



OFFICE OF CRIMINAL INJURIES COMPENSATION

DEPARTMENT OF THE ATTORNEY GENERAL

WESTERN AUSTRALIA

Chief Assessor's Report
2011/2012



CRIMINAL INJURIES COMPENSATION

The Honourable Michael Mischin, MLC
Attorney General of Western Australia
10th Floor, Dumas House
2 Havelock St
WEST PERTH WA 6005

Dear Attorney General

STATUTORY REPORT - CRIMINAL INJURIES COMPENSATION 2010/11

Pursuant to section 62 of the *Criminal Injuries Compensation Act 2003* I submit my report on the operation of the Office of Criminal Injuries Compensation for the year ending 30 June 2012.

Yours faithfully

H L Porter
CHIEF ASSESSOR OF CRIMINAL INJURIES COMPENSATION

25 September 2012

CONTENTS

OVERVIEW.....	4
STATISTICAL PROFILE.....	4
NEW APPLICATIONS.....	5
CLAIMS FINALISED.....	5
NATURE OF OFFENCES.....	6
GENDER OF RECIPIENTS.....	6
MONETARY RANGE OF AWARDS.....	7
INTERIM PAYMENTS.....	7
PRIMARY AND SECONDARY VICTIMS.....	8
LEGAL REPRESENTATION.....	8
REASONS FOR REFUSALS.....	9
FUTURE PAYMENTS PROVISION.....	10
APPEALS.....	11
REDUCTIONS FOR CONTRIBUTION.....	11
PERFORMANCE MEASURES.....	11
ASSESSMENT TIME.....	11
OUTSTANDING APPLICATIONS.....	12
PROVISION OF REASONS.....	13
NEW DEVELOPEMENTS.....	13
RECOVERY OF DEBT.....	14
ACKNOWLEDGEMENTS.....	14

OVERVIEW

The Office of Criminal Injuries Compensation is established pursuant to the *Criminal Injuries Compensation Act 2003* (the Act) to compensate victims for injuries suffered as a consequence of an offence. Compensation can be awarded for bodily harm, mental and nervous shock, or pregnancy, resulting from an offence. Compensation is available for pain and suffering, loss of enjoyment of life, loss of income and treatment expenses. The maximum amount payable is \$75,000 for an offence committed in Western Australia after 1 January 2004 and lesser amounts for offences prior to that.

STAFF

The team at the Office consists of 3 full time assessors and 17.2 full time equivalent administrative employees, including staff working on recovery from convicted offenders (the Recoveries Office).

KEY DATA

During 2011/2012,

2031 new applications for compensation were received, an increase of 6.5%.

1872 applications were accepted for processing, an increase of 12.2%.

1809 applications were finalised, an increase of 0.8%.

1624 awards were made totalling \$32,463,313.

The average award was \$19,990.

126 applications were refused.

19 hearings were held into applications for compensation.

The caseload increased by 72 to 885 applications on hand, an increase of 8.8%.

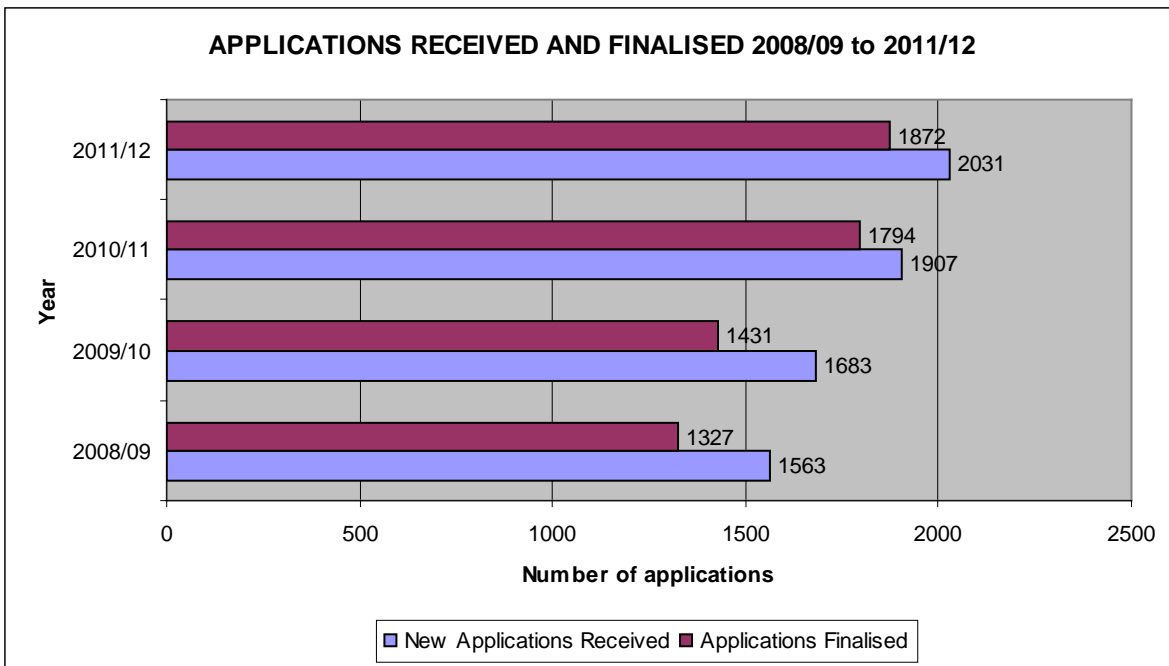
\$1,700,486 of debt owed to the State was recovered, an increase of 26%.

