



OFFICE OF CRIMINAL INJURIES COMPENSATION

DEPARTMENT OF THE ATTORNEY GENERAL

WESTERN AUSTRALIA

**Chief Assessor's Report
2012 / 2013**



CRIMINAL INJURIES COMPENSATION

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

Dear Attorney General

STATUTORY REPORT - CRIMINAL INJURIES COMPENSATION 2012/13

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 2013.

Yours faithfully

A handwritten signature in blue ink, appearing to read 'H L Porter'.

H L Porter
CHIEF ASSESSOR OF CRIMINAL INJURIES COMPENSATION

20 September 2013

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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 2012/2013,

2180 new applications for compensation were received, an increase of 7.3%.

2154 applications were accepted for processing, an increase of 15.1%.

1897 applications were finalised, an increase of 4.9%.

1675 awards were made totalling \$32,661,320.

The average award was \$19,499.

171 applications were refused.

19 hearings were held into applications for compensation.

The caseload increased by 264 to 1149 applications on hand, an increase of 29.8%.

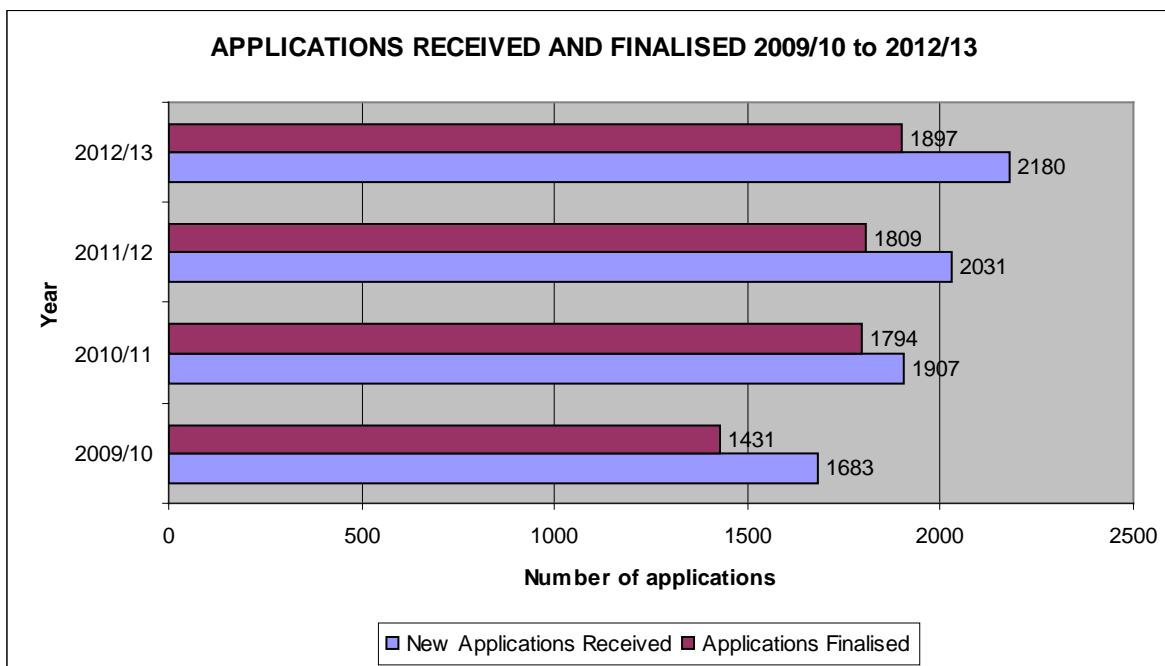
\$1,657,019 of debt owed to the State was recovered, a decrease of 2.6%.

STATISTICAL PROFILE

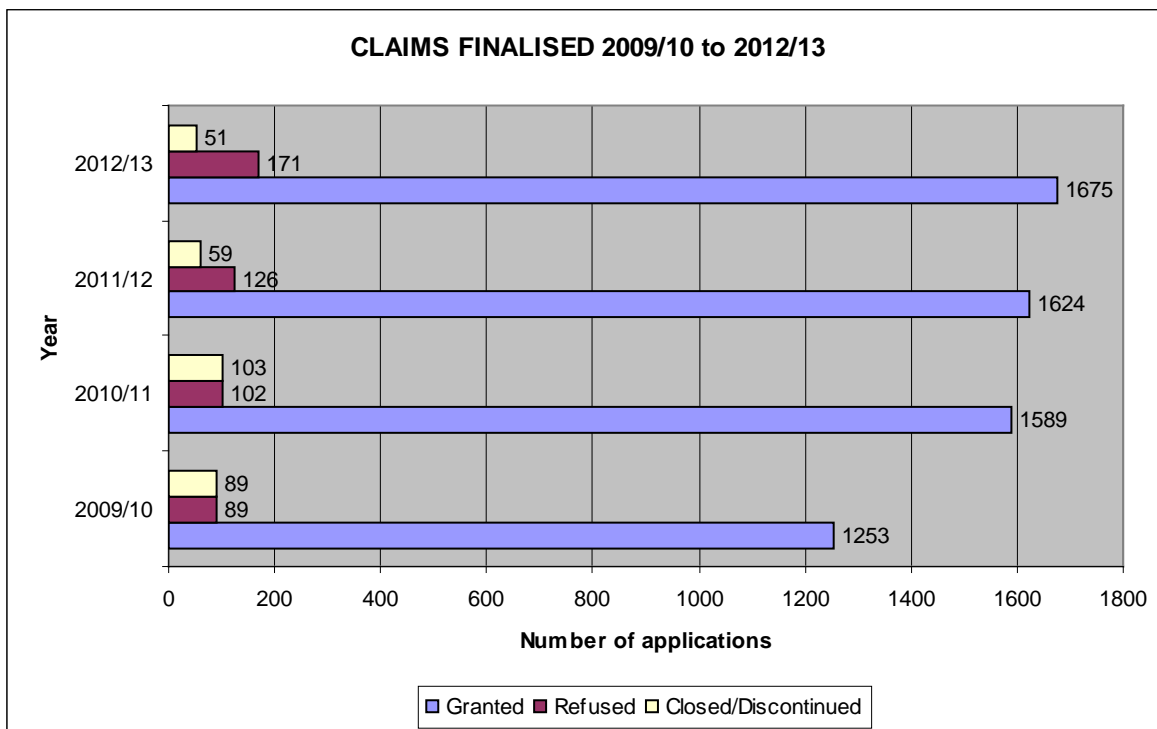
	<u>2009/10</u>	<u>2010/11</u>	<u>2011/12</u>	<u>2012/13</u>
New applications received	1683	1907	2031	2180
Accepted applications	1628	1669	1872	2154
Rejected applications	362	536	646	443
Resubmitted applications	307	298	487	417
Awards granted	1253	1589	1624	1675
Applications refused	89	102	126	171
Applications closed or discontinued	89	103	59	51
Applications outstanding at 30 June	943	813	885	1149

