



# **OFFICE OF CRIMINAL INJURIES COMPENSATION**

DEPARTMENT OF THE ATTORNEY GENERAL

WESTERN AUSTRALIA

---

**Chief Assessor's Report**  
**2008/2009**

---



## **CRIMINAL INJURIES COMPENSATION**

The Honourable C Christian Porter, MLA  
Attorney General of Western Australia  
29<sup>th</sup> Floor, Allendale Square  
77 St Georges Terrace  
PERTH WA 6000

Dear Attorney General

### **STATUTORY REPORT - CRIMINAL INJURIES COMPENSATION 2008/09**

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 2009.

Yours faithfully

**H L Porter**  
**CHIEF ASSESSOR OF CRIMINAL INJURIES COMPENSATION**

23 September 2009

# 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.....	9
APPEALS.....	10
REDUCTIONS FOR CONTRIBUTION.....	10
PERFORMANCE MEASURES.....	11
ASSESSMENT TIME.....	11
OUTSTANDING APPLICATIONS.....	11
PROVISION OF REASONS.....	12
RECOVERY OF DEBT.....	13
ACKNOWLEDGEMENTS.....	13

## 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 staff of the Office consists of 3 full time assessors and 13.6 full time equivalent administrative employees, including staff working on recovery of the value of awards from convicted offenders (the Recoveries Office). Approval has been given for an increase in the resources of the Recoveries Office by 4 additional staff funded from 1 July 2009.

## KEY DATA

During 2008/2009,

1563 new applications for compensation were received, up by 16%.

1491 applications were accepted for processing.

1327 applications were finalised.

1165 awards were made totalling \$21 963 454, at an average of \$18 852 per award.

96 applications were refused.

16 hearings were held into applications for compensation.

The caseload increased by 153 to 750 applications on hand, up by 25%.

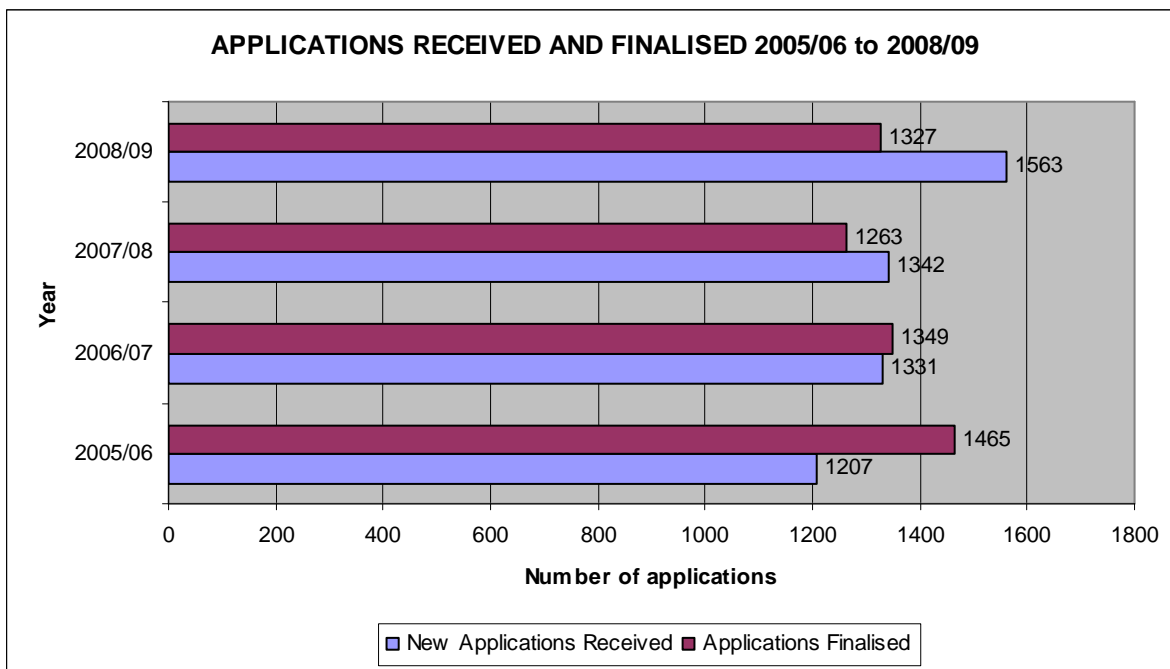
\$1 177 082 of debt owed to the State was recovered.

