



# **OFFICE OF CRIMINAL INJURIES COMPENSATION**

DEPARTMENT OF THE ATTORNEY GENERAL

WESTERN AUSTRALIA

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**Chief Assessor's Report**  
**2009/2010**

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## **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 2009/10**

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 2010.

Yours faithfully

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

15 September 2010

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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 staff of the Office consists of 3 full time assessors and 17.6 full time equivalent administrative employees, including staff working on recovery of the value of awards from convicted offenders (the Recoveries Office).

## KEY DATA

During 2009/2010,

1679 new applications for compensation were received, up by 7%.

1628 applications were accepted for processing.

1431 applications were finalised.

1253 awards were made totalling \$25, 211, 538 at an average of \$20, 120 per award.

89 applications were refused.

22 hearings were held into applications for compensation.

The caseload increased by 193 to 943 applications on hand, up by 25%.

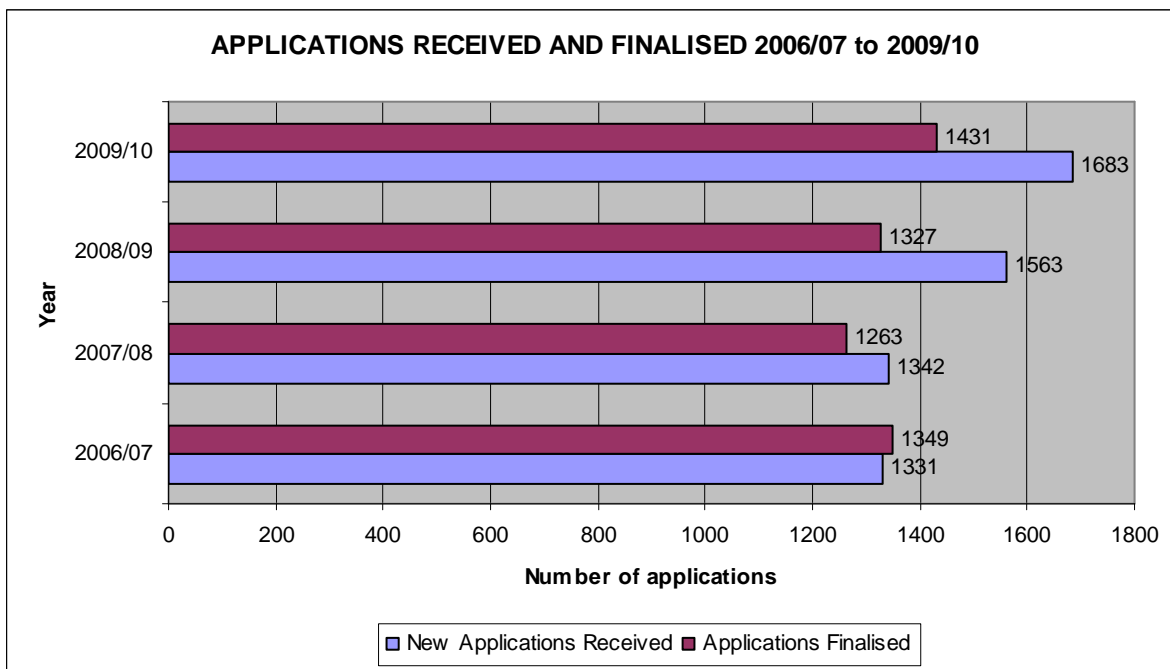
\$1 263 015 of debt owed to the State was recovered.

## STATISTICAL PROFILE

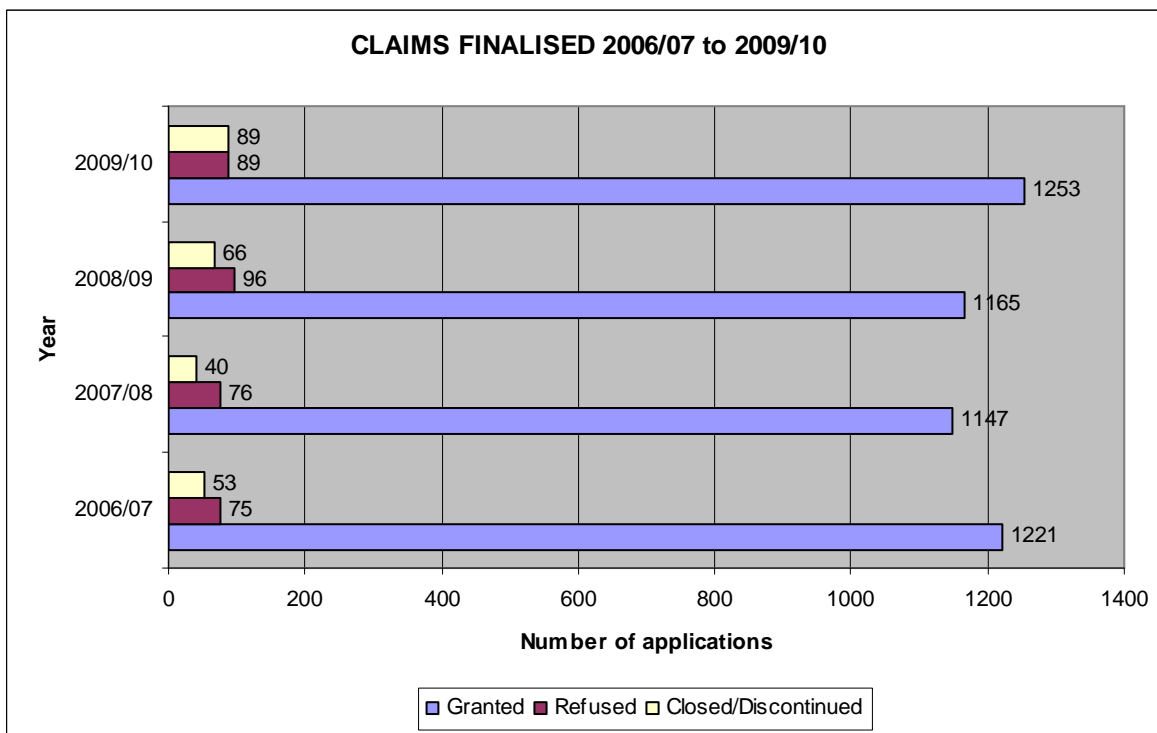
	<u>2006/07</u>	<u>2007/08</u>	<u>2008/09</u>	<u>2009/10</u>
New applications received	1331	1342	1563	<b>1683</b>
Accepted applications	1258	1287	1491	<b>1628</b>
Rejected applications	482	422	362	<b>362</b>
Resubmitted applications	409	367	290	<b>307</b>
Awards granted	1221	1147	1165	<b>1253</b>
Applications refused	75	76	96	<b>89</b>
Applications closed or discontinued	53	40	66	<b>89</b>
Applications outstanding at 30 June	565	597	750	<b>943</b>