NEW APPLICATIONS RECEIVED

During 2012/13 new applications totalling 2180 were received. On 443 occasions applications were returned to the applicant for further work. Of the applications returned to the applicant, 417 were resubmitted on at least one occasion.

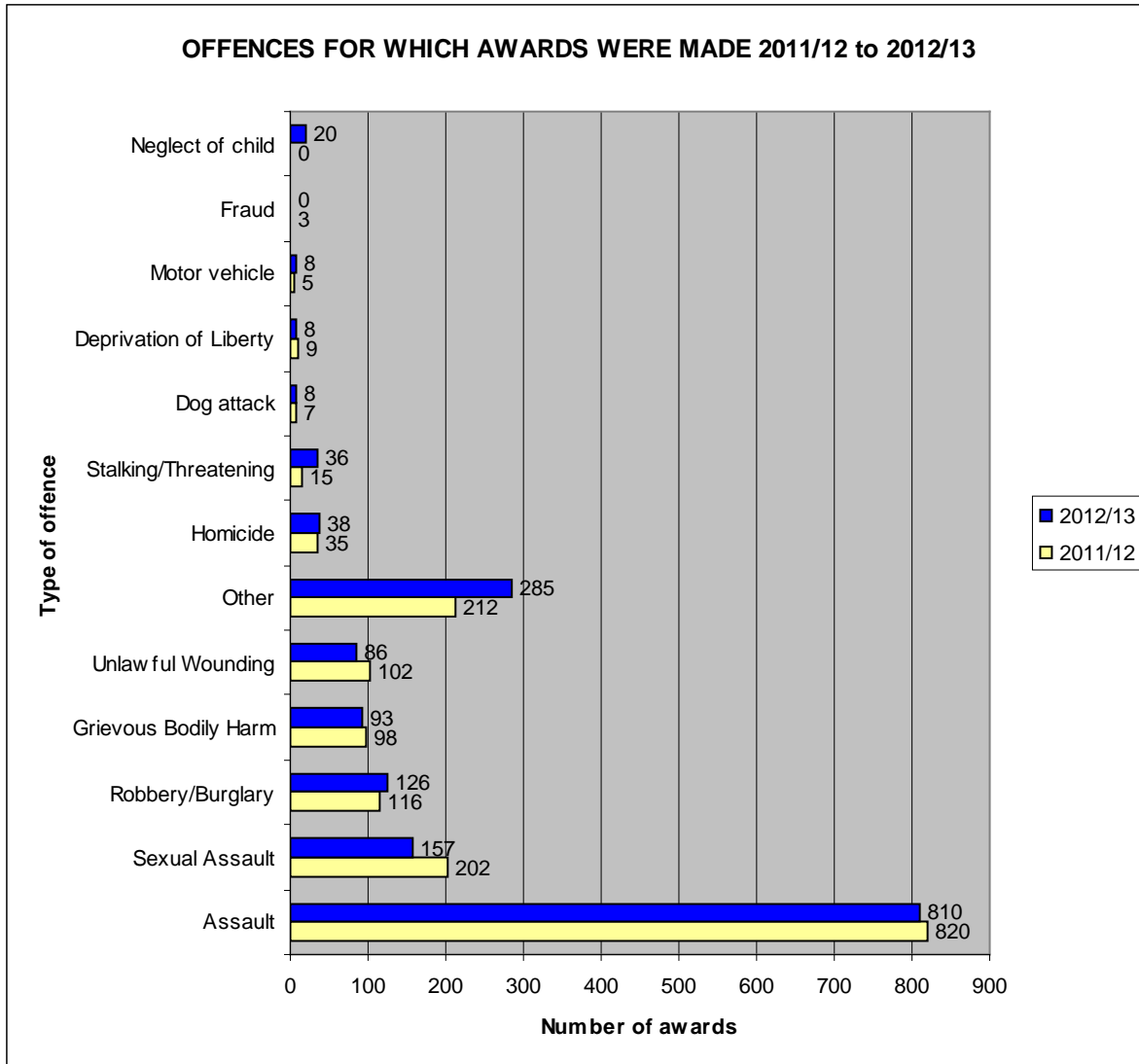


CLAIMS FINALISED



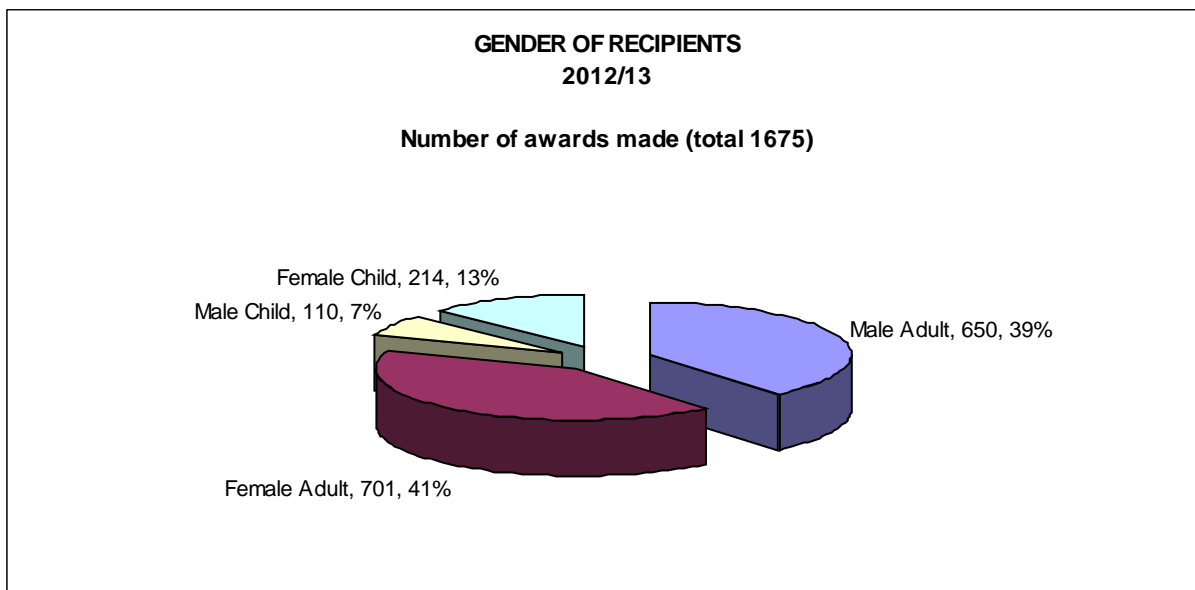
NATURE OF OFFENCES INVOLVED