## STATISTICAL PROFILE

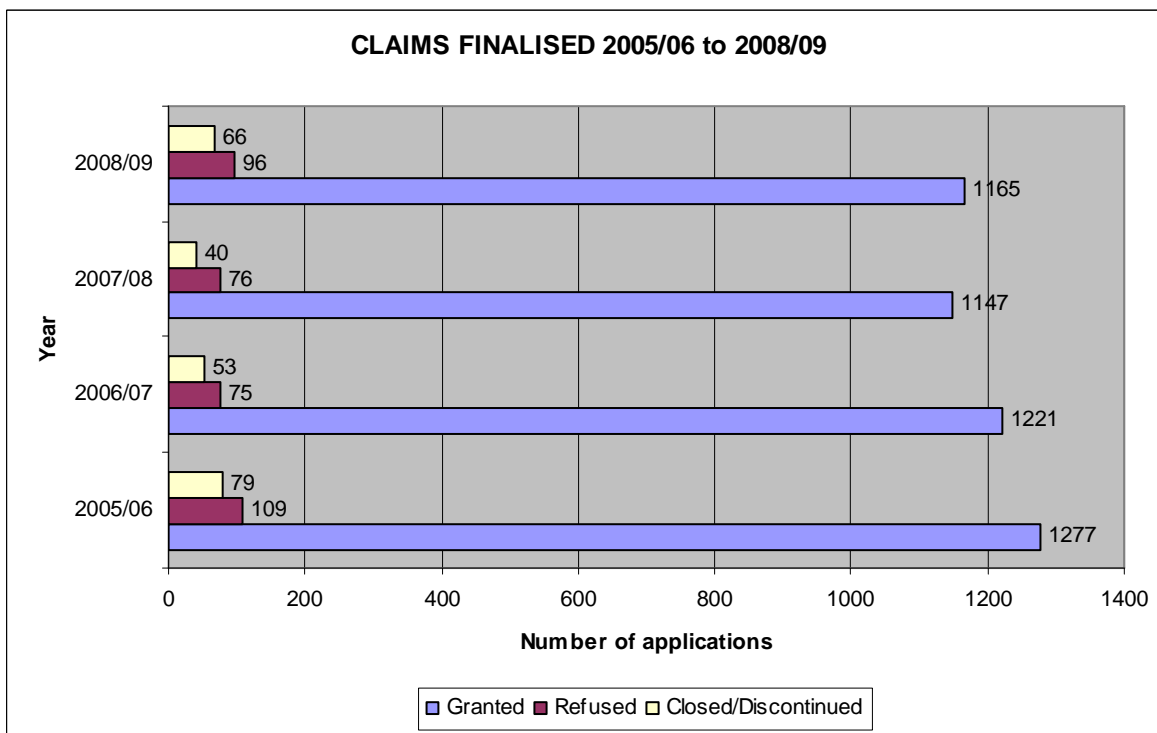
<u>Year</u>	<u>2005/06</u>	<u>2006/07</u>	<u>2007/08</u>	<u>2008/09</u>
New applications received	1207	1331	1342	<b>1563</b>
Accepted applications	1180	1258	1287	<b>1491</b>
Rejected applications	709	482	422	<b>362</b>
Resubmitted applications	645	409	367	<b>290</b>
Awards granted	1277	1221	1147	<b>1165</b>
Applications refused	109	75	76	<b>96</b>
Applications closed or discontinued	79	53	40	<b>66</b>
Applications outstanding at 30 June	674	565	597	<b>750</b>

## NEW APPLICATIONS RECEIVED

During 2008/09 new applications totalling 1563 were received. On 362 occasions applications were returned to the applicant for further work and of the returned applications 290 were resubmitted on at least one occasion.