## NEW APPLICATIONS RECEIVED

During 2009/10 new applications totalling 1683 were received. On 362 occasions applications were returned to the applicant for further work and of the returned applications 307 were resubmitted on at least one occasion.

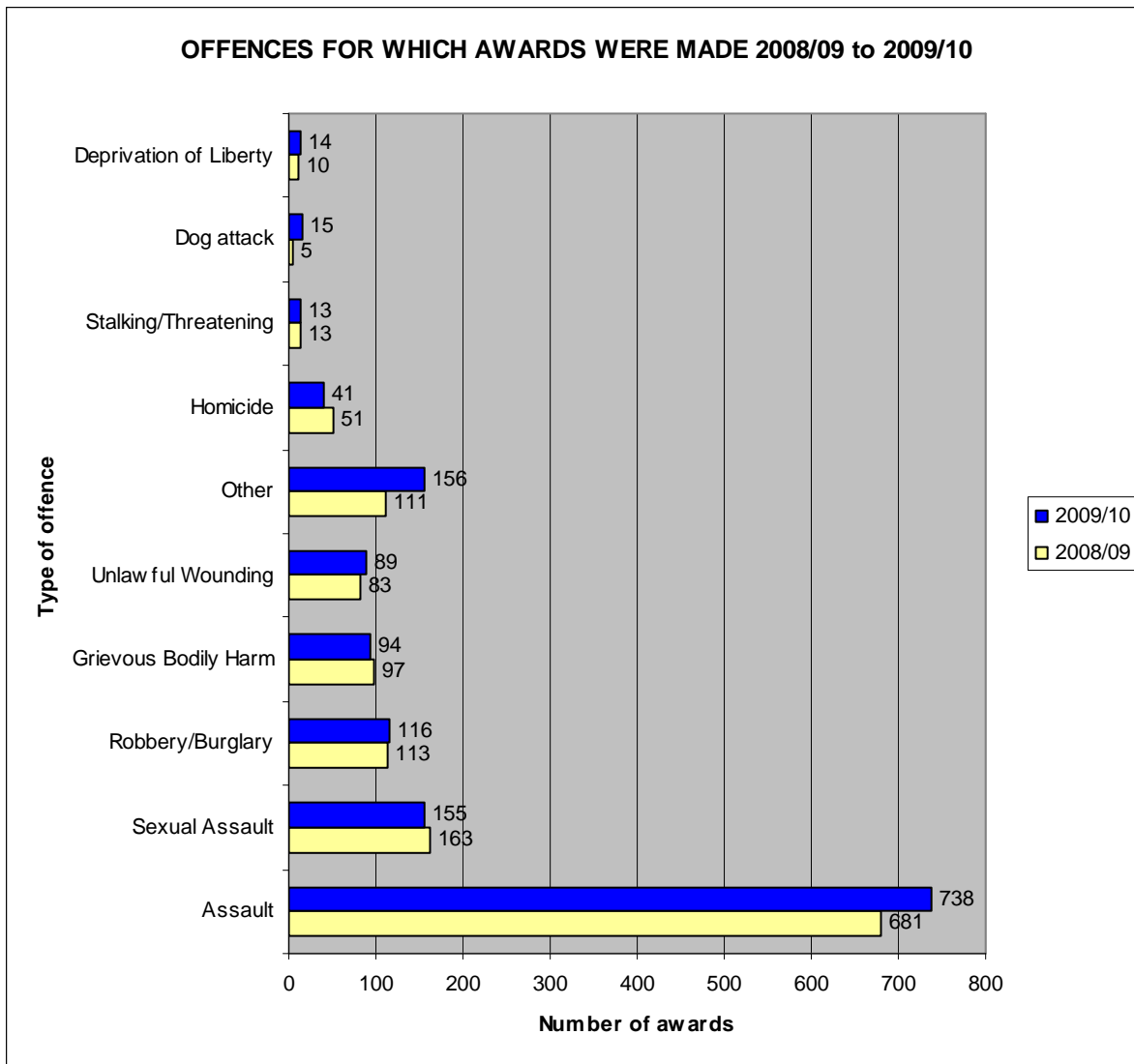