The chart below illustrates the types of offences for which awards were made between 2011/12 and 2012/13.



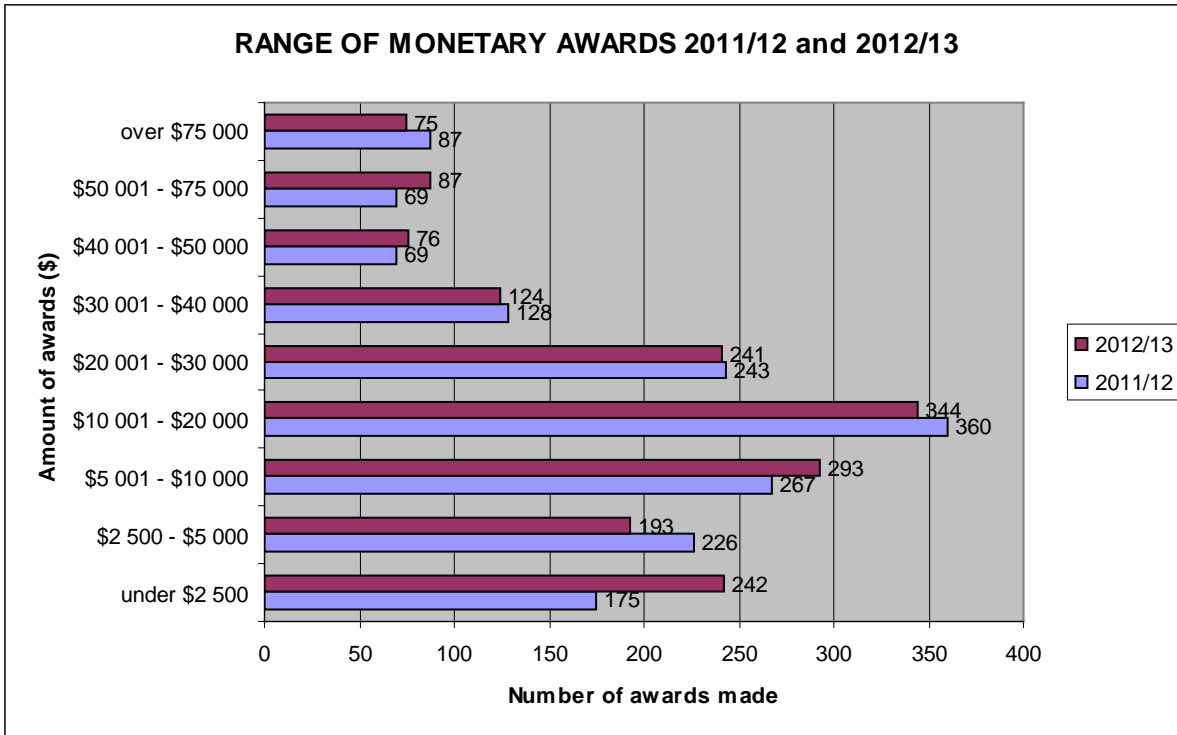
NUMBER OF MALES & FEMALES TO WHOM AWARDS WERE MADE

The following chart shows the gender of persons to whom awards were made and the number of adults and children involved. Overall, 46% of recipients were male and 54% female.



