

This fact sheet explores some important things you need to consider when making a civil claim for childhood sexual abuse and questions you may wish to ask your civil claim lawyer.

Civil claims and the National Redress Scheme (NRS)

If you accept an offer from the NRS, you will not be able to sue the institution(s) held responsible. You may still be able to make a civil claim against the individual people involved.

What is a childhood sexual abuse civil claim?

A civil claim against an institution is a compensation claim for injury and loss which occurred as a result of an institution's failure to care and protect a survivor from childhood sexual abuse. The civil claim might contain compensation for physical or psychiatric injury and financial loss.

A civil claim can also be made against the perpetrator if they are still alive.

There is no time limit for making a civil claim for childhood sexual abuse.

Do I need a lawyer?

You need a lawyer to make a civil claim. **TasVOCAL** can refer you to an appropriate lawyer for free.

What questions should I ask my civil claim lawyer?

- How long will it take?
- Is there enough evidence to make a claim?
- What are my chances of receiving compensation?
- Will it affect any help or benefits I receive from the government (including public housing, Centrelink, aged care, NDIS)?
- Will the compensation be tax exempt?
- Will the amount I might receive at the end of the process, after costs and other deductions are paid, be more than I might receive from the NRS?
- What other deductions might apply if I receive compensation?
- What reports and interviews might be required, and how much will they cost?
- What information will be requested?

- Will it go to Court?
- Is there an opportunity to ask for other things, such as an apology or counselling?
- Are you likely to receive a 'top up' or further payment (if you have already received a payment from the institution)?
- What will happen if you die before your claim is settled?

Cost agreement questions

This is the legal document you sign when a civil lawyer takes on your civil claim. This is an important document. Ask your lawyer for a copy if you don't have it.

Here are some terms that you might need to ask your lawyer about if you see them in your cost agreement:

- Litigation funding
- Uplift fee
- Cost cap
- No win – no fee
- Disbursements
- Successful outcome.

A cost agreement means you agree to pay your lawyer their fees and other costs.

Depending on your cost agreement:

- Fees and costs could be taken out of any money you receive from your claim.
- You could receive bills for payment at various times.
- You may have to pay the legal fees and other costs if you get a 'successful outcome'. It is important to check what counts as a successful outcome as it may include receiving a payment from the NRS or another redress scheme.
- You may have to pay legal fees if you stop working with your lawyer before the civil claim has been finalised.
- You may have to pay legal fees if your case is lost, including both your legal fees and other cost and the legal costs of the defendant.

How TasVOCAL can help

Please call 1300 366 611 and ask for **TasVOCAL** for free legal advice and referrals about your legal options.

How to contact **TasVOCAL**

- Visit: www.legalaid.tas.gov.au
- Free call: **1300 366 611** ask for **TasVOCAL**
- Email: TasVOCAL@legalaid.tas.gov.au

Disclaimer

This fact sheet should not be used as substitute for legal advice. No responsibility is accepted for any loss, damage or injury, financial or otherwise, suffered by any person acting or relying on the information contained within this fact sheet, or omitted from it. You should seek legal advice about your own particular circumstances.

Tasmania Legal Aid acknowledges and pays our respect to the Palawa/Tasmanian Aboriginal people as the Traditional Custodians of the land and waters of Lutruwita/Tasmania, where we live and work.

Need legal help?

Freecall, chat online or visit us
Monday to Friday, 9am – 5pm



1300 366 611 Ask for **TasVOCAL**



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