



Victims Assistance Unit

Guideline 7

Granting Financial Assistance for Loss of Earnings

This guideline is issued pursuant to section 131 of the *Victims of Crime Assistance Act 2009* (the Act) for Government assessors on the exercise of their powers in assessing claims for financial assistance. Nothing in this guideline supersedes or overrides the requirements of the legislation.

Loss of Earnings

1. Loss of earnings amounts to 'actual loss' incurred or likely to be incurred, and is calculated based on earnings at the time of the act of violence. In limited cases, potential loss of earnings may be assessed if the future employment opportunity was certain; where for example, an employment contract had been signed before the act of violence but the person was prevented from commencing work due to their injuries. 'Earnings' for the purpose of considering a loss of earnings claim are considered as being an applicant's personal or taxable income.
2. The rationale behind financial assistance for loss of earnings is that it represents a replacement of the salary or wages that an applicant misses out on due to an act of violence.

Superannuation and Leave Entitlements

3. An assessor may reimburse annual leave, leave loading and unpaid sick leave.
4. Victim Assist Queensland is a complimentary scheme and as such an assessor cannot reimburse paid sick leave.
5. An assessor cannot reimburse superannuation contributions as they are benefits paid by an employer that cannot be accessed until retirement.

Determining Loss of Earnings

6. In order to determine an applicant's lost earnings, an assessor may require the following information:
 - Payslips for pay period/s leading up to the act of violence;
 - Tax returns and Australian Taxation Office Notices of Assessment for financial year/s prior to the act of violence;
 - Advice from accountants quantifying the applicants personal lost income;
 - Medical certificates confirming the period/s the applicant was/is unable to work due to injuries sustained in the act of violence;
 - Confirmation from the Queensland Police Service or the Queensland Courts, that the applicant attended a police station or court on the day/s they are claiming lost earnings;
 - Advice from employers regarding employment conditions, leave taken etc;
 - Information pertaining to other sources of assistance (e.g. income protection insurance, Centrelink benefits).
7. Loss of earnings is calculated based on gross or pre-tax income. Accordingly, it is the applicant's responsibility to determine any tax liabilities associated with their payment for loss of earnings.
8. In situations where an applicant was the victim of a series of related crimes, the two year eligibility period for loss of earnings may commence at any time during the series from the date the applicant stopped working but must not exceed two years.

Loss of Earnings for Related Victims

9. The Act expressly omits financial assistance for loss of earnings for related victims as a component of assistance. Loss of earnings for related victims cannot be considered under the component of "exceptional circumstances" as this would circumvent the provisions of the Act.

John Sosso
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