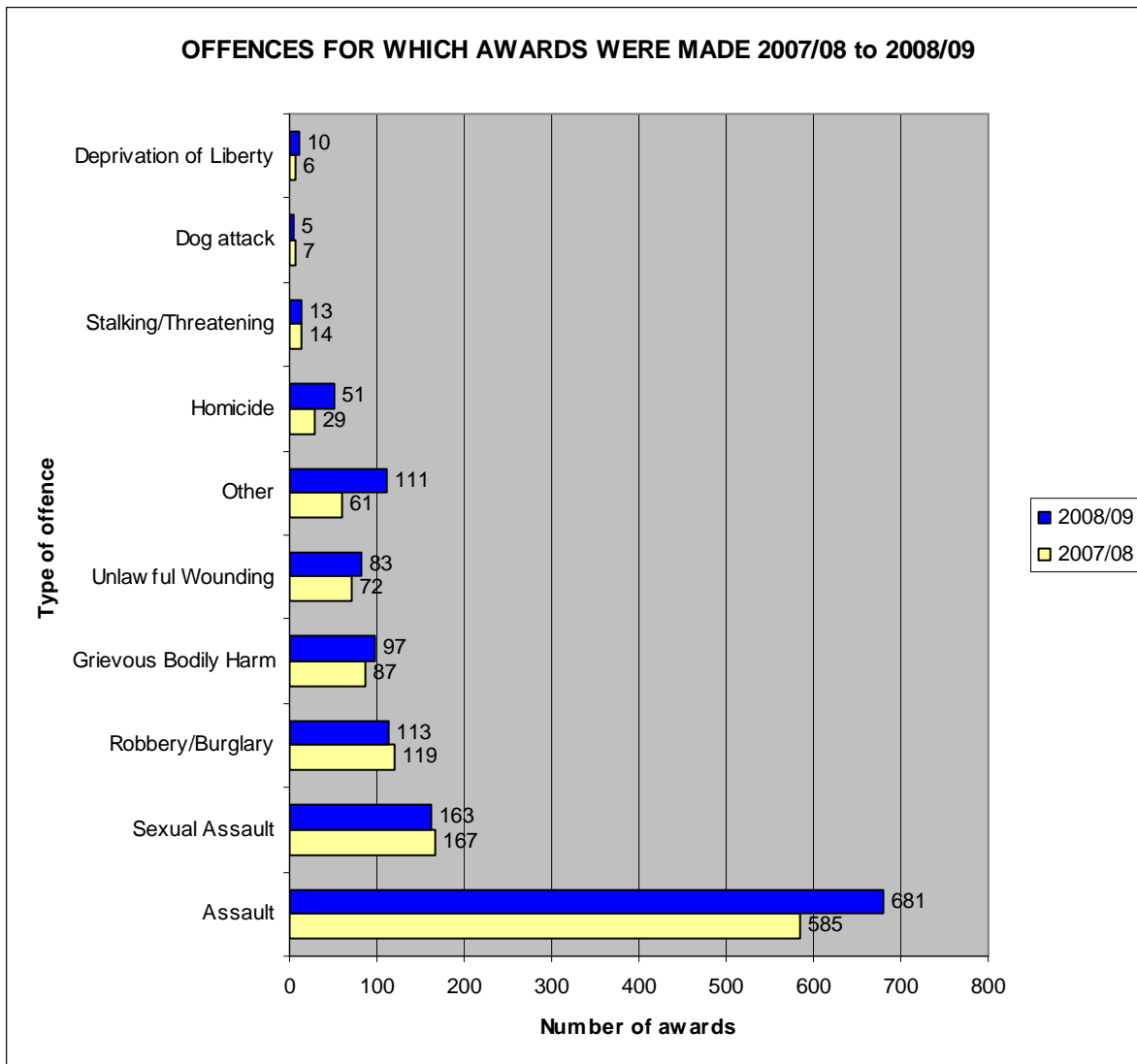


## CLAIMS FINALISED



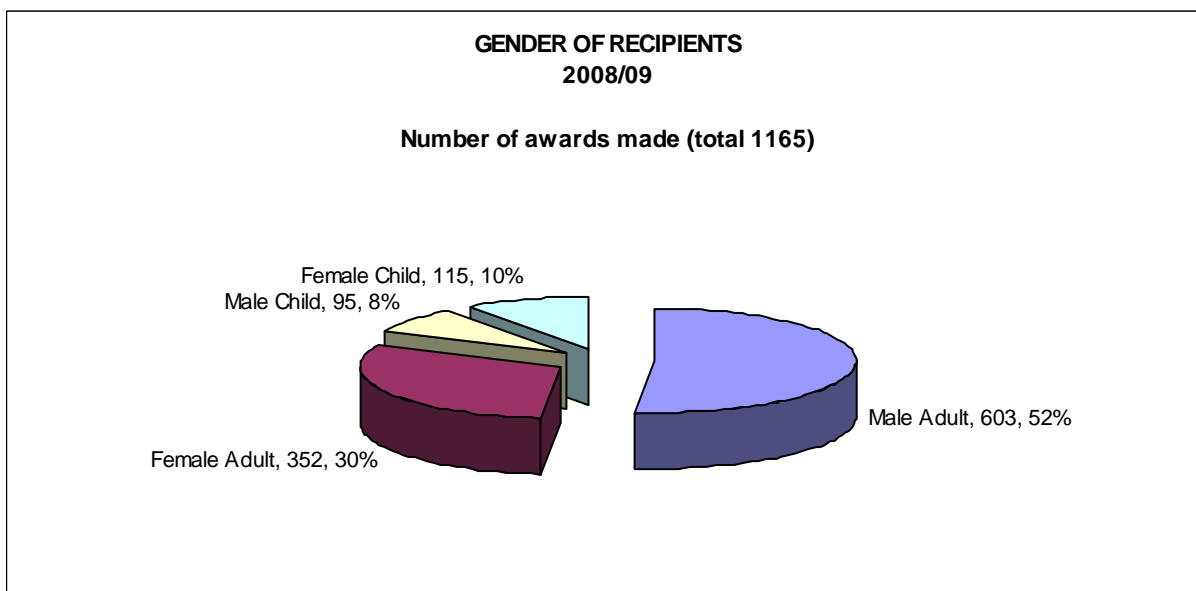
## NATURE OF OFFENCES INVOLVED

The chart below illustrates the types of offences for which awards were made between 2007/08 and 2008/09.



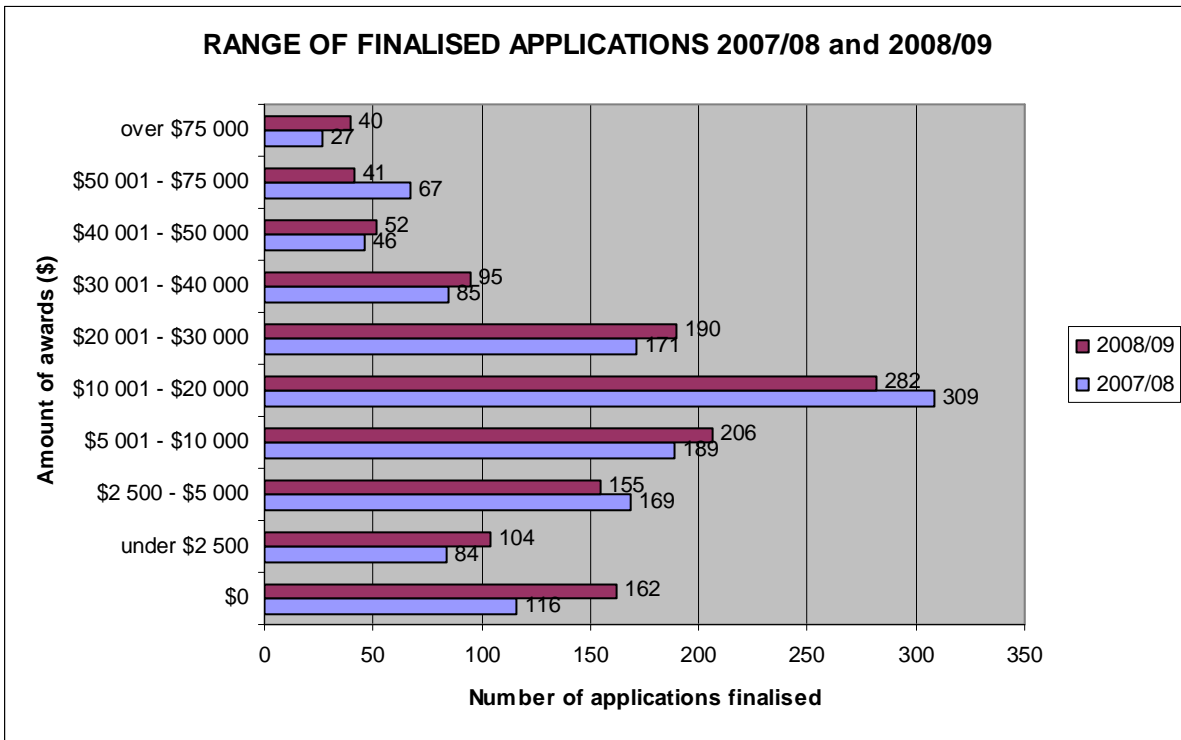
## NUMBER OF MALES & FEMALES TO WHOM AWARDS WERE MADE

The following chart shows the gender of persons to whom awards were made and the number of adults and children involved.