STATISTICAL PROFILE

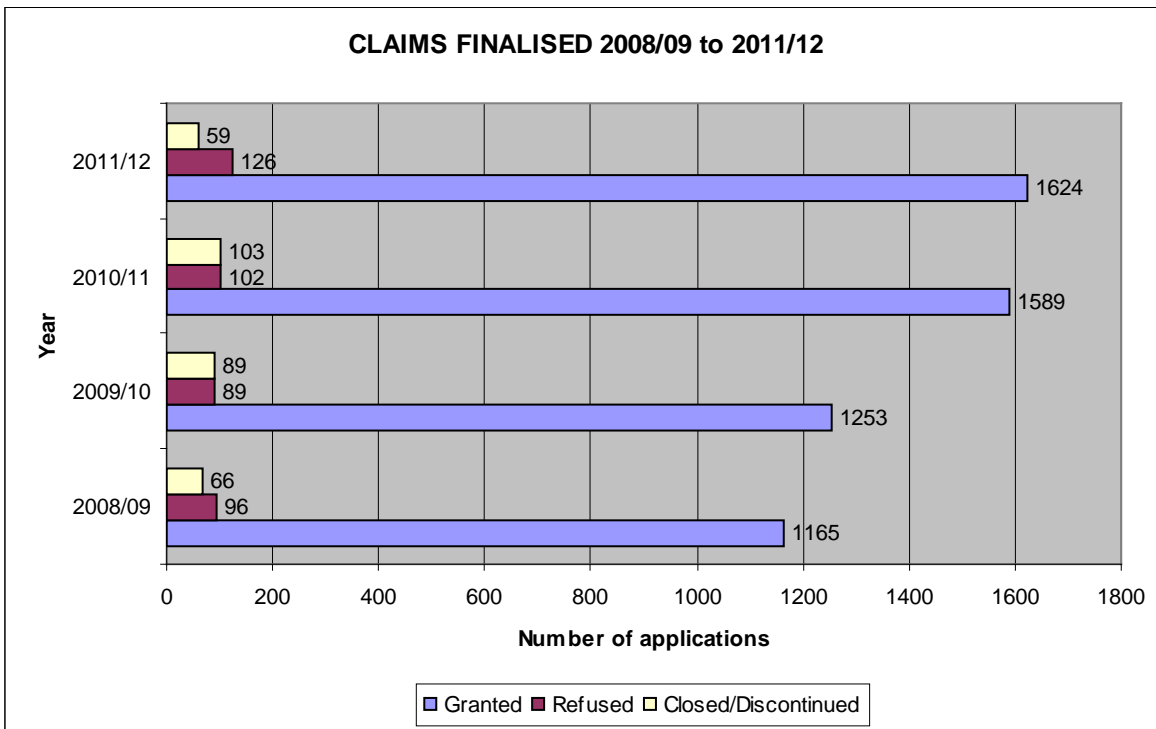
	<u>2008/09</u>	<u>2009/10</u>	<u>2010/11</u>	<u>2011/12</u>
New applications received	1563	1683	1907	2031
Accepted applications	1491	1628	1669	1872
Rejected applications	362	362	536	646
Resubmitted applications	290	307	298	487
Awards granted	1165	1253	1589	1624
Applications refused	96	89	102	126
Applications closed or discontinued	66	89	103	59
Applications outstanding at 30 June	750	943	813	885

NEW APPLICATIONS RECEIVED

During 2011/12 new applications totalling 2031 were received. On 646 occasions applications were returned to the applicant for further work. Of the applications returned to the applicant, 487 were resubmitted on at least one occasion.