## CLAIMS FINALISED



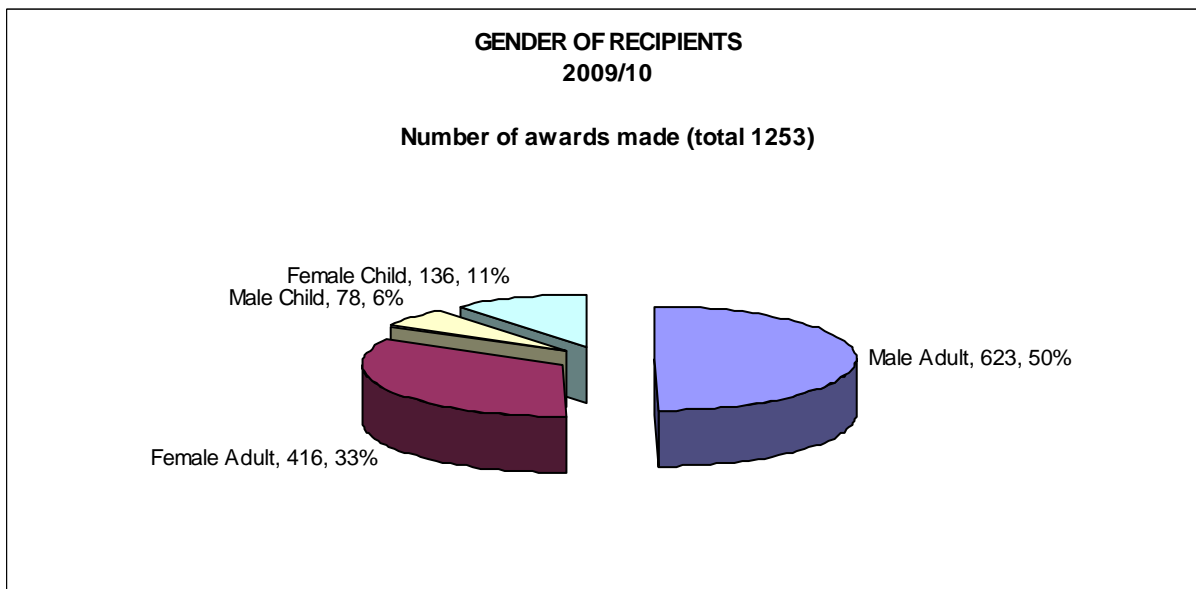
## NATURE OF OFFENCES INVOLVED

The chart below illustrates the types of offences for which awards were made between 2008/09 and 2009/10.



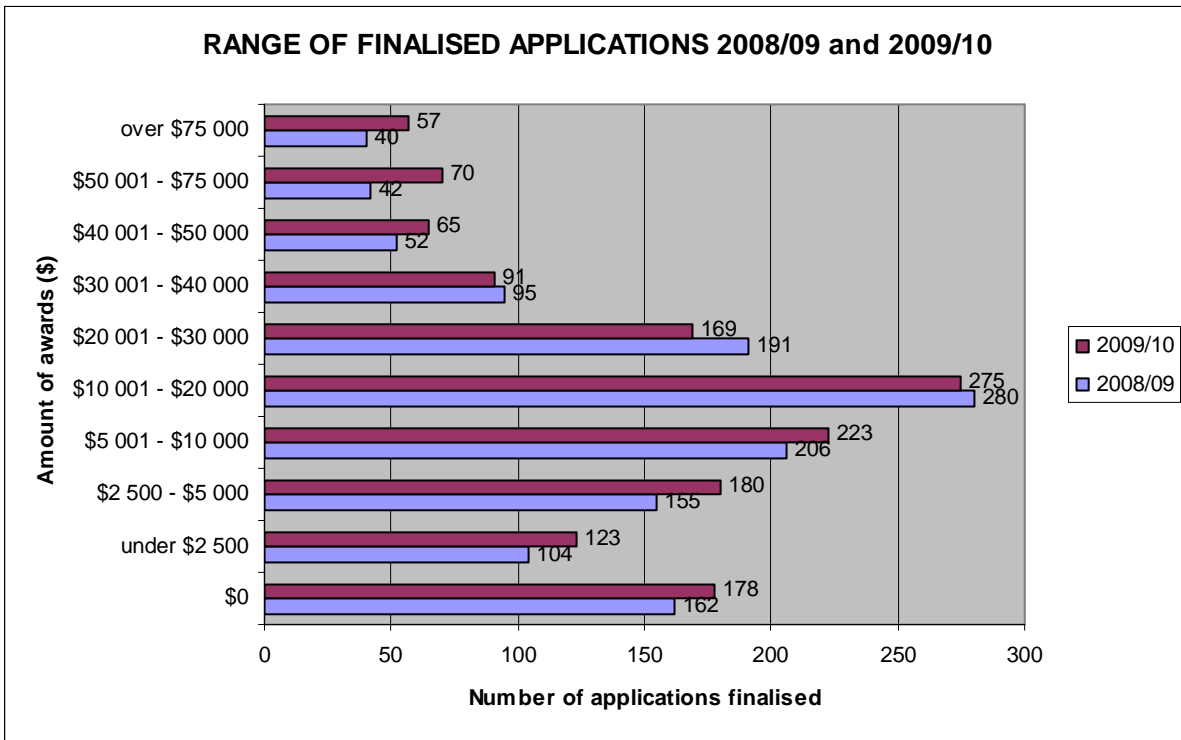
## NUMBER OF MALES & FEMALES TO WHOM AWARDS WERE MADE

