before the VOCAT, where the costs of Counsel were denied.
88. The Applicant relies on s 109(3)(e) of [VCAT Act](#) where the Tribunal can consider any fact it considers relevant when an application for costs is made.
89. When an Applicant is successful at a review, the Respondent's preferred practice is that an agreed amount of costs for the VCAT review are fixed by way of consent order on the date of the decision. Such agreement has been reached and subsequent to the Hearing, the parties provided written proposed Consent Orders to the effect that costs be fixed in the sum of \$15,000.00; and that the Applicant's claim for medical and associated expenses be determined by the Tribunal in accordance with the amended Statement of Claim lodged with the Tribunal on 27 April 2020.
90. Regarding the costs before the VOCAT, the position of the Respondent is that the Tribunal has no jurisdiction to review an order for costs awarded by the Respondent because that is not a reviewable decision under s 59 of the [VOCA Act](#). I disagree and endorse the findings of the then Deputy President Coghlan in *TUN v Victims of Crime Assistance Tribunal*. [\[53\]](#) In my view the Tribunal does have power to make an award of costs incurred before the Respondent. The Tribunal stands in the shoes of the original decision maker and re-makes the decision with all the powers and functions of the original decision maker. I further concur with Deputy President Coghlan that it would not be open for an applicant to bring a review application with respect solely to a cost determination by the VOCAT. However, once a review application is brought, within s 59(1) of the [VOCA Act](#), the additional incidental ancillary powers and functions granted by s 51(1) of the [VCAT Act](#) become available to the Tribunal.

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[\[53\]](#) [\[2009\] VCAT 2479](#) at [\[17\]](#) and [\[18\]](#).

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91. It would be grossly unfair for the Applicant to be successful before this Tribunal upon review of the decision of the Respondent and still be left to bear the costs of the original unsuccessful application. I am unclear as to the precise amounts previously claimed for costs and any amount which was ordered to be paid by the Respondent. Accordingly, I propose to make an order in general terms to the effect that the Respondent pay any such costs and disbursements incurred by the Applicant in her application before the VOCAT to the extent that such costs and disbursements, previously claimed, have not already been paid by the Respondent.

## SUMMARY OF FINDINGS

92. I have carefully examined the evidence available at trial and before the VOCAT, as outlined above. I have also carefully considered the oral evidence given by the Applicant at the Tribunal hearing, in addition to her previous statements, and the subsequent written submissions.

93. I am comfortably satisfied on the balance of probabilities that a category A act of violence was committed against the Applicant in the manner alleged in the bedroom incident and accordingly the Applicant is a primary victim. I am also satisfied that the Applicant was the victim of earlier acts of violence, in the nature of the allegations encompassed by the uncharged acts and the star gazing incident.
94. I have found that the report to police was made within a reasonable time having regard to the special circumstances which explain and account for the delay in reporting to police. Accordingly, the Applicant is eligible for assistance.
95. I am satisfied that there are exceptional circumstances in this case to award financial assistance to the Applicant for the reasonable expenses which she has incurred and will incur to assist her in her recovery. I am comfortably satisfied on the basis of the medical evidence and the evidence given by the Applicant before the Tribunal, that an amount for future medical and related expenses should be awarded for the next two years, during which time the Applicant is reasonably likely to require continued psychiatric and/or psychological treatment and counselling.
96. I am comfortably satisfied, on the balance of probabilities, that the Applicant suffered a significant adverse effect as a direct consequence of the act/s of violence, such injury being in the nature of a mental illness or disorder, which has required and continues to require ongoing medical treatment and counselling. Accordingly, the Applicant is also entitled to special financial assistance.

## **DETERMINATIONS**

97. The Applicant is a primary victim of a category A act of violence and as a direct result suffered a significant adverse effect.
98. The VOCAT Decision is set aside.
99. The Applicant is entitled to:
  - (a) an award of assistance in the sum of \$15,108.82.
  - (b) special financial assistance in the sum of \$10,000.00;
  - (c) costs of the Hearing agreed and fixed in the sum of \$15,000.00 together with disbursements totalling \$1,199.00; and
  - (d) costs and disbursements incurred by the Applicant in her application before the VOCAT to the extent that such costs and disbursements, previously claimed, have not already been paid by the Respondent.
100. Orders giving effect to the above findings and determinations are made herein.

**Judge Jenkins**  
**Senior Sessional Member**

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## Cited by:

Chapman v Victoria State Emergency Service Authority (Review and Regulation) [2020] VCAT 722 (30 June 2020) (H. Lambrick, Deputy President)

45. In *Tun v Victims of Crime Assistance Tribunal* [2009] VCAT 2479, Deputy President Coghlan found that VCAT on review had jurisdiction to make an award of costs incurred before the Victims of Crime Assistance Tribunal (“the VOCAT”). This decision was recently followed by the Tribunal in *STL v Victims of Crime Assistance Tribunal*, [3].

via

[3] [2020] VCAT 540.