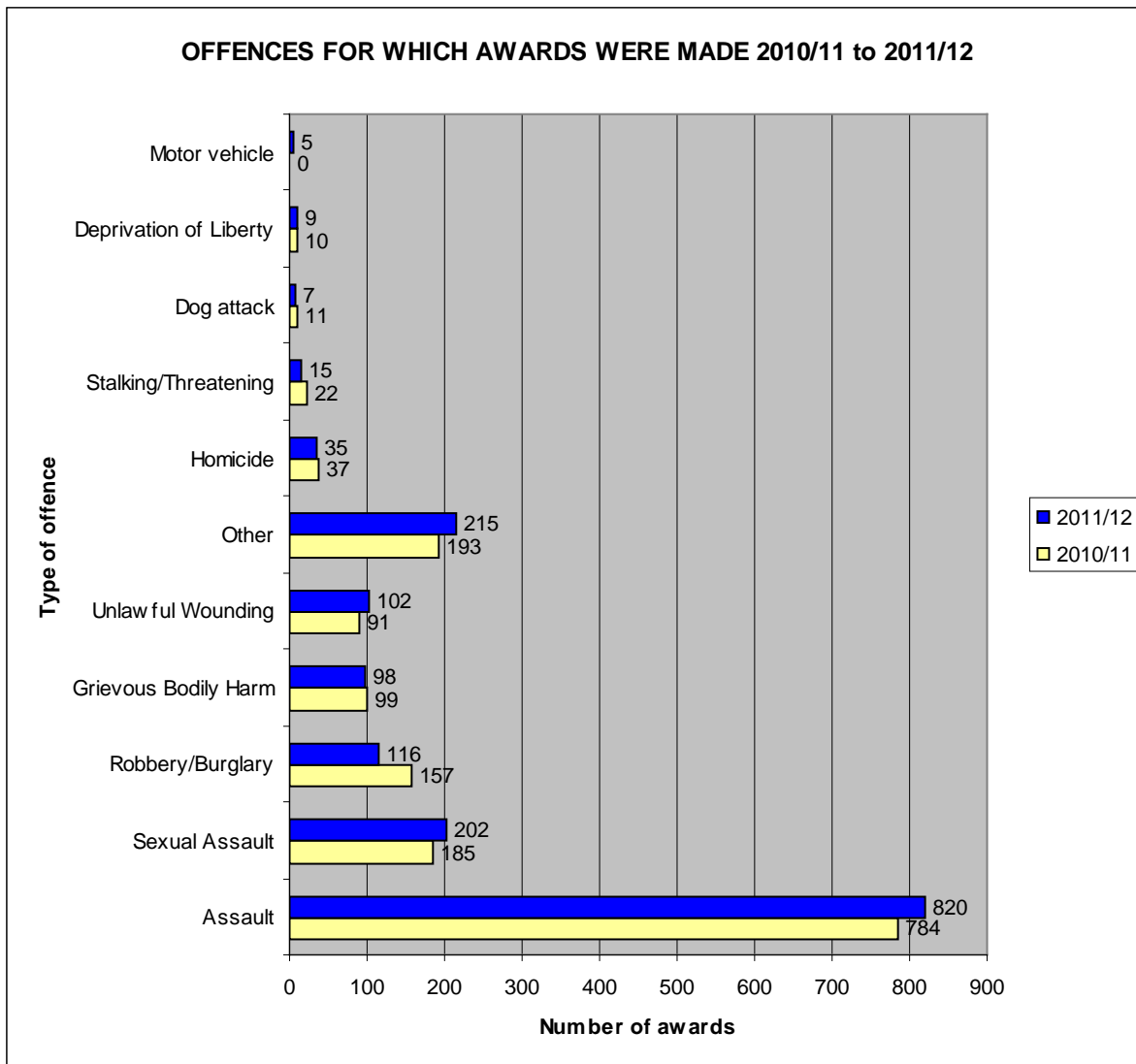


CLAIMS FINALISED



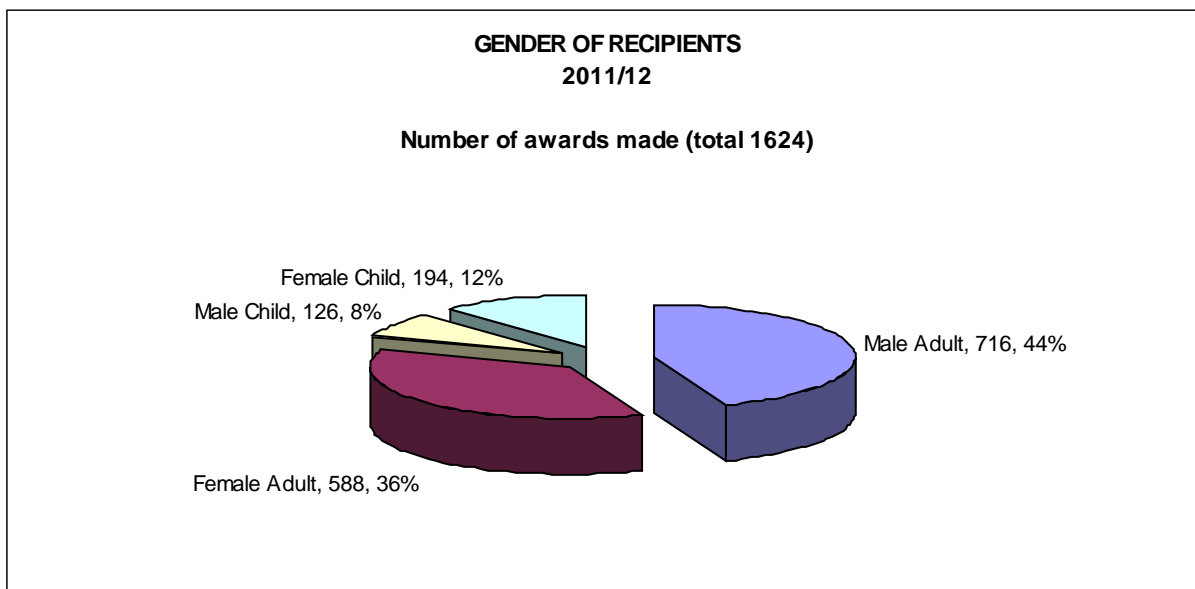
NATURE OF OFFENCES INVOLVED

The chart below illustrates the types of offences for which awards were made between 2010/11 and 2011/12.



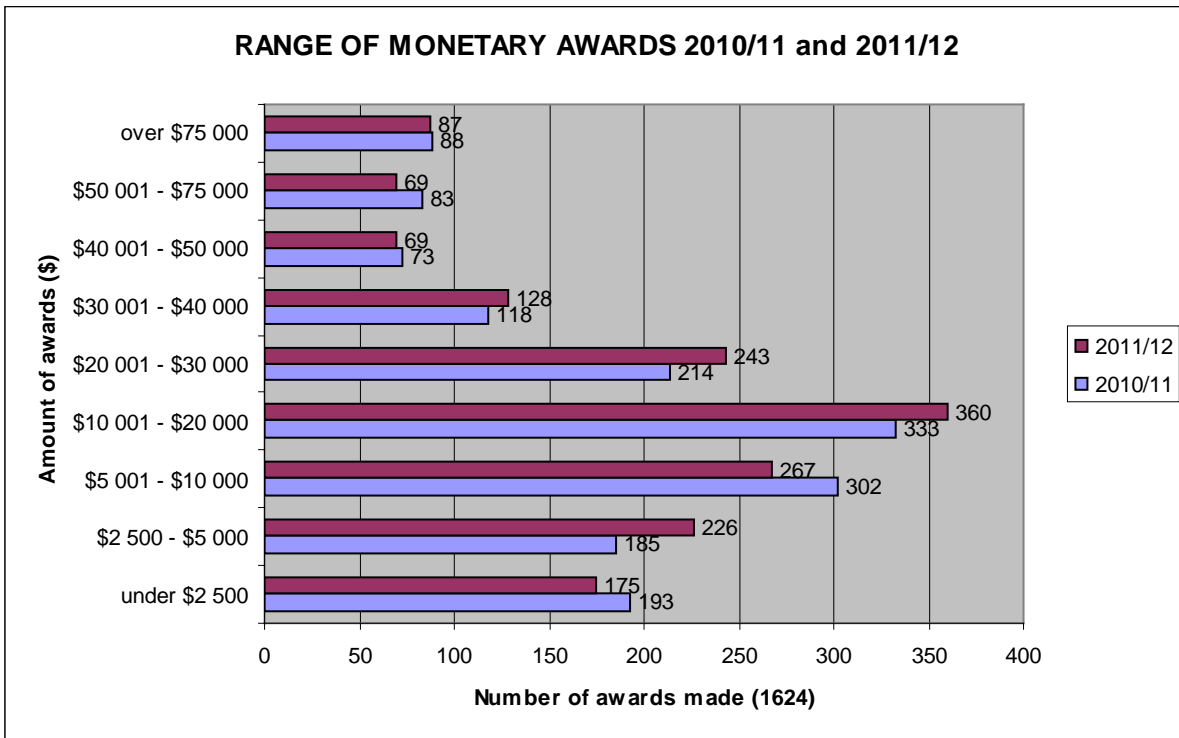
NUMBER OF MALES & FEMALES TO WHOM AWARDS WERE MADE

The following chart shows the gender of persons to whom awards were made and the number of adults and children involved. Overall, 52% of recipients were male and 48% female.



