



OFFICE OF CRIMINAL INJURIES COMPENSATION

DEPARTMENT OF THE ATTORNEY GENERAL

WESTERN AUSTRALIA

Chief Assessor's Report
2014 / 2015



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 2014/15

Pursuant to section 62 of the *Criminal Injuries Compensation Act 2003* on 3 September 2015 I submitted my report on the operation of the Office of Criminal Injuries Compensation for the year ending 30 June 2015. A review of data has revealed some errors in calculating the new applications received during the year. These figures have now been corrected and I submit an amended report for your consideration.

Yours faithfully

H L Porter
CHIEF ASSESSOR OF CRIMINAL INJURIES COMPENSATION

13 October 2015

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OVERVIEW

The Office of Criminal Injuries Compensation (OCIC) is established pursuant to the *Criminal Injuries Compensation Act 2003* (the Act) to compensate applicants for injuries and some losses suffered as a consequence of an offence. Compensation can be awarded for bodily harm, mental and nervous shock, or pregnancy suffered as a consequence an offence. Compensation is available for pain and suffering, loss of enjoyment of life, loss of income, reports, some personal items 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 OCIC consists of 3 full time assessors and 17.2 full time equivalent administrative employees, including staff working on recovery of compensation payments from convicted offenders (the Recoveries Office).

KEY DATA

During 2014/2015,

2700 new applications for compensation were received.

2765 applications were accepted for processing, an increase of 18.1%.

2057 applications were finalised, an increase of 6.7%.

1789 awards were made totalling \$33,113,804.

The average award was \$18,510.

189 applications were refused.

8 hearings were held into applications for compensation.

The caseload increased by 705 to 2261 applications on hand, an increase of 45.3%.

\$1,716,691 of debt owed to the State was recovered, a decrease of 1.5%.

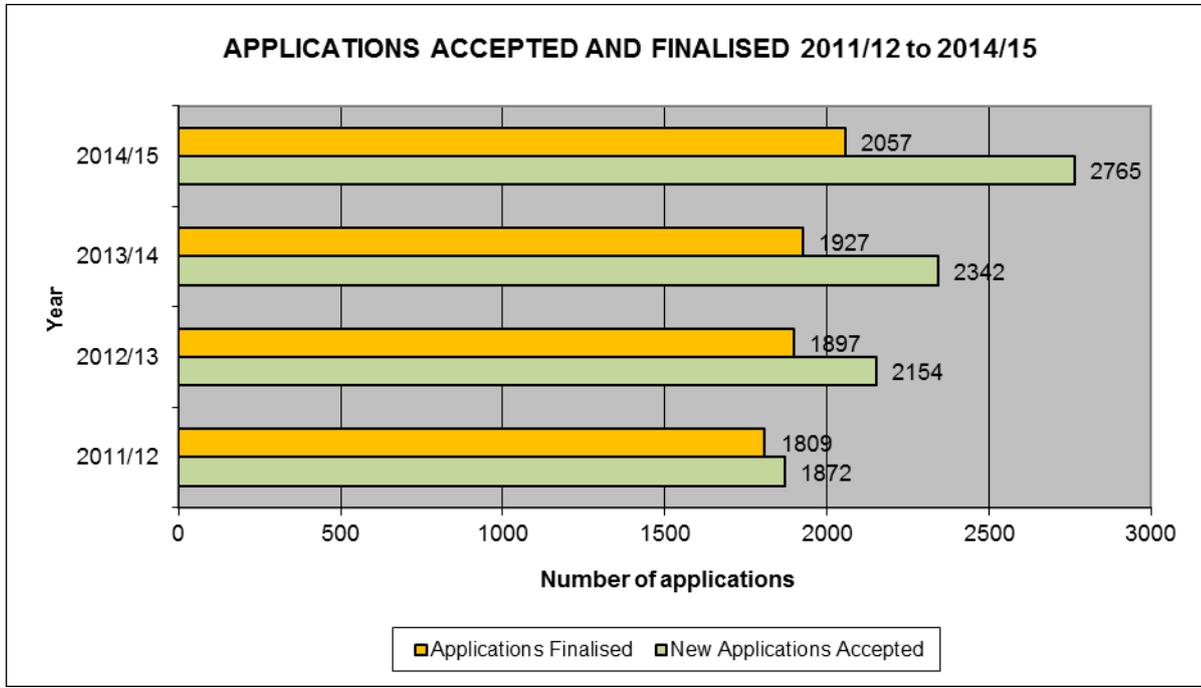
945 finalised applications were for offences involving family or domestic violence.