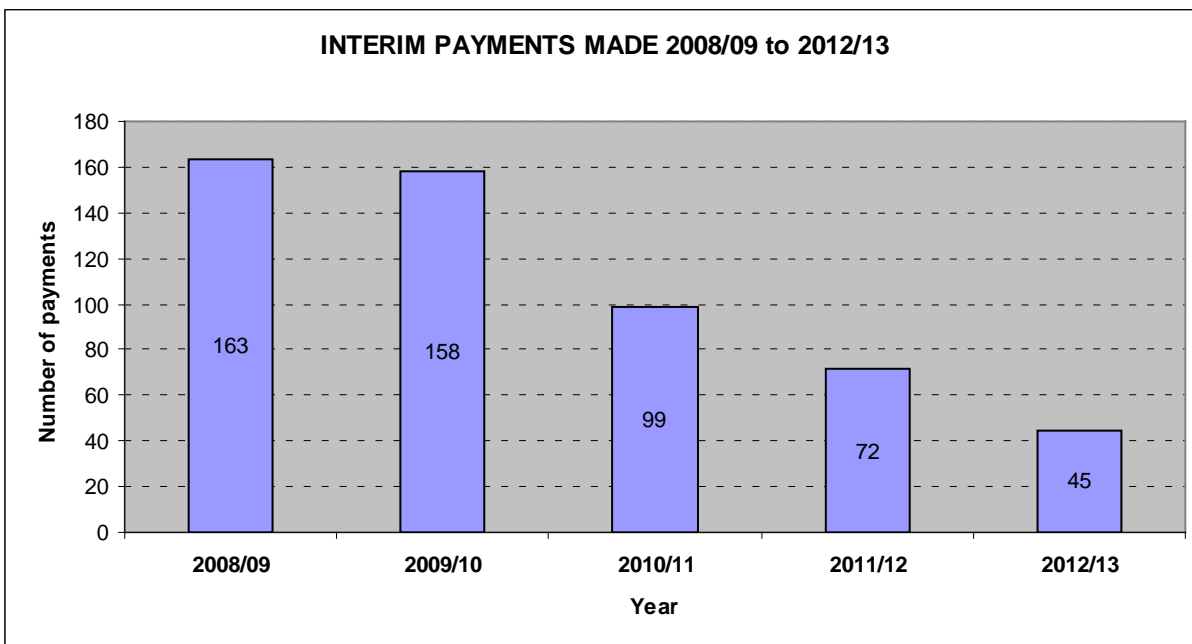
RANGE OF AWARDS MADE

The chart below illustrates the monetary range of awards made during 2011/12 and 2012/13.

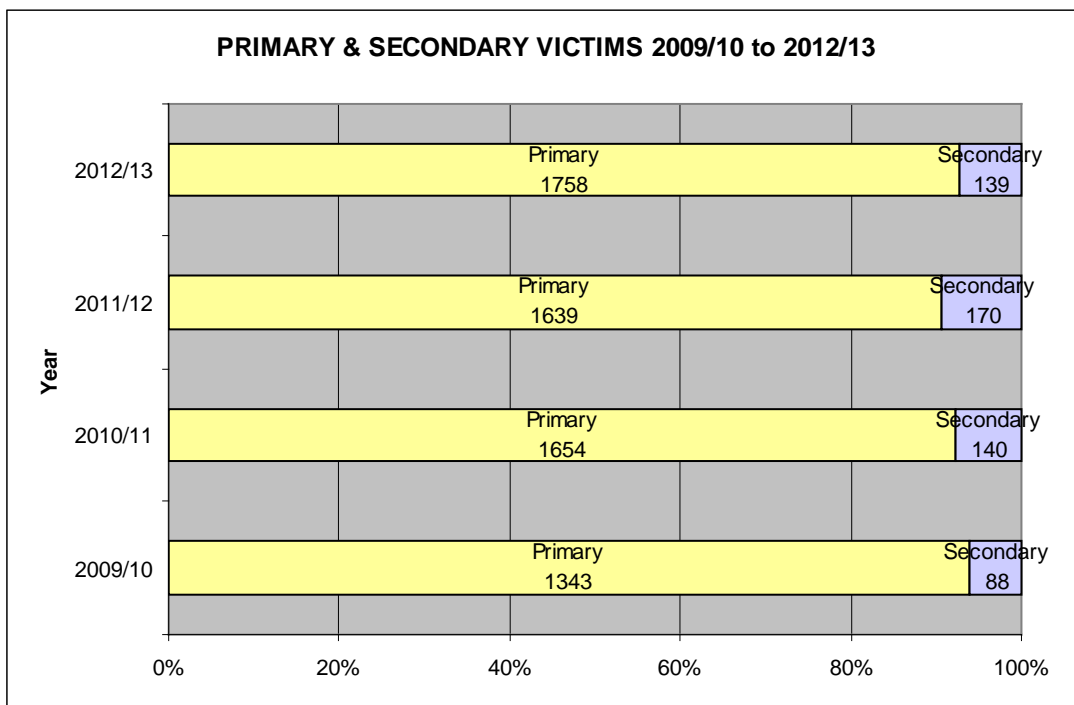


INTERIM PAYMENTS

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.