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



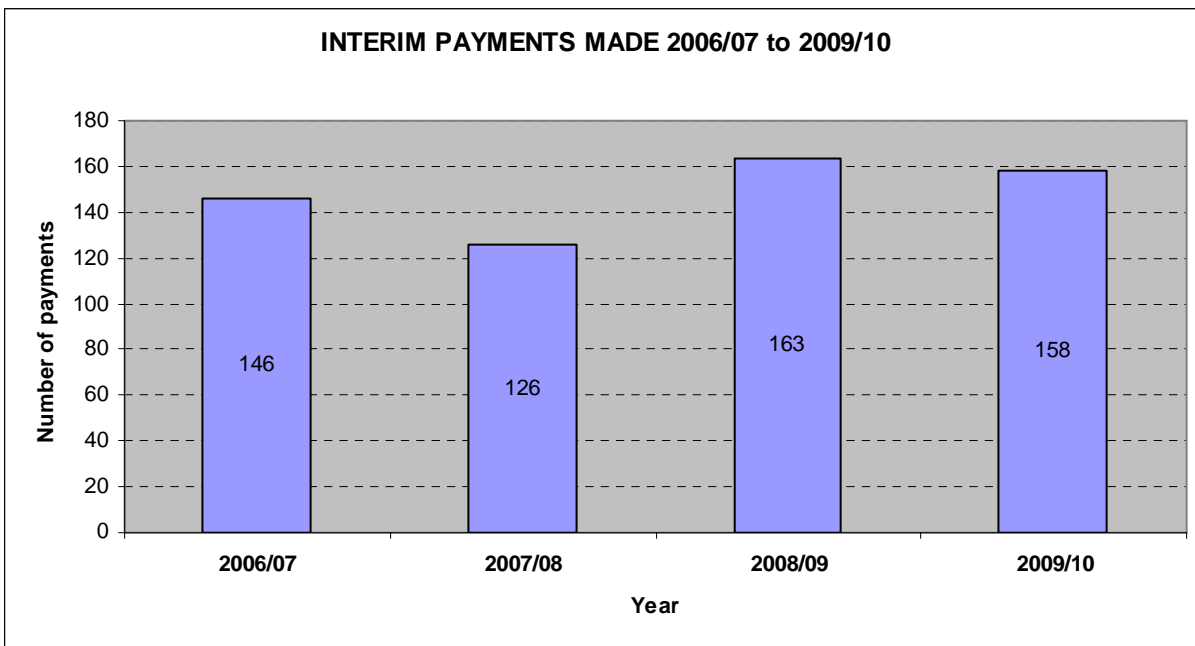
## RANGE OF FINALISED APPLICATIONS

The chart below illustrates the monetary range of applications finalised during 2008/09 and 2009/10.

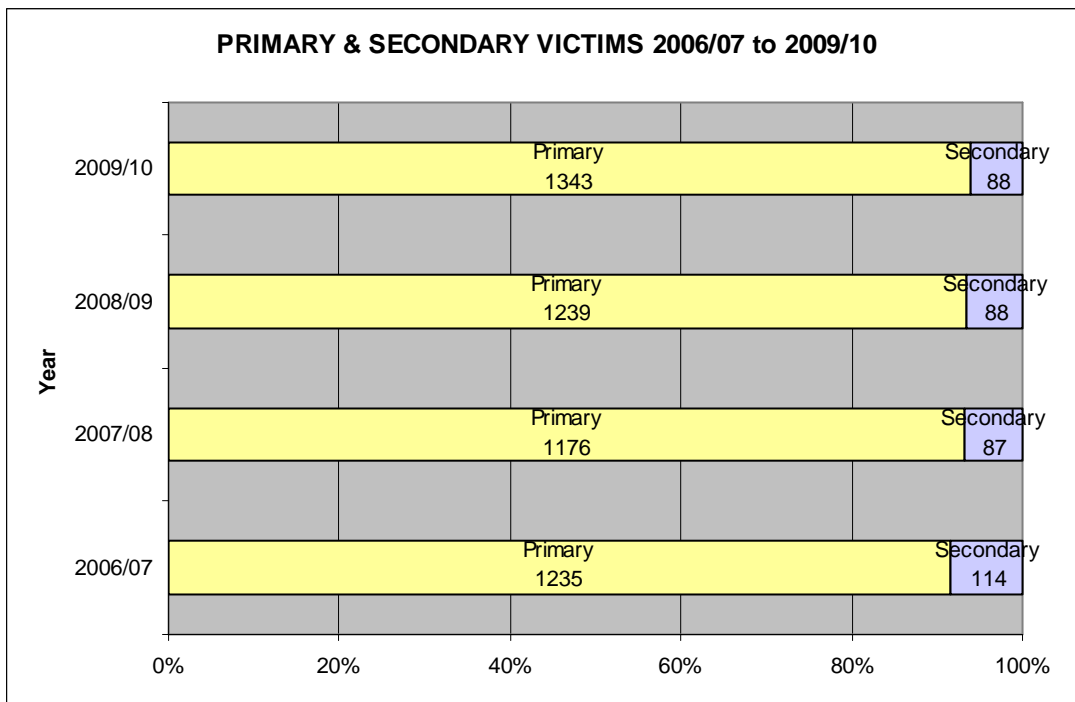


## INTERIM PAYMENTS

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.