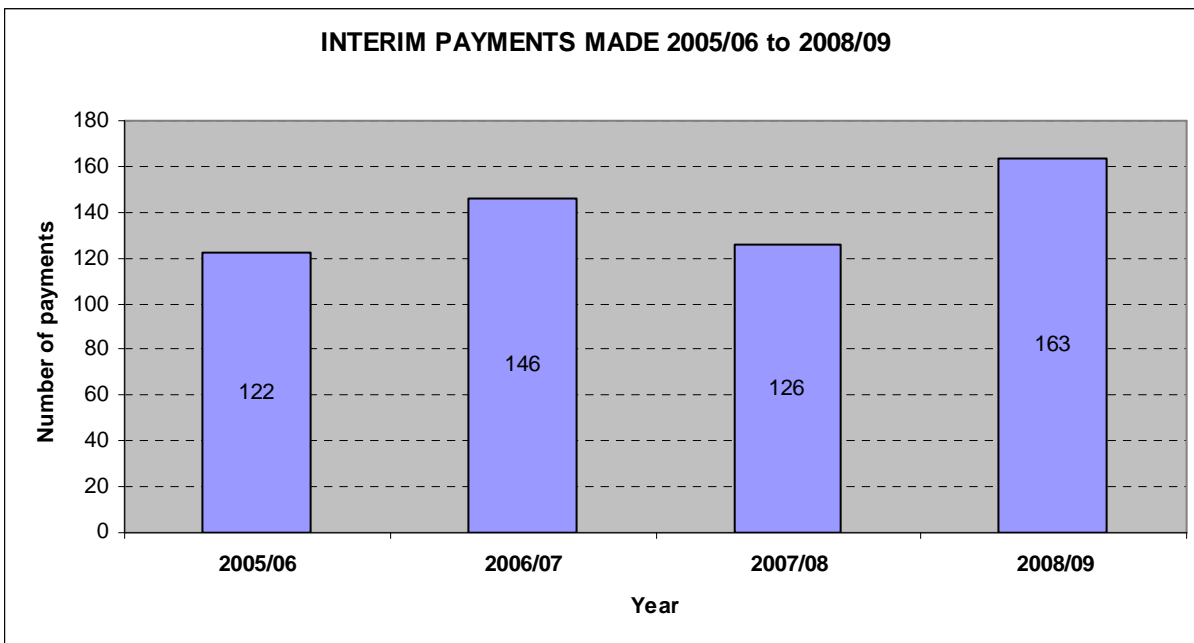
## RANGE OF FINALISED APPLICATIONS

The chart below illustrates the monetary range of applications finalised during 2007/08 and 2008/09.