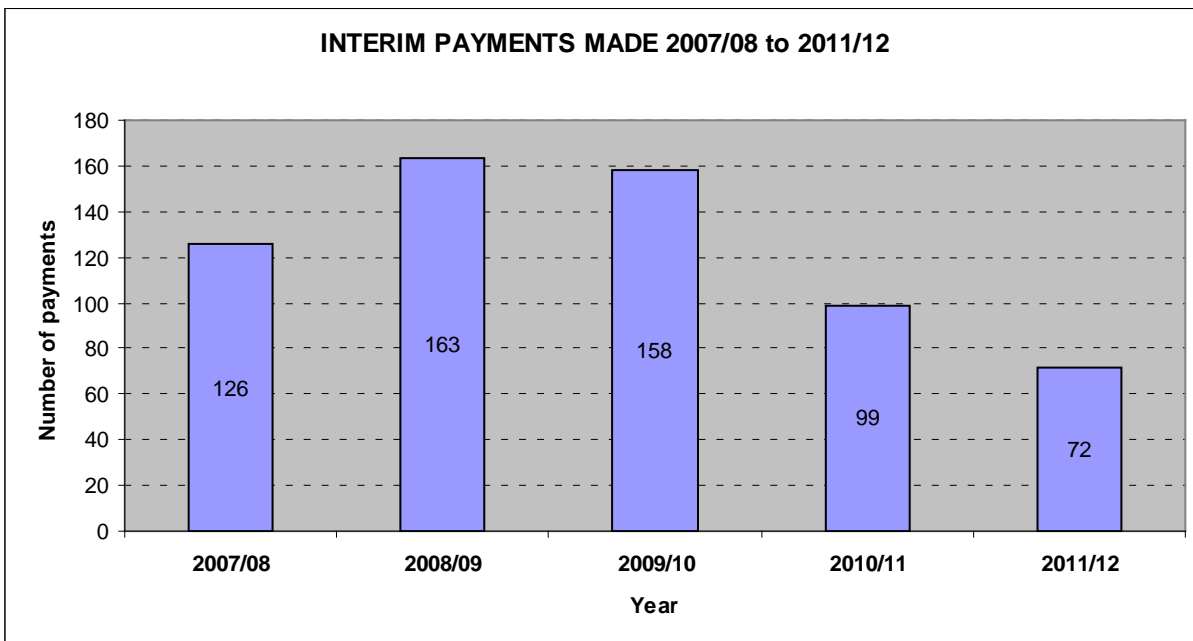
RANGE OF FINALISED APPLICATIONS

The chart below illustrates the monetary range of applications finalised during 2010/11 and 2011/12.

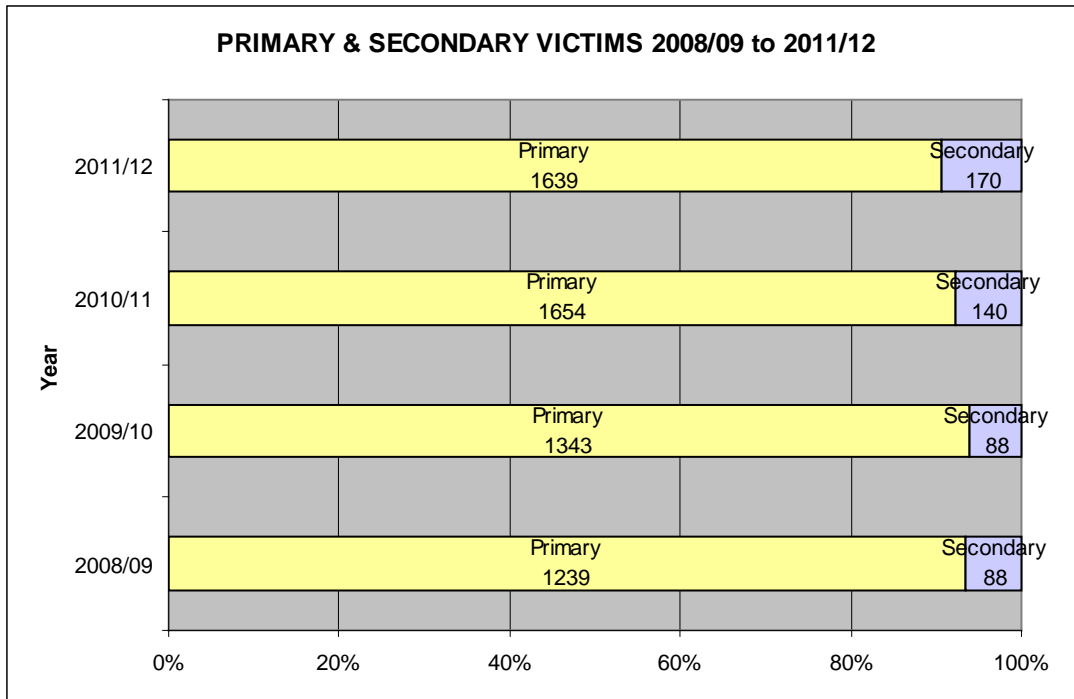


INTERIM PAYMENTS

An Assessor may authorise an interim or “up front” payment before the finalisation of a claim to a maximum of \$2,250 for expenses incurred as a consequence of a death or injury. The table below shows the number of applicants to whom interim payments have been made.