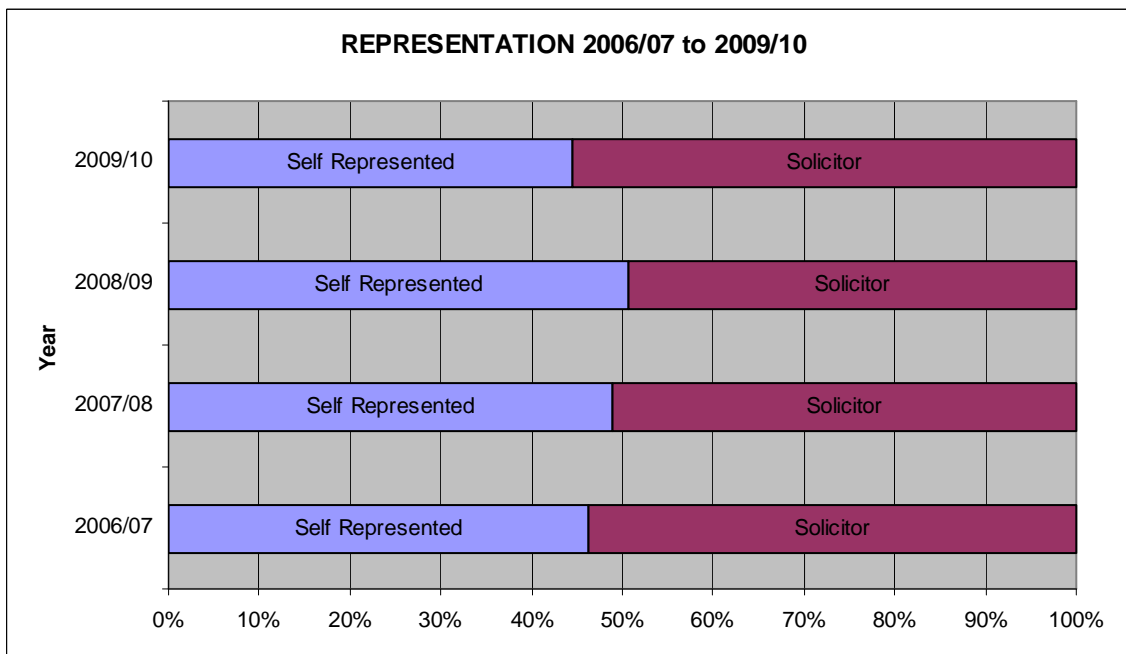


## PRIMARY & SECONDARY VICTIMS



## REPRESENTATION

The last 12 months has seen an increase in the proportion of applicants having legal representation. This has gone against the general trend towards self representation over the previous three years.





## REFUSALS

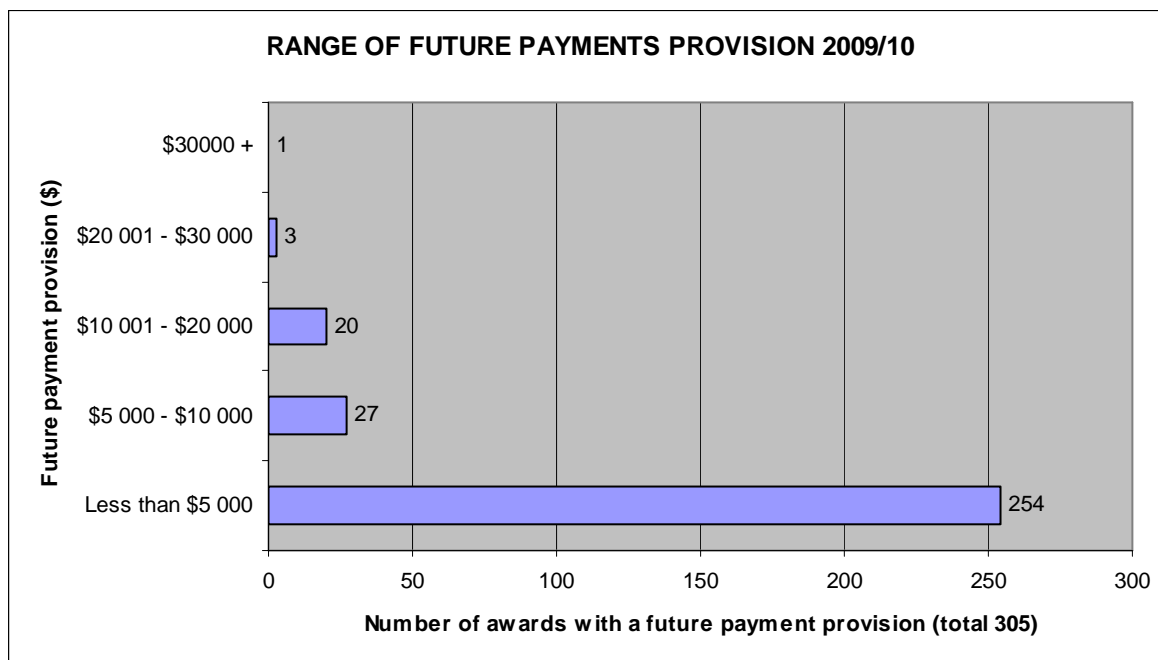
Awards were refused on 89 applications for reasons detailed below:

<b>Section of Act</b>	<b>No of Refusals</b>	<b>Reason for Refusal</b>
9	17	Time expired, extension of time refused
12	2	Assessor not satisfied applicant injured in the commission of a proved offence
13	5	Alleged offender acquitted
16	1	Alleged offence, charge not determined
17	25	Assessor not satisfied applicant injured in the commission of an alleged offence
37	5	Injury caused by a motor vehicle *
38	21	Applicant did not assist investigation, apprehension or prosecution of offender
39	12	Victim engaged in criminal conduct
40	1	Compensation made previously

\* The interpretation of section 37 of the Act is the subject of proceedings in the Supreme Court. A number of applications have been deferred pending the result of those proceedings.