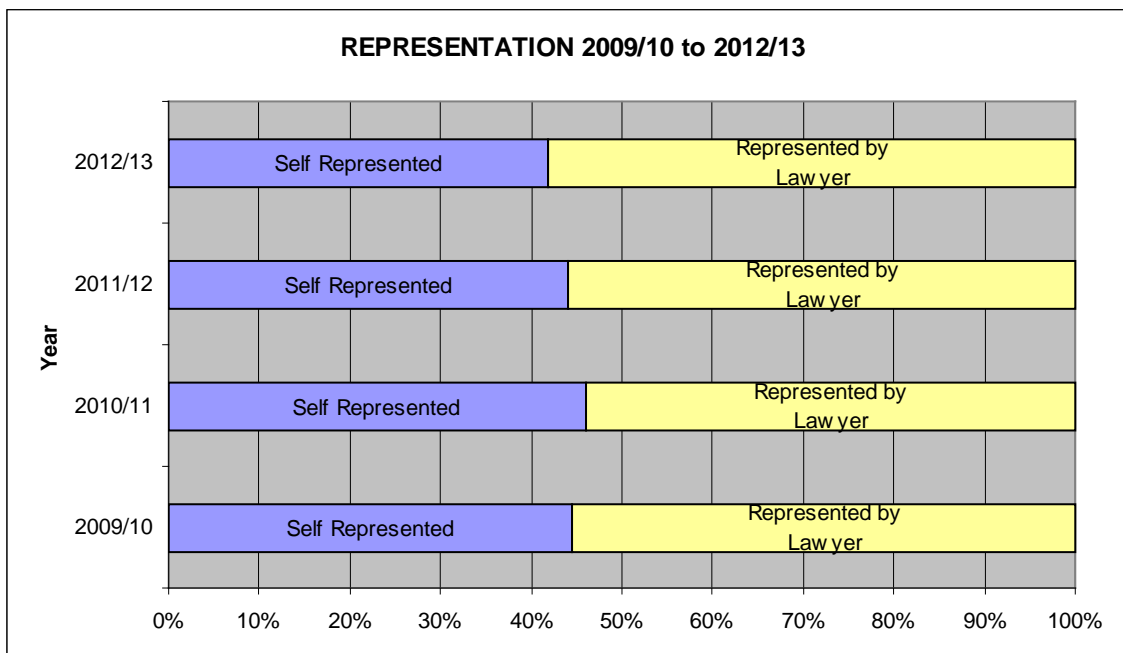


PRIMARY & SECONDARY VICTIMS



REPRESENTATION

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



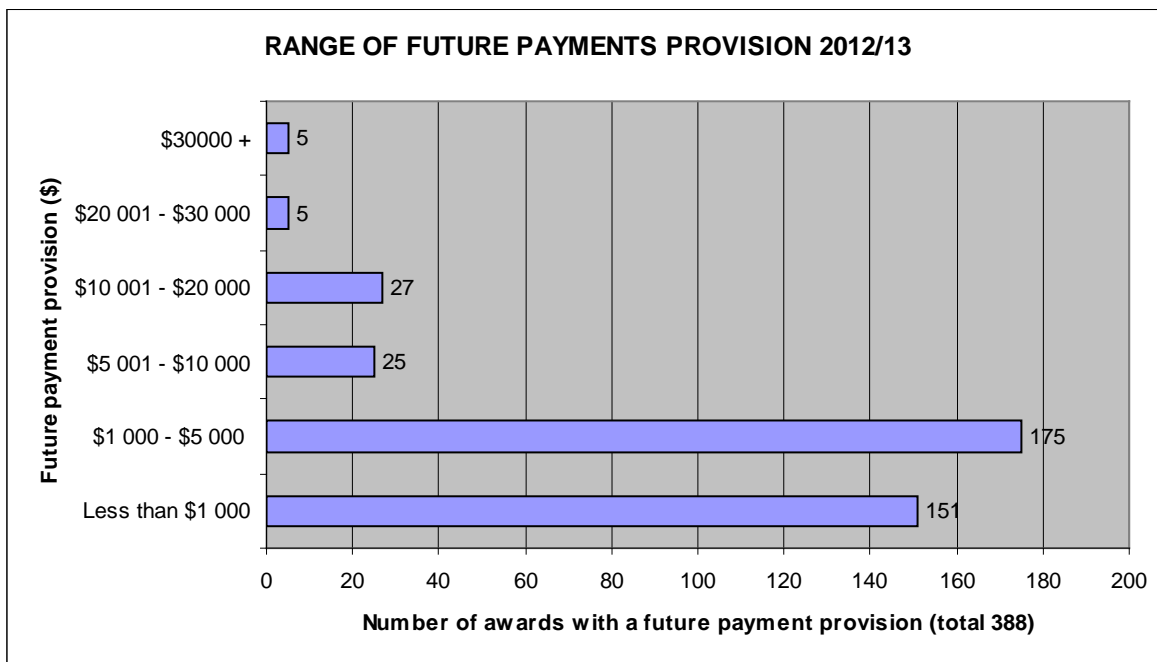
REFUSALS

During the year 2012/13, awards were refused on 171 applications for reasons detailed below.