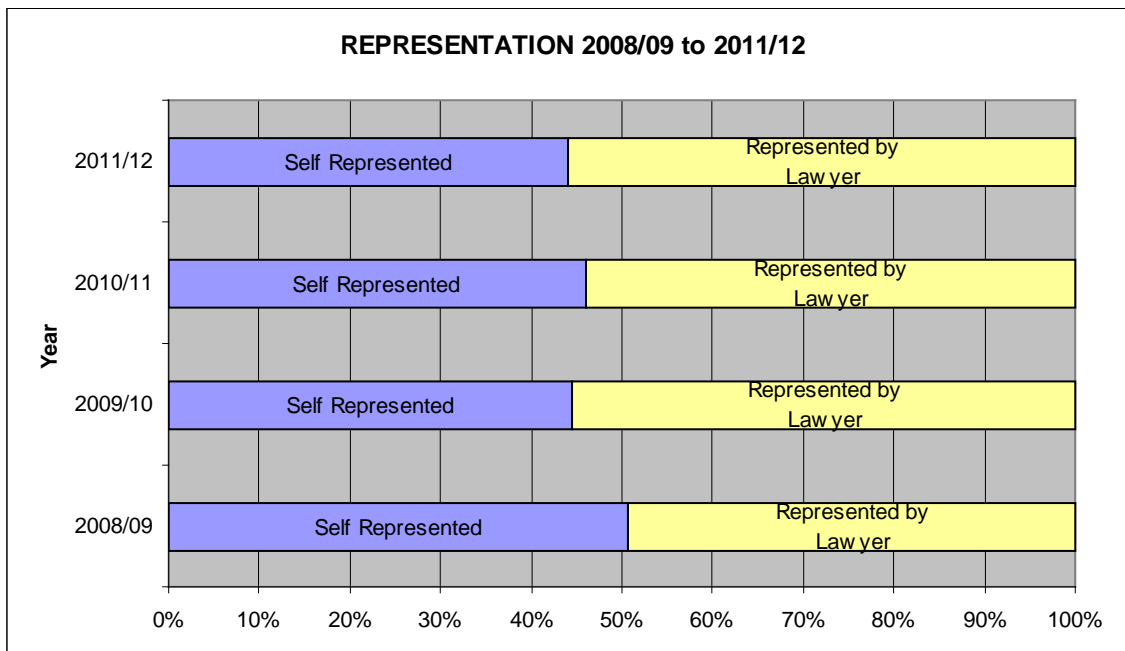


PRIMARY & SECONDARY VICTIMS



REPRESENTATION

The last 12 months has seen a slight increase in the proportion of applicants having legal representation.



REFUSALS

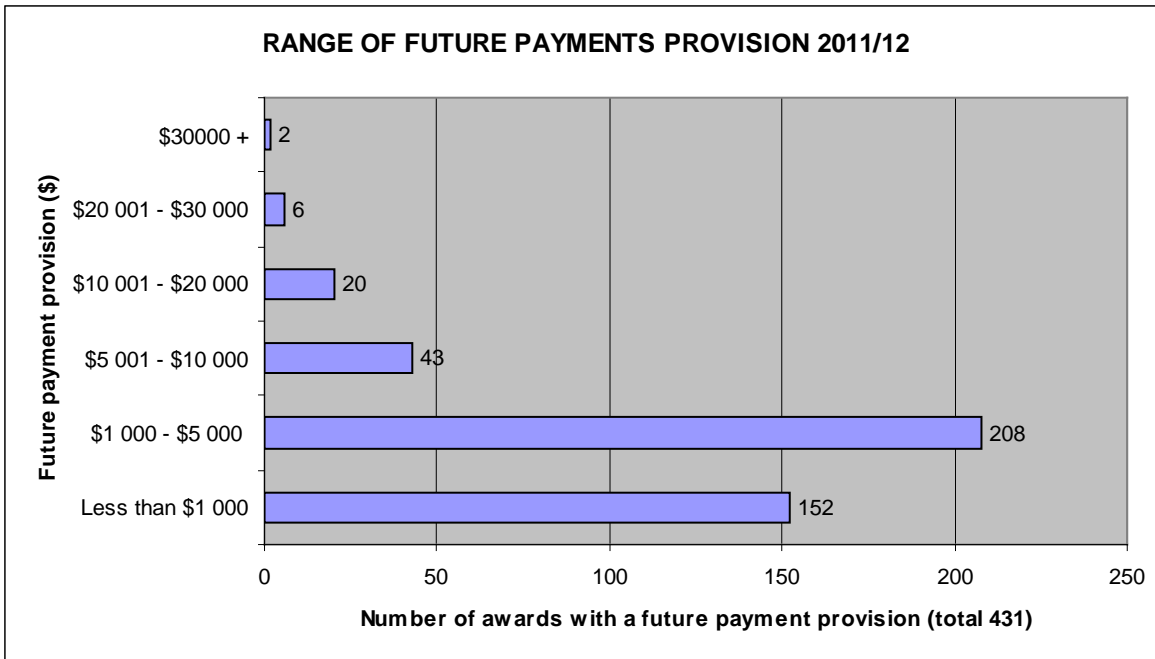
During the year 2011/12, awards were refused on 126 applications for reasons detailed below:

Section of Act	No of Refusals	Reason for Refusal
9	11	Time expired, extension of time refused
10	1	Entitlement ceases on death of victim
12	13	Assessor not satisfied applicant injured in the commission of a proved offence
13	16	Alleged offender acquitted
17	28	Assessor not satisfied applicant injured in the commission of an alleged offence
29	0	Assessor's general discretion
35	18	Limitation of compensation for mental and nervous shock
36	1	No award if compensation likely to benefit offender
37	4	Injury caused by a motor vehicle
38	21	Applicant did not assist investigation, apprehension or prosecution of offender
39	8	Victim engaged in criminal conduct *
40	2	Compensation previously awarded or refused
41	3	Behaviour etc. of victim to be considered

* 3 were decided before the decision on 9 February 2012 in *Attorney General for Western Australia – v – Her Honour Judge Schoombee* [2012] WASCA 29, see discussion on page 13.