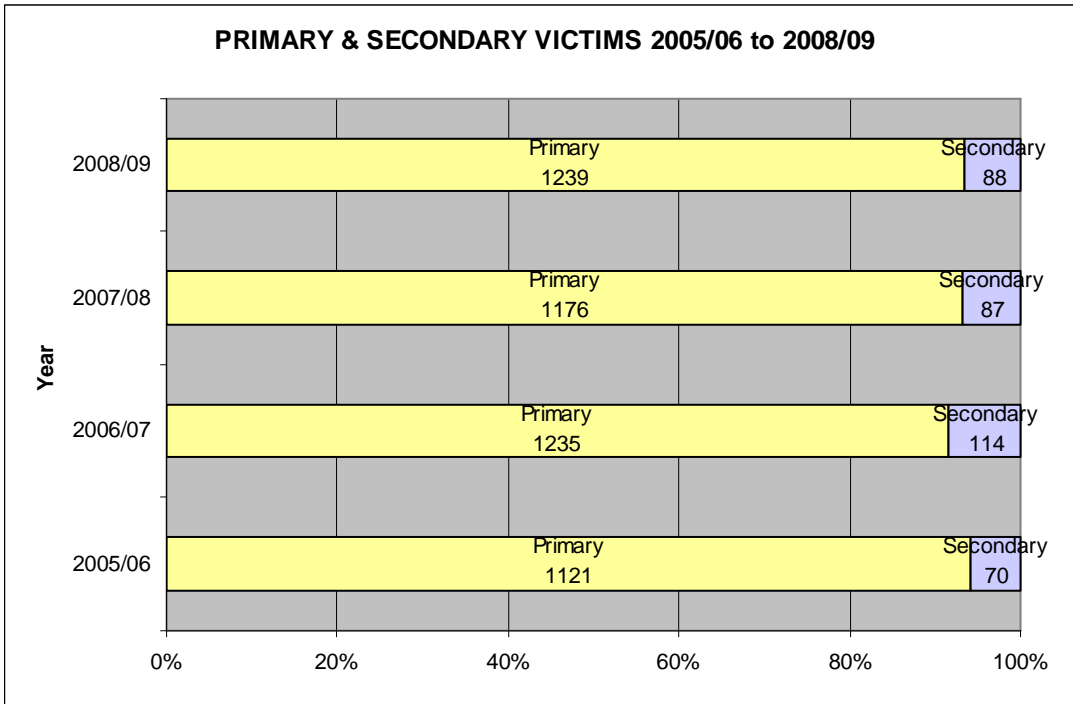


## INTERIM PAYMENTS

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

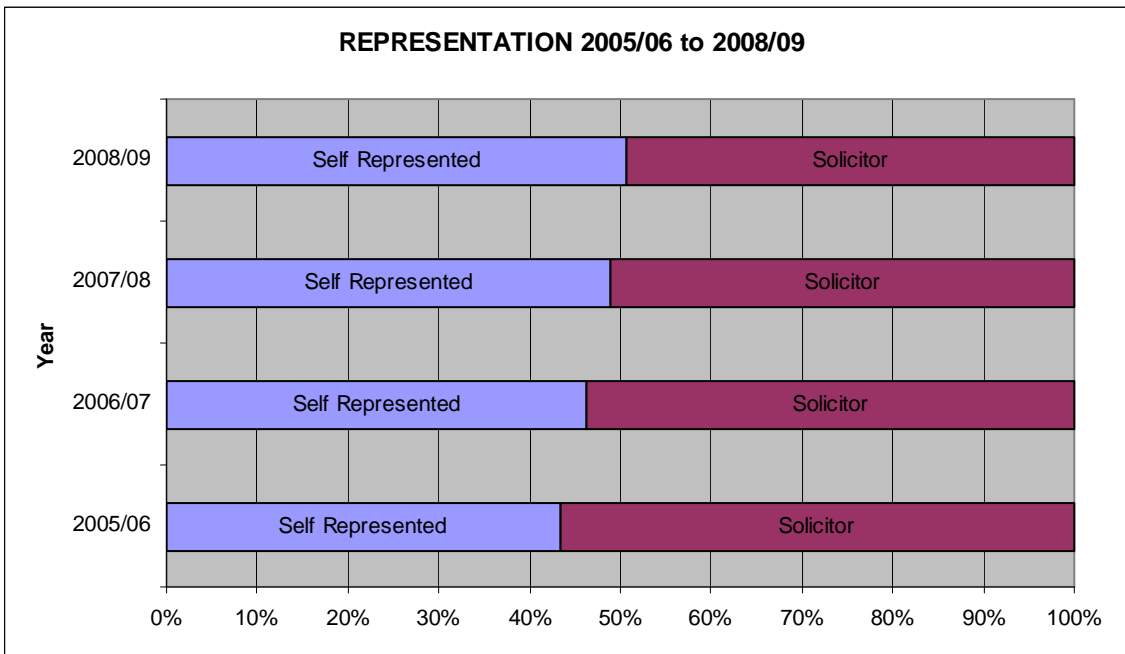


## PRIMARY & SECONDARY VICTIMS



## REPRESENTATION

There has been an increasing trend towards self representation by applicants for compensation, from 43% in 2005/06 to just over 50% in 2008/09.





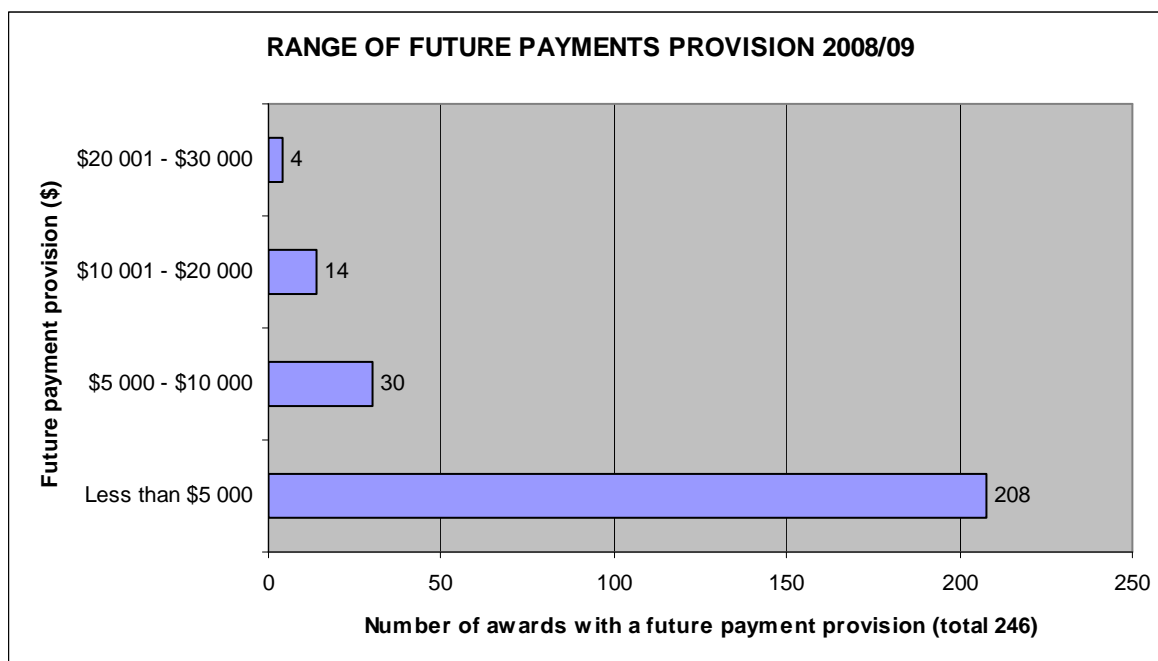
## REFUSALS

Awards were refused on 96 applications for reasons detailed below:

<i>Section of Act</i>	<b>No of Refusals</b>	<b>Reason for Refusal</b>
9	6	Time expired, extension of time refused
12	9	Assessor not satisfied applicant injured in the commission of a proved offence
13	21	Alleged offender acquitted
16	1	Alleged offence, charge not determined
17	27	Assessor not satisfied applicant injured in the commission of an alleged offence
35	1	Limitation of compensation for mental and nervous shock
37	2	Injury caused by a motor vehicle
38	17	Applicant did not assist investigation, apprehension or prosecution of offender
39	10	Victim engaged in criminal conduct
42	2	Insurance payment etc to be deducted from award

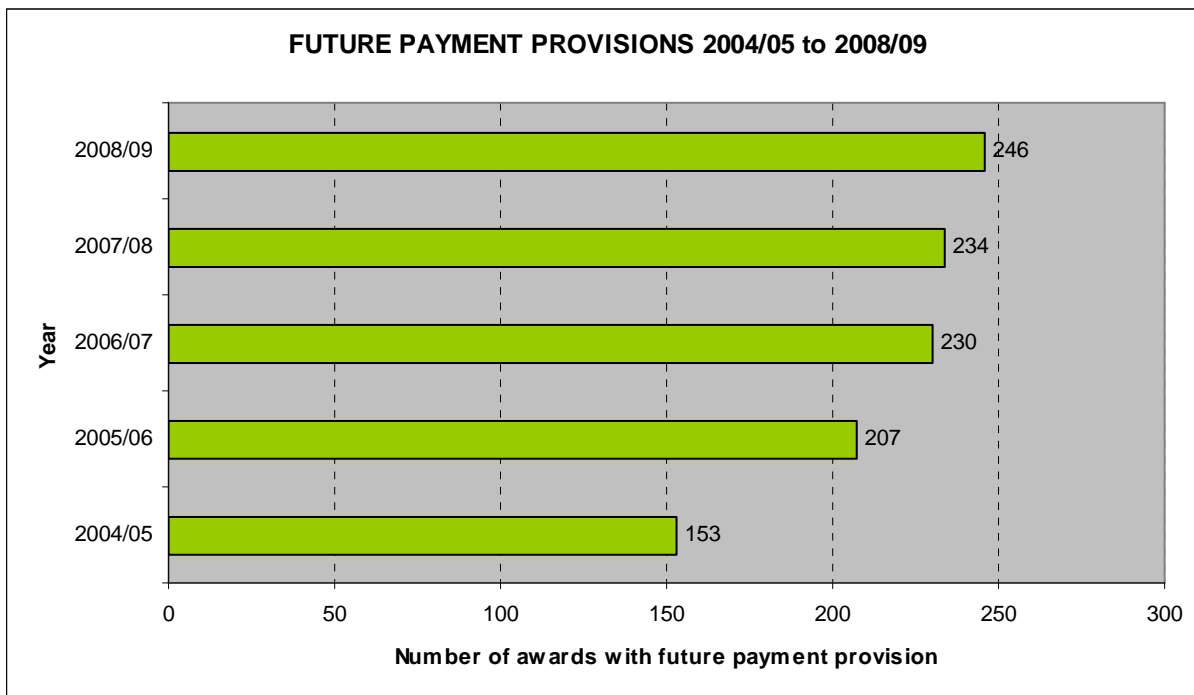
## FUTURE PAYMENTS PROVISION

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 2008/09 for future payments of \$786,929, increasing the total provision made under the Act in the five years since 1 July 2004 to \$3,858,146. Of this provision, \$121,121 was paid out in 2008/09 bringing the total paid in the last five years to \$394,585.

The Act was amended with effect from 31 July 2008 to provide that 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 35 appeals were lodged with the District Court following the determination of a compensation application. 34 appeals were finalised and of these 12 were successful, 8 were dismissed, 1 was abandoned and 13 were discontinued.

## REDUCTIONS TO AWARDS FOR CONTRIBUTION

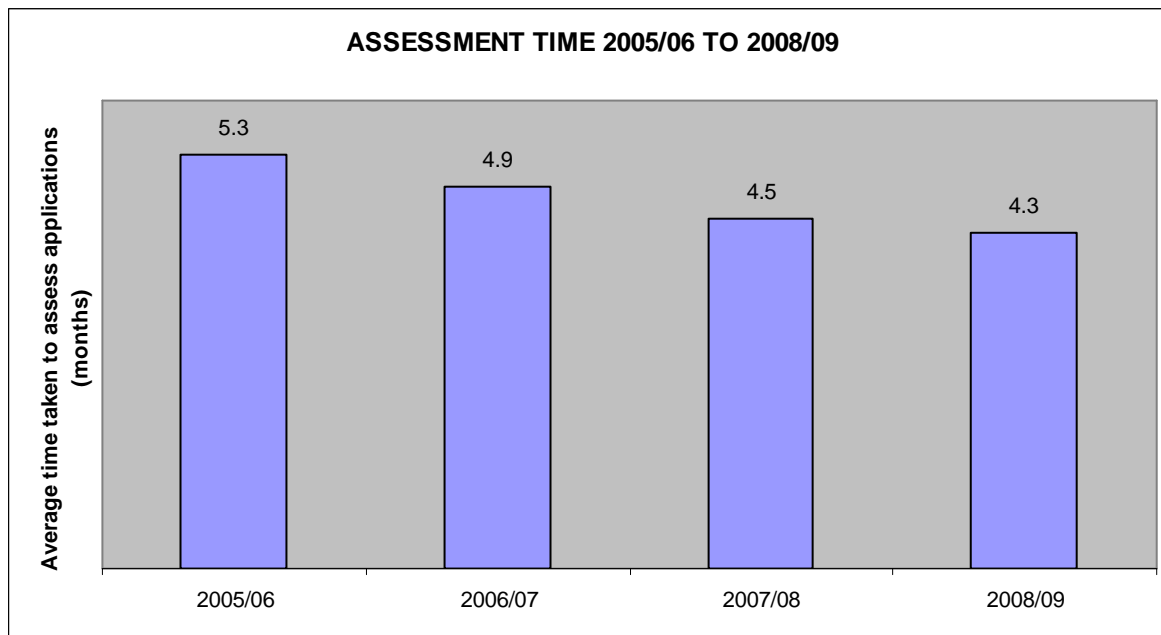
Section 41 of the Act requires that regard be had to “any behaviour, condition, attitude, or disposition of the victim that contributed, directly or indirectly, to the victim’s injury or death”, and allows the award to be refused or the amount of an award to be reduced in proportion to the contribution found to have occurred. Reductions for contributory behaviour, ranging from 3% to 50%, were made in 33 awards in 2008/09. Of these, 28 awards were reduced by 20% or less and 5 awards were reduced by over 20%.