<i>Section of Act</i>	No of Refusals	Reason for Refusal
9	17	Time expired, extension of time refused
12	5	Assessor not satisfied applicant injured in the commission of a proved offence
13	16	Alleged offender acquitted
16	5	Alleged offence, charged not determined
17	71	Assessor not satisfied applicant injured in the commission of an alleged offence
34	1	Maximum already awarded for multiple unrelated offences by one offender
35	4	Limitation of compensation for mental and nervous shock
37	2	Injury caused by a motor vehicle
38	14	Applicant did not assist investigation, apprehension or prosecution of offender
39	30	Victim engaged in criminal conduct
40	3	Compensation previously awarded or refused
41	3	Behaviour etc of victim to be considered

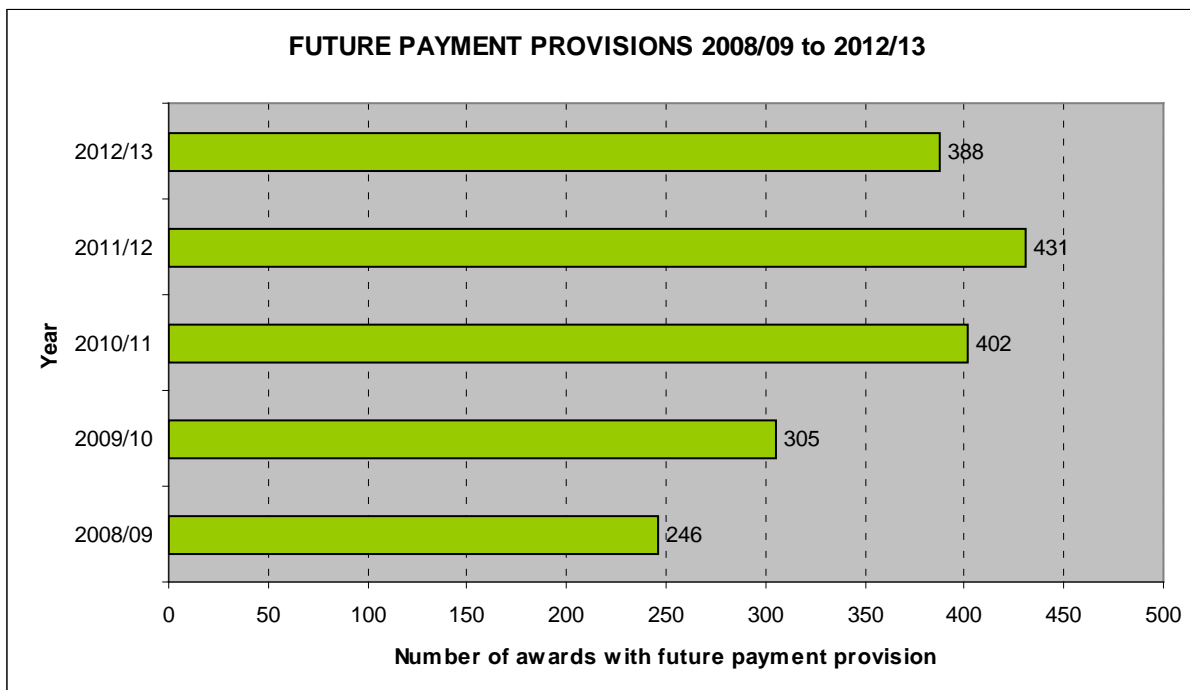
FUTURE PAYMENTS PROVISION

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 2012/13 in 388 awards for future payments totalling \$1,286,884, increasing the total provision made under the Act since 1 July 2004 to \$8,709,054. Of this, \$226,751 was paid out in 2012/13 bringing the total paid since 1 July 2004 to \$1,258,584.

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 59 appeals were lodged with the District Court following the determination of a compensation application. 38 appeals were finalised and of these 9 were successful, 6 were unsuccessful, 5 were abandoned and 18 were discontinued. In the previous financial year, 24 appeals were lodged and 16 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 15% to 40%, were made in 11 awards during 2012/13. Of these, 9 awards were reduced by 20% or less, 2 awards were reduced by over 20% and 3 were refused.

PERFORMANCE MEASURES

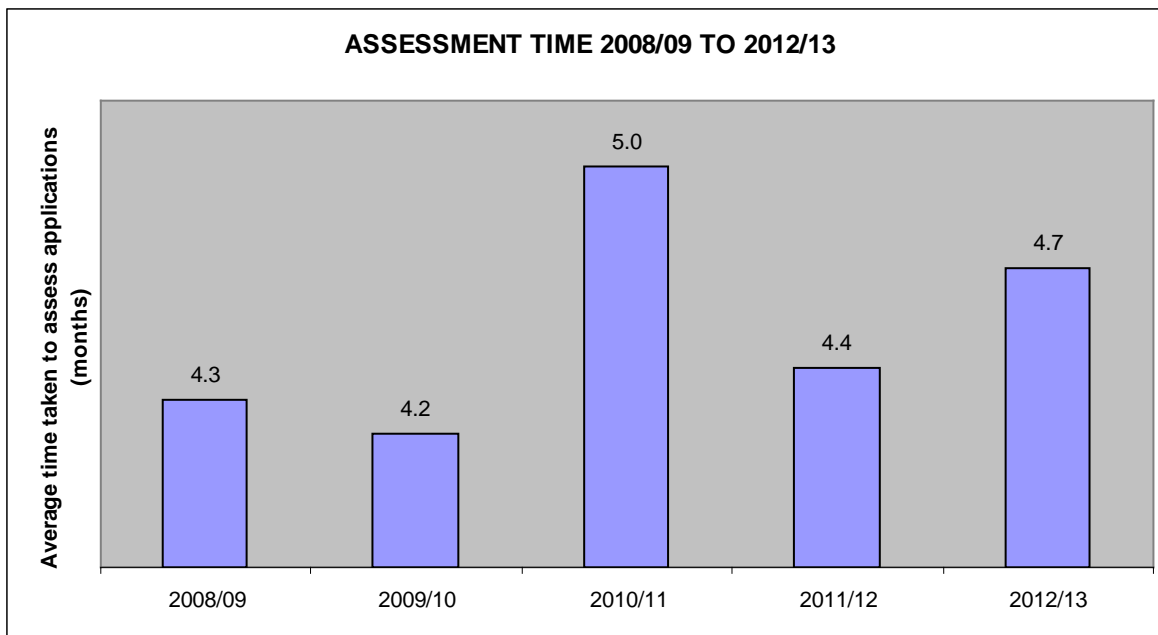
	Sep 12 Qtr	Dec 12 Qtr	Mar 13 Qtr	Jun 13 Qtr	Annual
Lodgements accepted					
New applications					
Finalisations					
39 weeks & less					
39 to 52 weeks					
More than 52 weeks					
Listings matters heard					
Cases on hand					
Less than 39 weeks					
39 to 52 weeks					
More than 52 weeks					
Applications New & Resub					
Applications Rejected					
Applications Resubmitted					