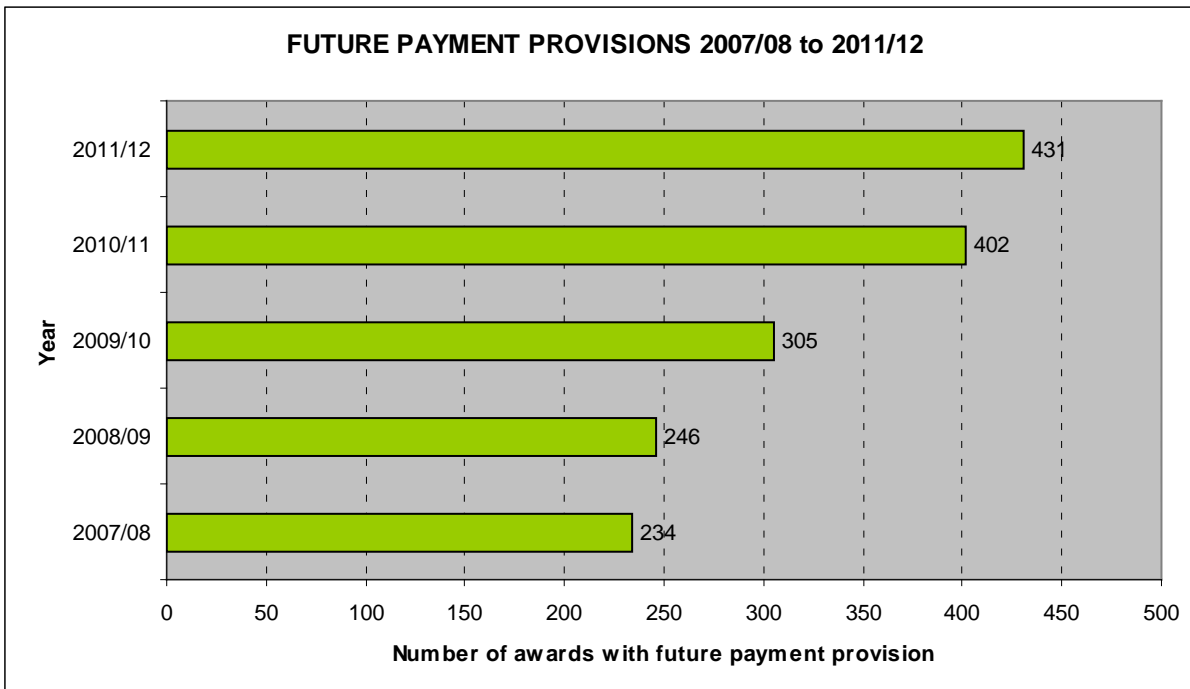
FUTURE PAYMENTS PROVISION

As part of an award, an Assessor may make provision for future treatment costs which can be claimed by the applicant when relevant costs are incurred.



Provision was made in 2011/12 for future payments of \$1,350,671, increasing the total provision made under the Act since 1 July 2004 to \$7,422,170. Of this provision, \$308,720 was paid out in 2011/12 bringing the total paid since 1 July 2004 to \$1,031,833.

Payment of expenses incurred after the date of the compensation award can only be made for expenses incurred up to 10 years after the date of the award or the date the applicant reached 18 years of age, whichever is the later.



APPEALS

During the year 24 appeals were lodged with the District Court following the determination of a compensation application. 60 appeals were finalised and of these 16 were successful, 16 were unsuccessful, 3 were abandoned and 25 were discontinued. In the previous financial year, 51 appeals were lodged and 10 were successful.

REDUCTIONS TO AWARDS FOR CONTRIBUTION

Section 41 of the Act requires that regard be had to “any behaviour, condition, attitude, or disposition of the victim that contributed, directly or indirectly, to the victim’s injury or death”, and allows the award to be refused or the amount of an award to be reduced in proportion to the contribution found to have occurred. Reductions for contributory behaviour, ranging from 10% to 50%, were made in 19 awards during 2011/12. Of these, 12 awards were reduced by 20% or less and 7 awards were reduced by over 20%.

PERFORMANCE MEASURES

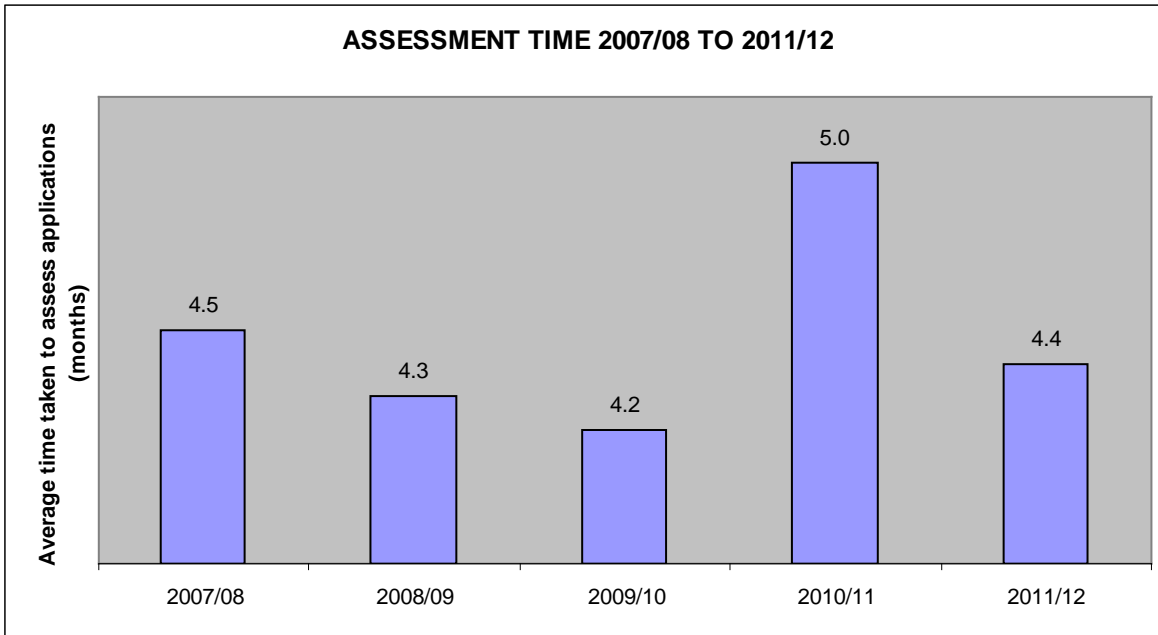
	Sep 11 Qtr	Dec 11 Qtr	Mar 12 Qtr	Jun 12 Qtr	Annual
Lodgements accepted					
New applications					
Finalisations					
39 weeks & less					
39 to 52 weeks					
More than 52 weeks					
Listings matters heard					
Cases on hand					
Less than 39 weeks					
39 to 52 weeks					
More than 52 weeks					
Applications New & Resub					
Applications Rejected					
Applications Resubmitted					