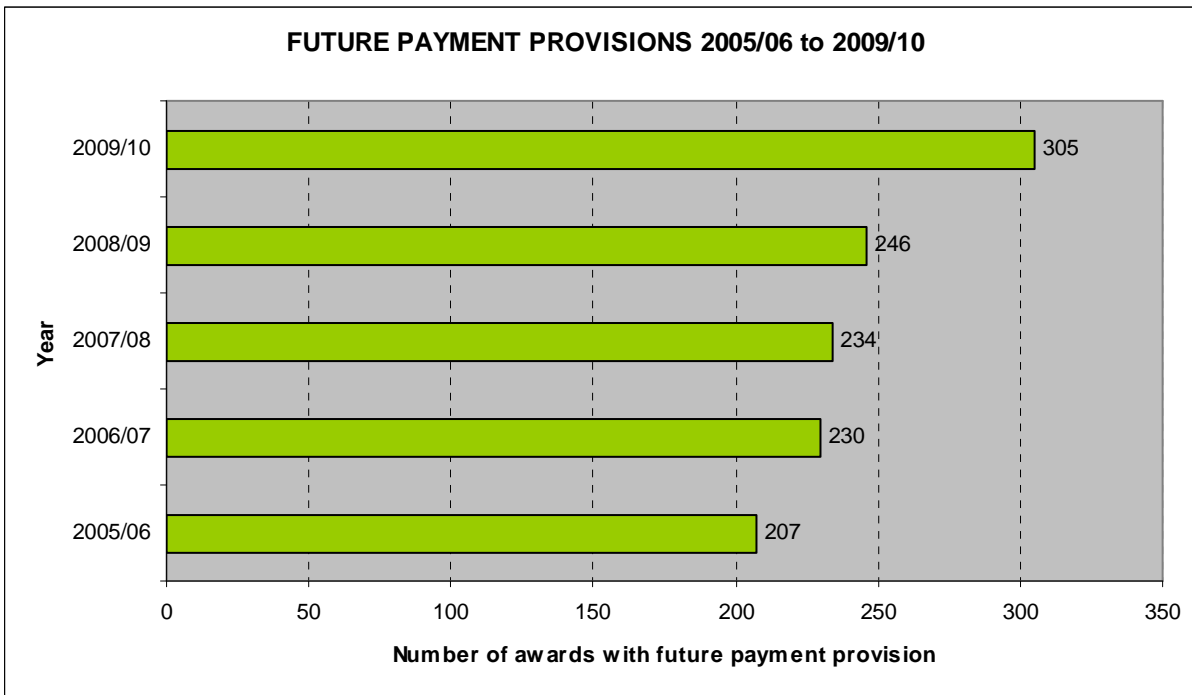
## FUTURE PAYMENTS PROVISION

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 2009/10 for future payments of \$914,088, increasing the total provision made under the Act since 1 July 2004 to \$4,772,234. Of this provision, \$152,103 was paid out in 2009/10 bringing the total paid to \$546,688.

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 40 appeals were lodged with the District Court following the determination of a compensation application. 33 appeals were finalised and of these 11 were successful, 5 were unsuccessful, 3 were abandoned and 14 were discontinued.

## REDUCTIONS TO AWARDS FOR CONTRIBUTION

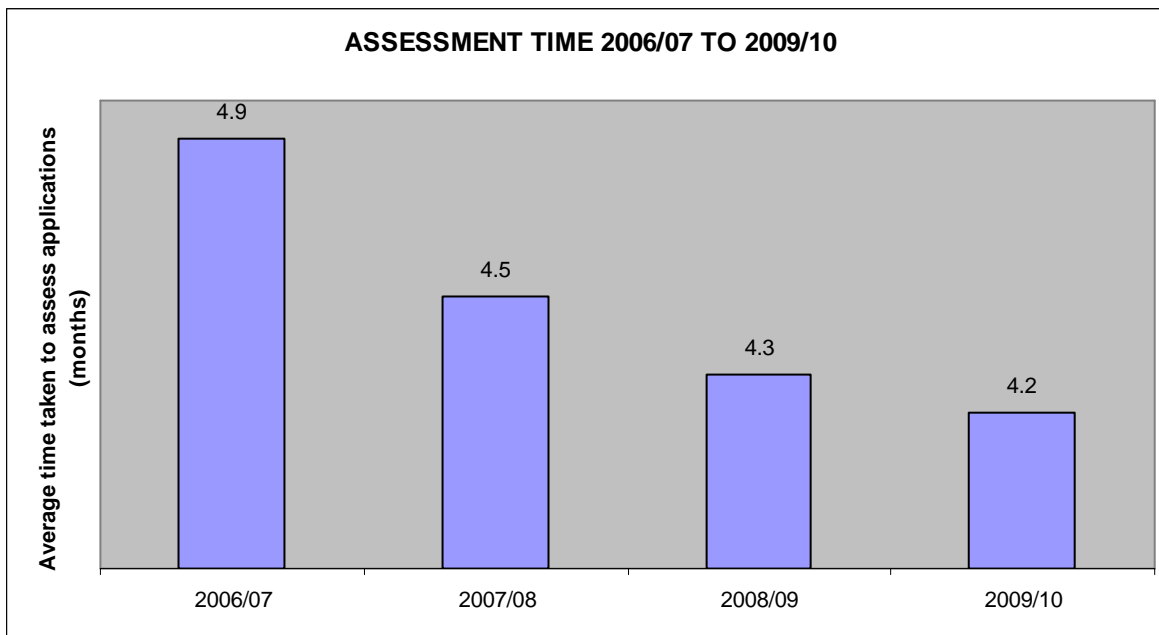
Section 41 of the Act requires that regard be had to “any behaviour, condition, attitude, or disposition of the victim that contributed, directly or indirectly, to the victim’s injury or death”, and allows the award to be refused or the amount of an award to be reduced in proportion to the contribution found to have occurred. Reductions for contributory behaviour, ranging from 7.65% to 47.22%, were made in 29 awards during 2009/10. Of these, 25 awards were reduced by 20% or less and 4 awards were reduced by over 20%.