508	482	539	625	2154
515	517	587	561	2180
482	364	463	588	1897
396	318	363	477	1554
34	29	49	29	141
52	17	51	82	202
3	3	6	7	19
917	1033	1110	1149	1149
788	841	898	962	962
52	84	96	67	67
77	108	116	120	120
652	625	684	636	2597
144	157	125	163	589
137	108	97	75	417

ASSESSMENT TIME

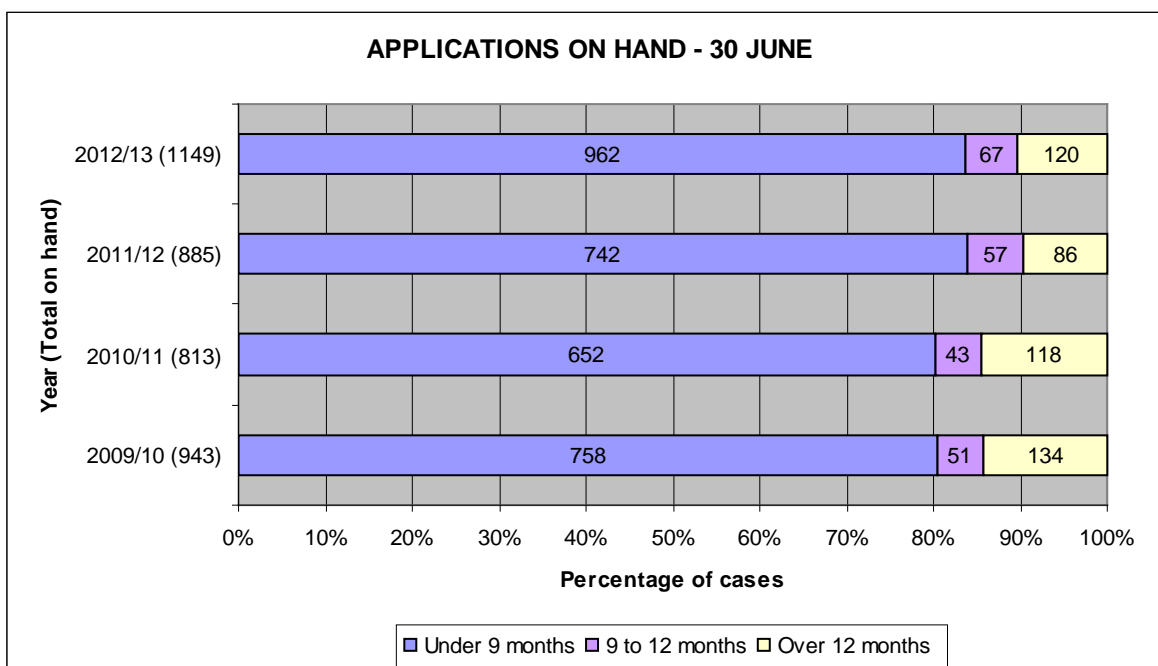
The average time taken to assess applications during 2012/13 was 4.7 months, an increase in the assessment time from the average of 4.4 months in 2011/12.

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 6.0 months. Given the volume of applications being received, it is expected that the average time taken to finalise an application will continue to increase.