479	442	426	525	1872
536	464	540	491	2031
504	387	473	445	1809
416	305	401	346	1468
53	37	20	40	150
35	45	52	59	191
6	8	4	1	19
791	856	807	885	885
619	690	650	742	742
51	50	44	57	57
121	116	113	86	86
641	604	671	602	2518
162	162	245	77	646
105	140	131	111	487

ASSESSMENT TIME

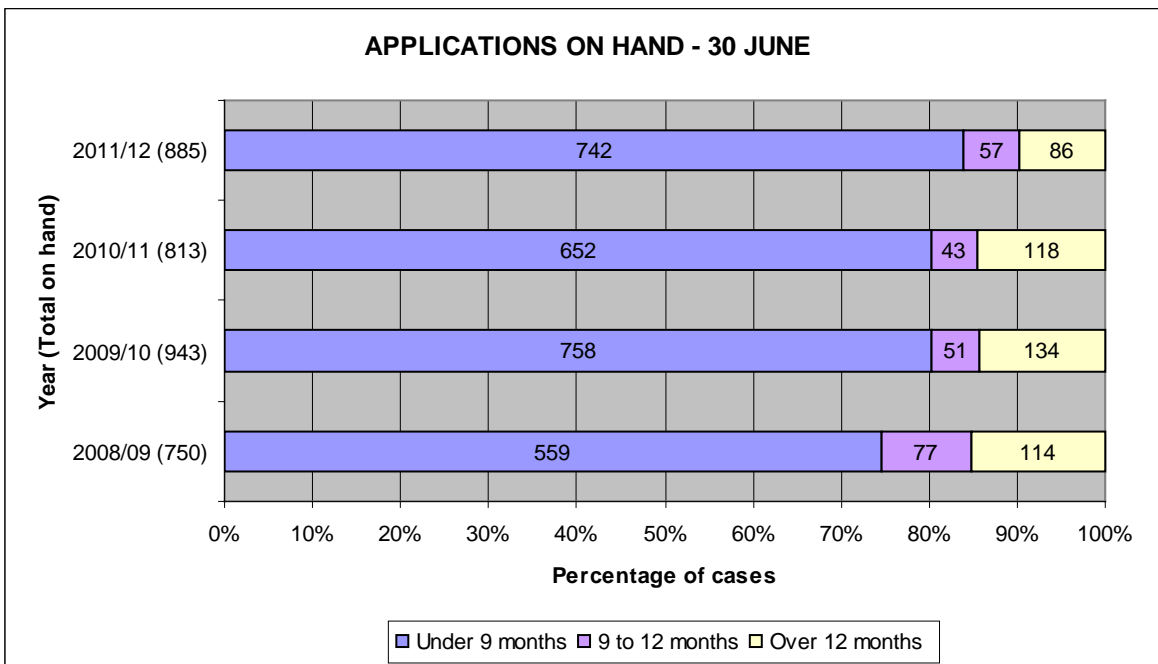
The average time taken to assess applications during 2011/12 was 4.4 months, a decrease in the assessment time from the average of 5.0 months in 2010/11.

Calculation of the assessment delay is based on the group of applications finalised in less than 12 months from receipt, based upon data which reveals that in cases in which the application takes more than 12 months to finalise, the delay is caused by external factors such as the need to complete treatment, delay in finalisation of the prosecution, and the need for the applicant to first exhaust all other avenues for compensation. The average assessment delay over all applications finalised in the period was 6.1 months.