## PERFORMANCE MEASURES

	Sep 08 Qtr	Dec 08 Qtr	Mar 09 Qtr	Jun 09 Qtr	Annual
Lodgements accepted	373	374	392	352	1491
New applications	428	396	368	371	1563
<b>Finalisations</b>	<b>305</b>	<b>351</b>	<b>298</b>	<b>373</b>	<b>1327</b>
39 weeks & less	253	285	252	312	1102
39 to 52 weeks	17	24	26	34	101
More than 52 weeks	35	42	20	27	124
Listings matters heard	2	5	4	5	16
<b>Cases on hand</b>	<b>653</b>	<b>667</b>	<b>746</b>	<b>750</b>	<b>750</b>
Less than 39 weeks	518	553	594	559	559
39 to 52 weeks	28	32	61	77	77
More than 52 weeks	107	82	91	114	114
Applications New & Resub	494	493	435	431	1853
Applications Rejected	121	119	43	79	362
Applications Resubmitted	66	97	67	60	290

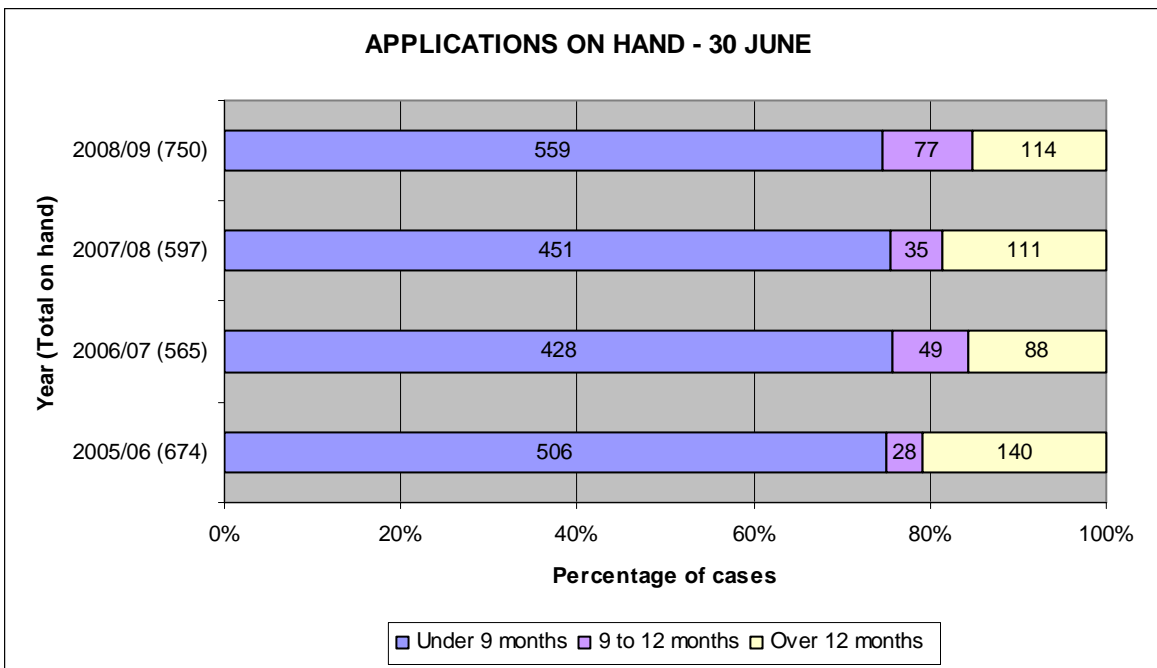
## ASSESSMENT TIME

The average time taken to assess an application during 2008/09 was 4.3 months, an improvement from the average of 4.5 months in the previous year.