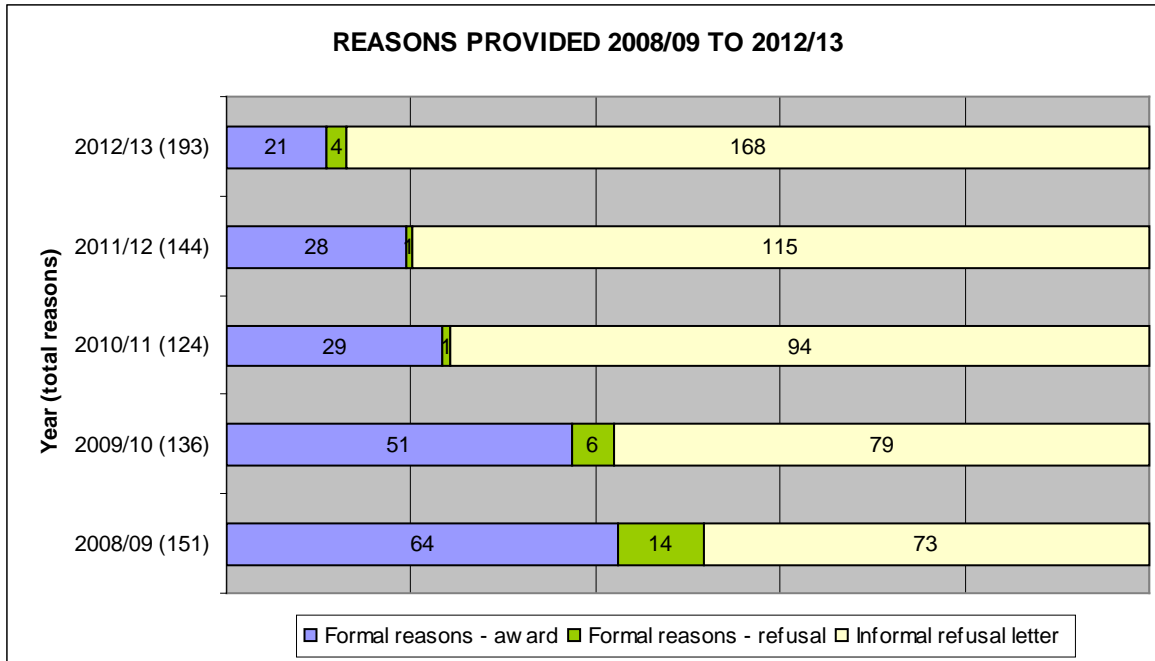
OUTSTANDING APPLICATIONS

At 30 June 2013, 1149 applications were on hand, an increase of 264, or 29.8%, 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 increased by 39.5%. The proportion of the caseload represented by applications which have been in the Office under 9 months has remained steady at around 84%. The proportion of cases aged between 9 and 12 months has decreased slightly, while the proportion aged over 12 months has increased. The number of files aged less than 9 months increased by 220 while the number of files aged over 9 months increased to 187. These figures should be viewed in the context of an overall increase of 149 in the number of new applications during 2012/13 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. During 2012/13, formal reasons for decision were provided in 25 cases and in total reasons were provided in 193 cases, an increase of 49 on the previous year. The chart below sets out the breakdown of these reasons.



NEW DEVELOPMENTS

Child Neglect:

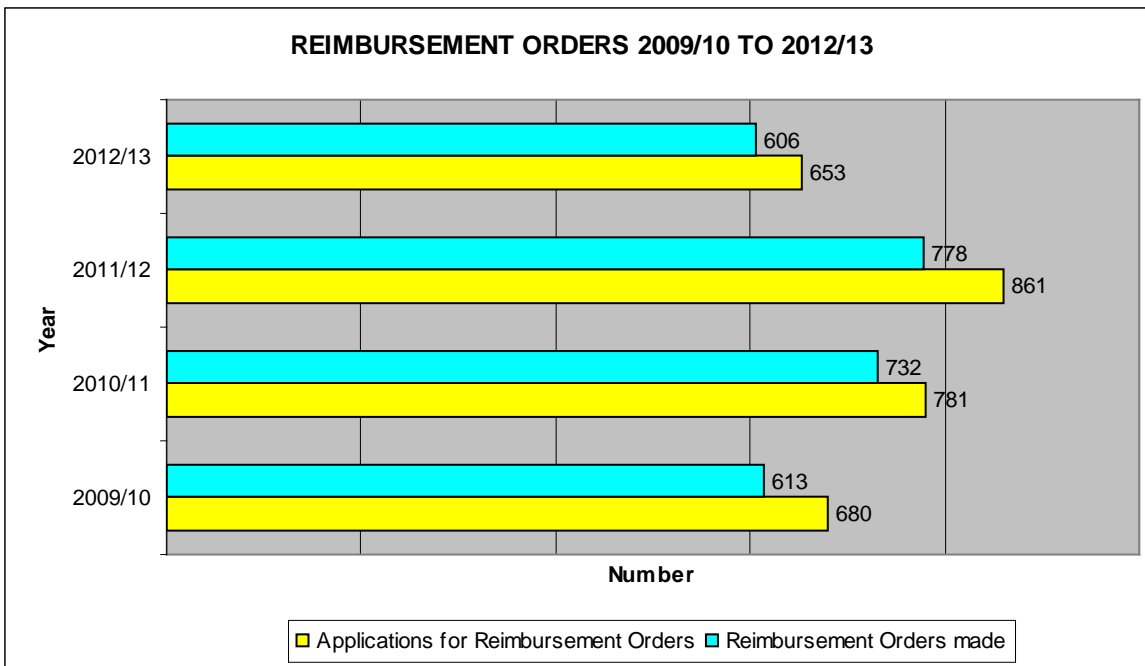
During this year 20 awards have been made to applicants based upon the alleged offence of child neglect, and a total of \$762,224 has been awarded.

Motor Vehicle Injury:

Following the decision in *Re Her Honour Judge Schoombee; Ex Parte Attorney General For Western Australia* [2011] WASCA 129, awards have been made on 8 applications where compensation was sought for injury suffered as a consequence of a motor vehicle crash, and a total of \$260,240.00 has been awarded.

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 2012/13, \$1,657,019 of debt owed to the State was recovered compared to the previous year's total of \$1,700,486, which represents a 2.6 % decrease. From 4 June 2013 the number of CRO Hearings conducted has been reduced from 6 per month to 3 per month. This decision to reduce the time spent on the reimbursement process was taken in response to the pressure on assessors and staff to deal with the increasing rate of new applications. The case load of the assessors has increased from an average of 265 in July 2012 to 405 in July 2013.

ACKNOWLEDGEMENTS

As is always the case, the statistics measuring the performance of the Office in 2012-13 reveal the significant efforts of all involved in its operation. All members of staff have contributed to producing the outstanding results produced this year, in the face of the significant increase in workload. I congratulate and thank each of the officers concerned on behalf of the community.

H L Porter
CHIEF ASSESSOR OF CRIMINAL INJURIES COMPENSATION

20 September 2013