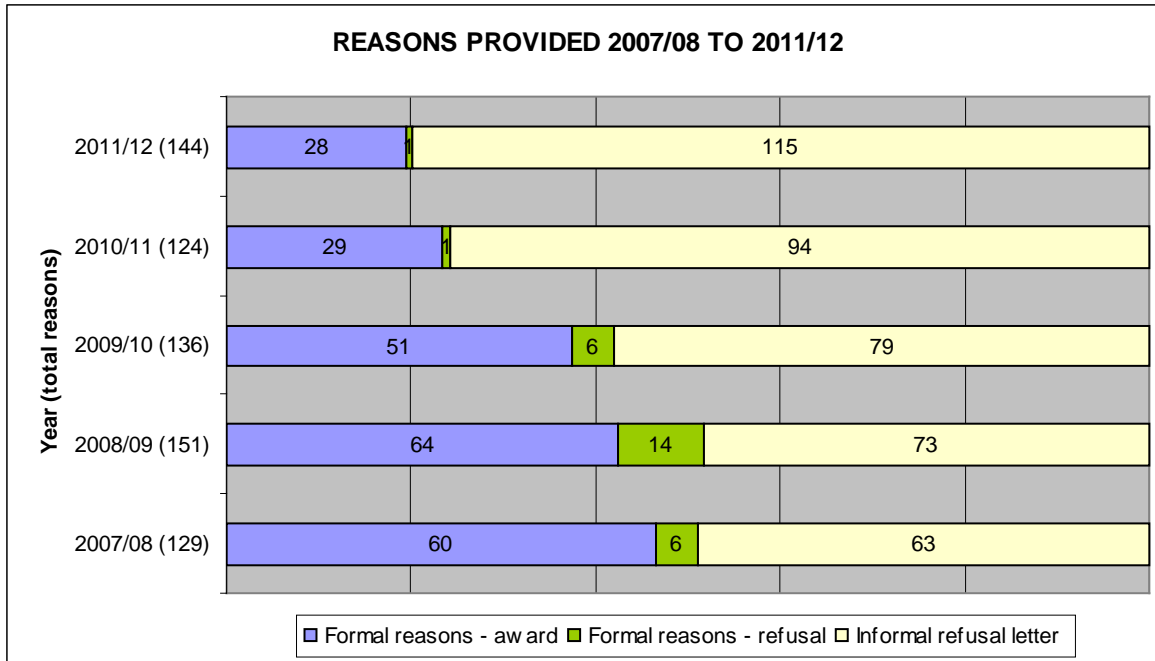
OUTSTANDING APPLICATIONS

At 30 June 2012, 885 applications were on hand, an increase of 72, or 8.9%, over the preceding 12 months. The breakdown of the age of the cases on hand in the table below shows that the number of files which have been in the Office for more than 12 months has decreased by 27%. The proportion of the caseload represented by applications which have been in the Office under 9 months has increased to 84%. The proportion of cases aged between 9 and 12 months has increased and the proportion aged over 12 months has decreased. The number of files aged less than 9 months increased by 90 to 742 while the number of files aged over 9 months decreased to 143. These figures should be viewed in the context of an overall increase of 124 in the number of new applications during 2011/12 compared to the previous year.



PROVISION OF REASONS

An assessor is required to give written reasons for the making of an award when requested to do so and in all cases where the making of an award is refused. Where an assessor forms the view that by reason of the operation of the legislation an applicant is ineligible for compensation, the applicant may be advised in writing by letter of the reasons for that outcome, rather than in formal written reasons. Formal reasons for decision have been provided in 29 cases and in total, reasons have been provided in 144 cases, an increase of 20 on the previous year. The chart below sets out the breakdown of these reasons.



NEW DEVELOPMENTS

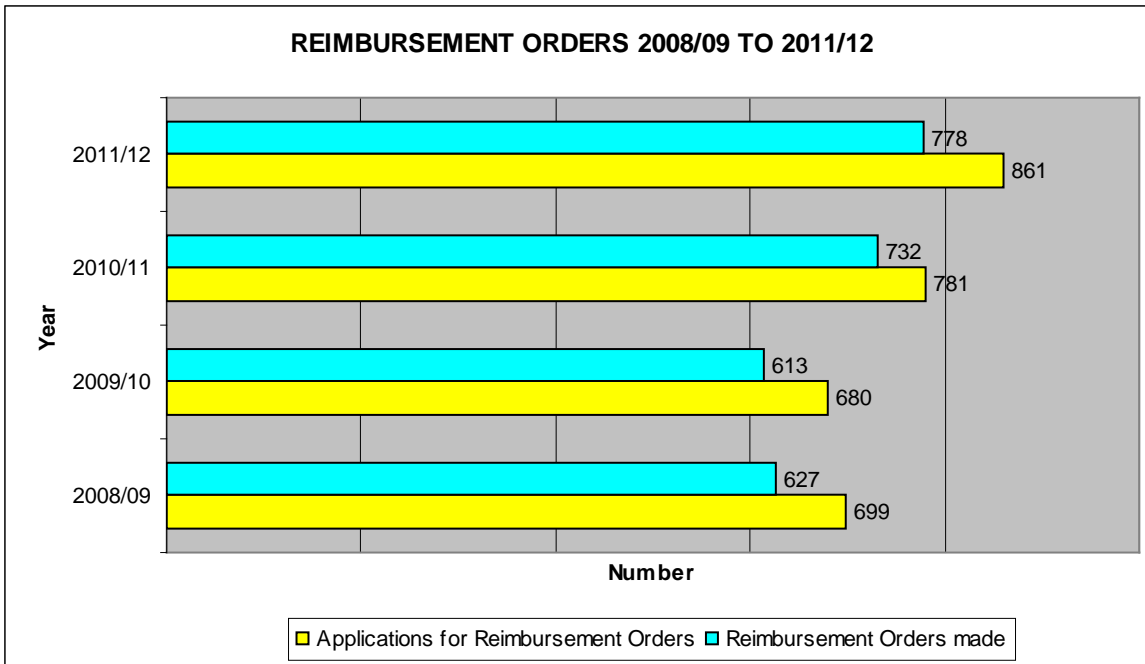
Section 39 of the Act provides that an assessor may not award compensation to a person who was injured when he or she was committing a separate offence. On 9 February 2012 the Supreme Court, in *Attorney General for Western Australia – v – Her Honour Judge Schoombee* [2012] WASCA 29, clarified the interpretation of section 39 of the Act. The decision made it clear that the section required only a temporal and not a causal connection between the offence causing injury to the applicant and the separate offence committed by the applicant.

Awards were made to 9 applicants for injury suffered as a consequence of the offence of child neglect. In each case the award was made pursuant to section 17 of the Act for an alleged offence, no prosecution of the alleged offender having occurred. A total of \$188,167.00 was awarded, and the average amount of these awards was therefore \$20,907.00.

Following the decision in *Re Her Honour Judge Schoombee; Ex Parte Attorney General For Western Australia* [2011] WASCA 129 in June 2011, 34 applications were lodged for injury suffered as a consequence of the driving or other use of a motor vehicle, and 5 awards have been made.

RECOVERY OF DEBT

A Compensation Reimbursement Order to recover the amount of an award from a convicted offender may be sought on the instructions of the Chief Executive Officer of the Department of the Attorney General.



In 2011/12, \$1,700,486 of debt owed to the State was recovered compared to the previous year's total of \$1,346,118 which represents a 26% increase.

ACKNOWLEDGEMENTS

As is always the case, the statistics measuring the performance of the Office in 2011-12 reveal the significant efforts of all involved in its operation. The Office has received valuable assistance from those providing administrative services in the Department of the Attorney General, and I thank them all for their efforts; however the real achievement is of those whose job it is to process the very many applications which have been received from their arrival in the Office through to the efforts made to recover money paid by the State to victims of crime. All staff should be congratulated for the achievements demonstrated by these figures, which reveal that the Office has continued to provide timely and efficient services in the face of an ever increasing workload. I would like to take this opportunity to thank each of the staff of the Office for his or her contribution.

H L Porter
CHIEF ASSESSOR OF CRIMINAL INJURIES COMPENSATION

25 September 2012