## PERFORMANCE MEASURES

	Sep 09 Qtr	Dec 09 Qtr	Mar 10 Qtr	Jun 10 Qtr	Annual
Lodgements accepted	369	367	402	490	1628
New applications	377	407	475	424	1683
<b>Finalisations</b>	<b>465</b>	<b>308</b>	<b>328</b>	<b>330</b>	<b>1431</b>
39 weeks & less	369	249	254	266	1138
39 to 52 weeks	40	29	12	18	99
More than 52 weeks	56	30	62	46	194
Listings matters heard	7	6	3	6	22
<b>Cases on hand</b>	<b>653</b>	<b>693</b>	<b>782</b>	<b>943</b>	<b>943</b>
Less than 39 weeks	465	491	596	758	758
39 to 52 weeks	73	65	51	51	51
More than 52 weeks	115	137	135	134	134
Applications New & Resub	442	477	556	515	1990
Applications Rejected	73	110	154	25	362
Applications Resubmitted	65	70	81	91	307

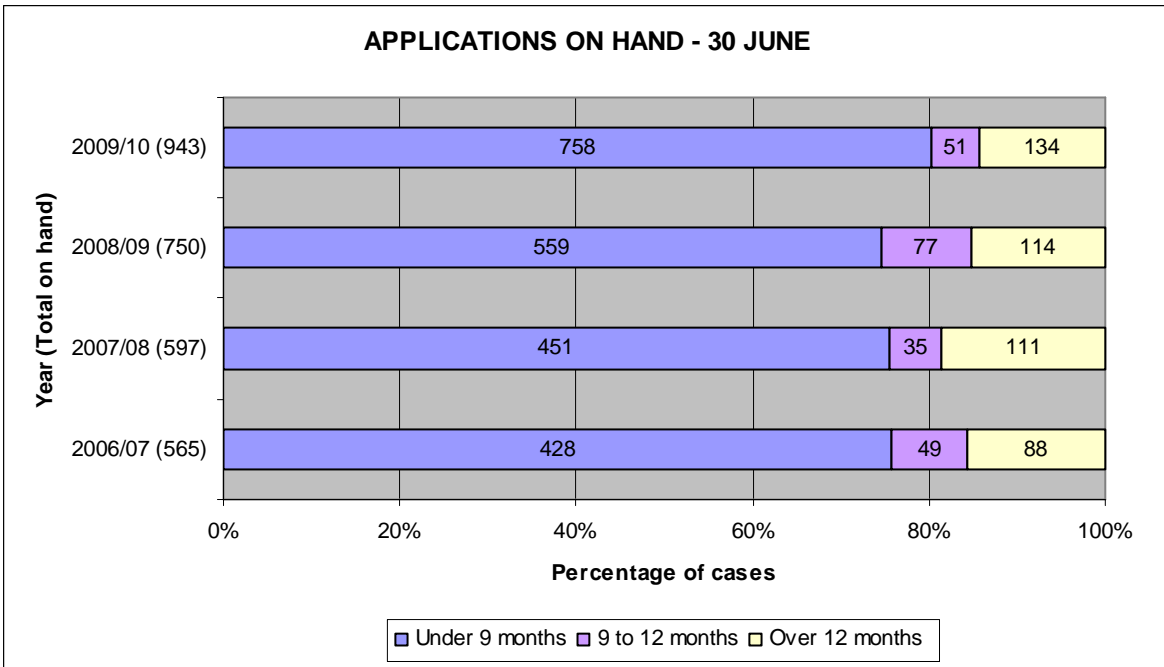
## ASSESSMENT TIME

The average time taken to assess an application during 2009/10 was 4.2 months, a slight improvement from the average of 4.3 months in the previous year.