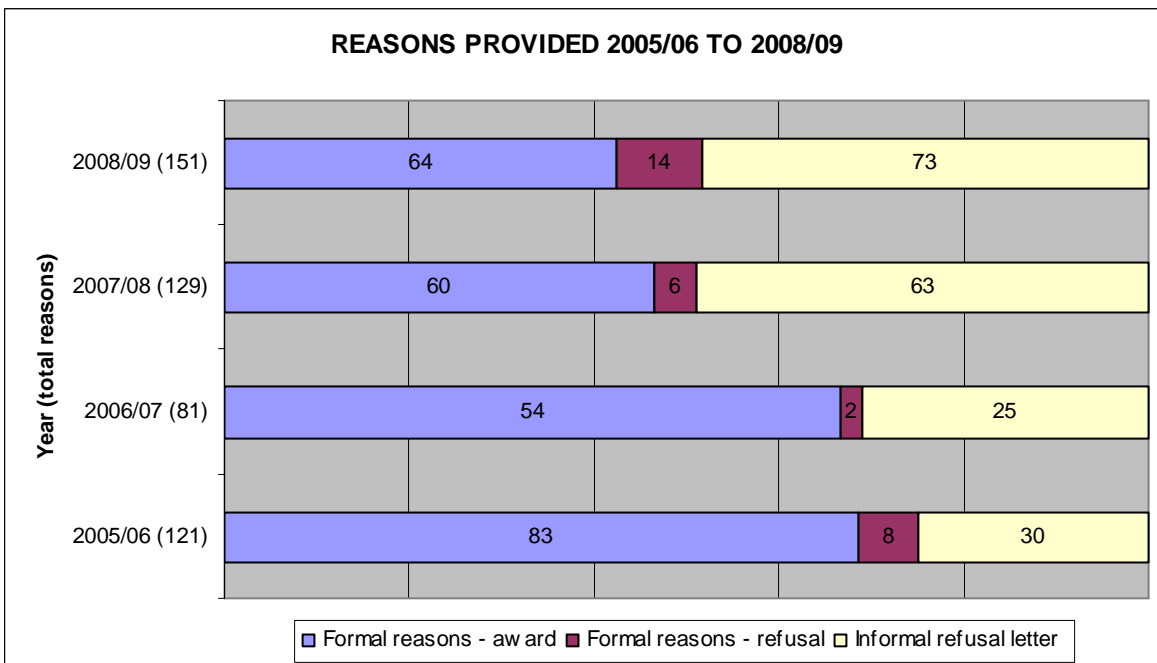
## OUTSTANDING APPLICATIONS

At 30 June 2009, 750 applications were on hand, an increase of 153 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 remained steady. The proportion of the caseload represented by applications which have been in the Office under 9 months has remained constant at around 75%. The proportion of cases aged between 9 and 12 months has increased while the proportion aged over 12 months has decreased. The number of files aged less than 9 months increased by 108 to 559 while the number of files aged over 9 months increase by 45 to 191. These figures should be viewed in the context of an overall increase of 221 in the number of new applications during 2008/09 compared to the previous year.



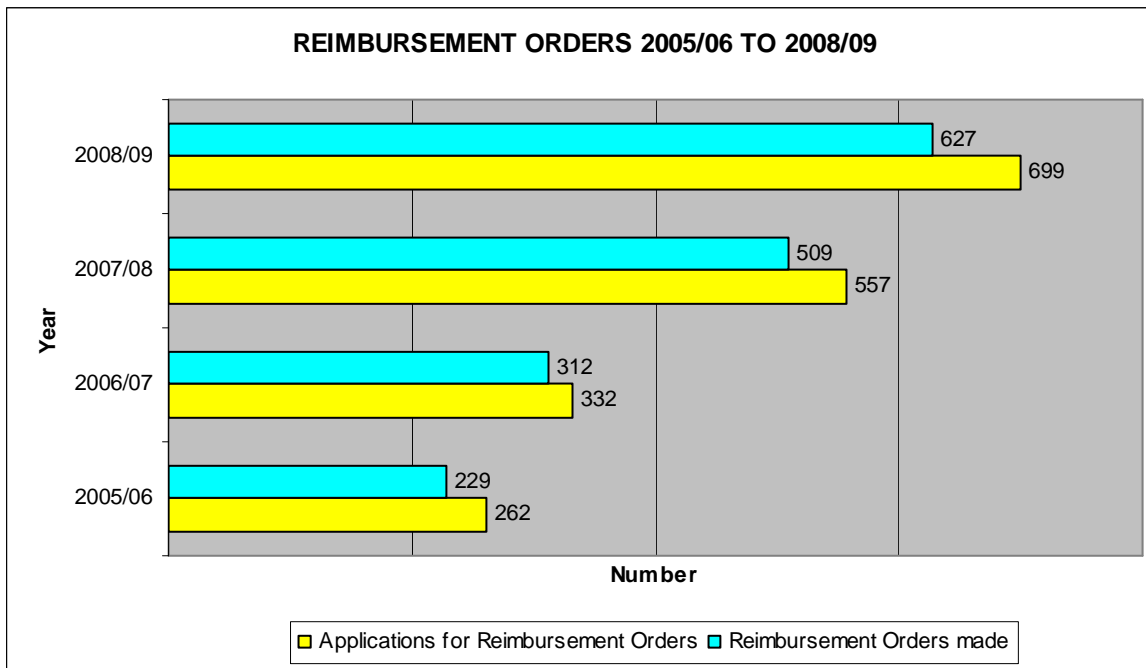
## PROVISION OF REASONS

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 78 cases and, in total, reasons have been provided in 151 cases, an increase of 22 from the previous year. The chart below sets out the breakdown of these reasons.



## 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.



As can be seen from the chart above, there continued to be a significant increase in the number of applications made for Reimbursement Orders. In 2008/09 an amount \$1,177,082 of debt owed to the State was recovered compared to the previous year's total of \$1,222,296.

## ACKNOWLEDGEMENTS

Thank you to my fellow assessors and the management and staff of the Office of Criminal Injuries Compensation and the Department of the Attorney General for their valuable assistance and support. I would also like to acknowledge the contributions of those external agencies that provide assistance to the Office of Criminal Injuries Compensation.

**H L Porter**  
**CHIEF ASSESSOR OF CRIMINAL INJURIES COMPENSATION**

23 September 2009