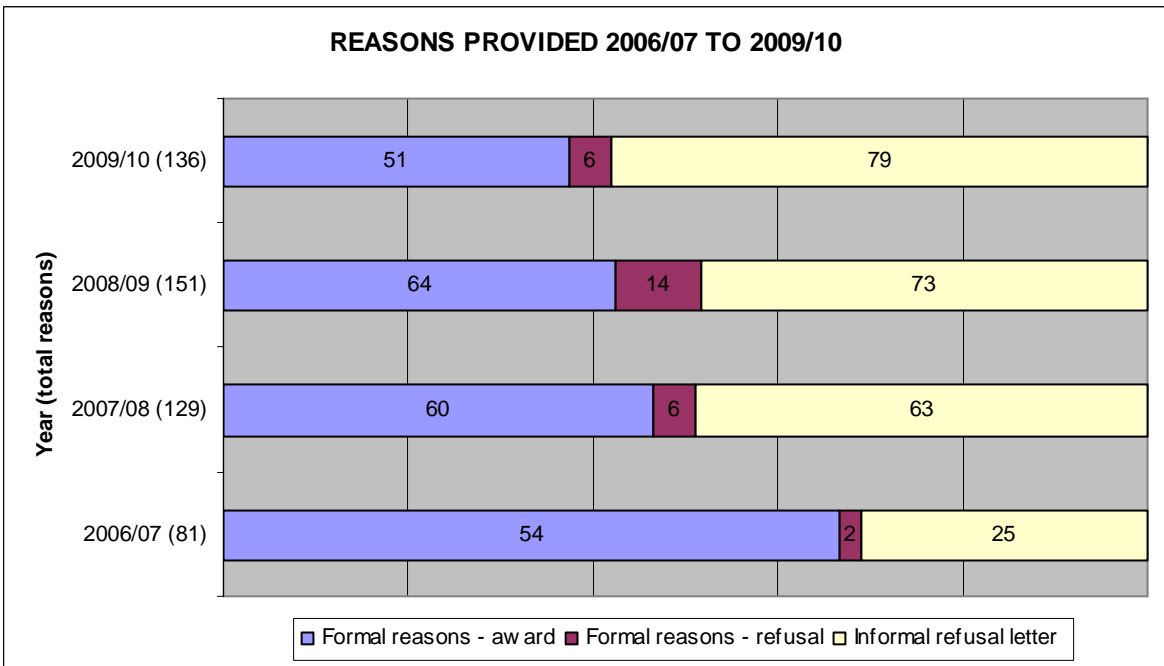
## OUTSTANDING APPLICATIONS

At 30 June 2010, 943 applications were on hand, an increase of 193, or 25.7%, 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 17.5%. The proportion of the caseload represented by applications which have been in the Office under 9 months has increased to just over 80%. The proportion of cases aged between 9 and 12 months has decreased while the proportion aged over 12 months has increased. The number of files aged less than 9 months increased by 199 to 758 while the number of files aged over 9 months decrease slightly to 189. These figures should be viewed in the context of an overall increase of 120 in the number of new applications during 2009/10 compared to the previous year.



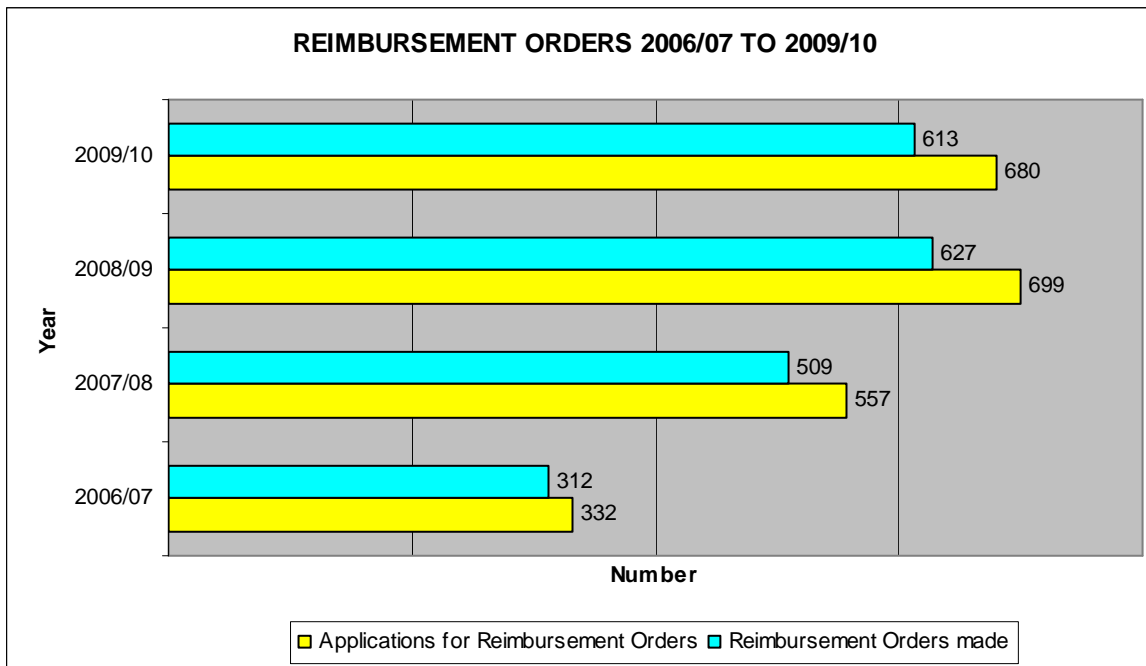
### PROVISION OF REASONS

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 57 cases and, in total, reasons have been provided in 136 cases, a decrease of 15 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.



In 2009/10, \$1,263,016 of debt owed to the State was recovered compared to the previous year's total of \$1,222,296.

Funding was provided in the current financial year to allow the recruitment of 4 additional staff in Recoveries to address the historic and current caseload. The first of these additional staff commenced in November 2009 and the team became fully staffed in April 2010. It is anticipated that the introduction of these additional staff will result in an increase in State debt recovered in the forthcoming years.

## ACKNOWLEDGEMENTS

Long serving Assessor W J (Dusty) Millar retired on 31 March 2010. Mr Millar had been employed in the role since 23 September 1997 and came to it after many years of work as a solicitor and barrister in Western Australia. Mr Millar's extensive knowledge and experience will be missed by the community and his colleagues. He was bid thanks and farewell on his departure by the staff of the Office and officers of the Department of the Attorney General and it is appropriate that I take this further opportunity to recognise the service Mr Millar gave to the community, not just as an Assessor but in his many other roles, and to thank him again on behalf of all Western Australians.

Mr Rob Guthrie commenced as an Assessor on 3 May 2010. His background in Workers' Compensation and Industrial Law, both in practice and as an academic lawyer, together with his experience in quasi-judicial decision-making, have made him a valued appointment and have contributed to a very smooth transition.

Thank you to my fellow Assessors, and the management and staff of both the Office of Criminal Injuries Compensation and the Department of the Attorney General, for the contribution each has made to what has been a productive year. I would also like to acknowledge the contributions of those external agencies and their staff who provide assistance to this Office. Willing co-operation from a number of agencies throughout the year has helped to maintain the prompt and efficient processing of a case load of increasing volume and complexity.

**H L Porter**

**CHIEF ASSESSOR OF CRIMINAL INJURIES COMPENSATION**

15 September 2010