STATISTICAL PROFILE

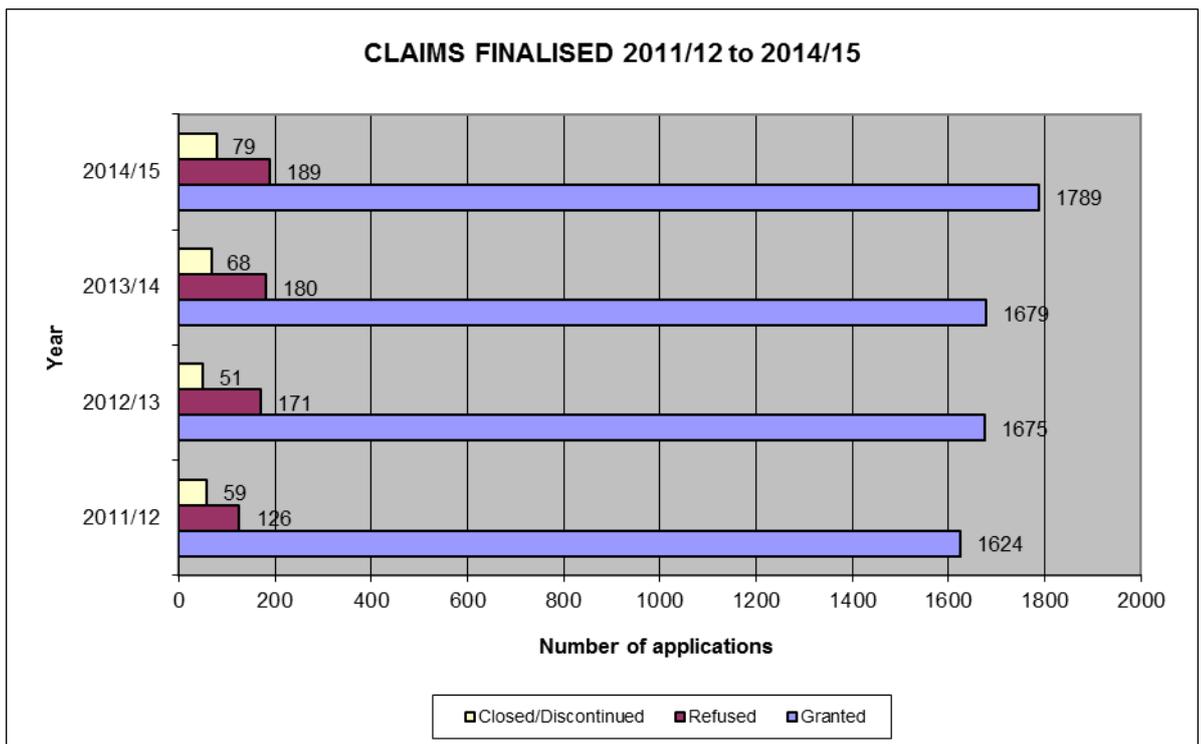
	<u>2011/12</u>	<u>2012/13</u>	<u>2013/14</u>	<u>2014/15</u>
New applications received	2031	2180	2391	2700
Accepted applications	1872	2154	2342	2765
Rejected applications	646	443	694	687
Resubmitted applications	487	417	477	490
Awards granted	1624	1675	1679	1789
Applications refused	126	171	180	189
Applications closed or discontinued	59	51	68	79
Applications outstanding at 30 June	885	1149	1556	2261

NEW APPLICATIONS RECEIVED

During 2014/15, 2700 new applications were received. On 687 occasions applications were returned to the applicant for further work. Of the applications returned to the applicant, 490 were resubmitted on at least one occasion. From the data below it can be seen that over the 4 years, the OCIC has managed to increase the output of completed applications, with no increase in staff. This increase in output has now been overtaken by the increase in the rate of new applications, resulting in an increase in the case load and in the time victims of crime must wait for an application to be determined.

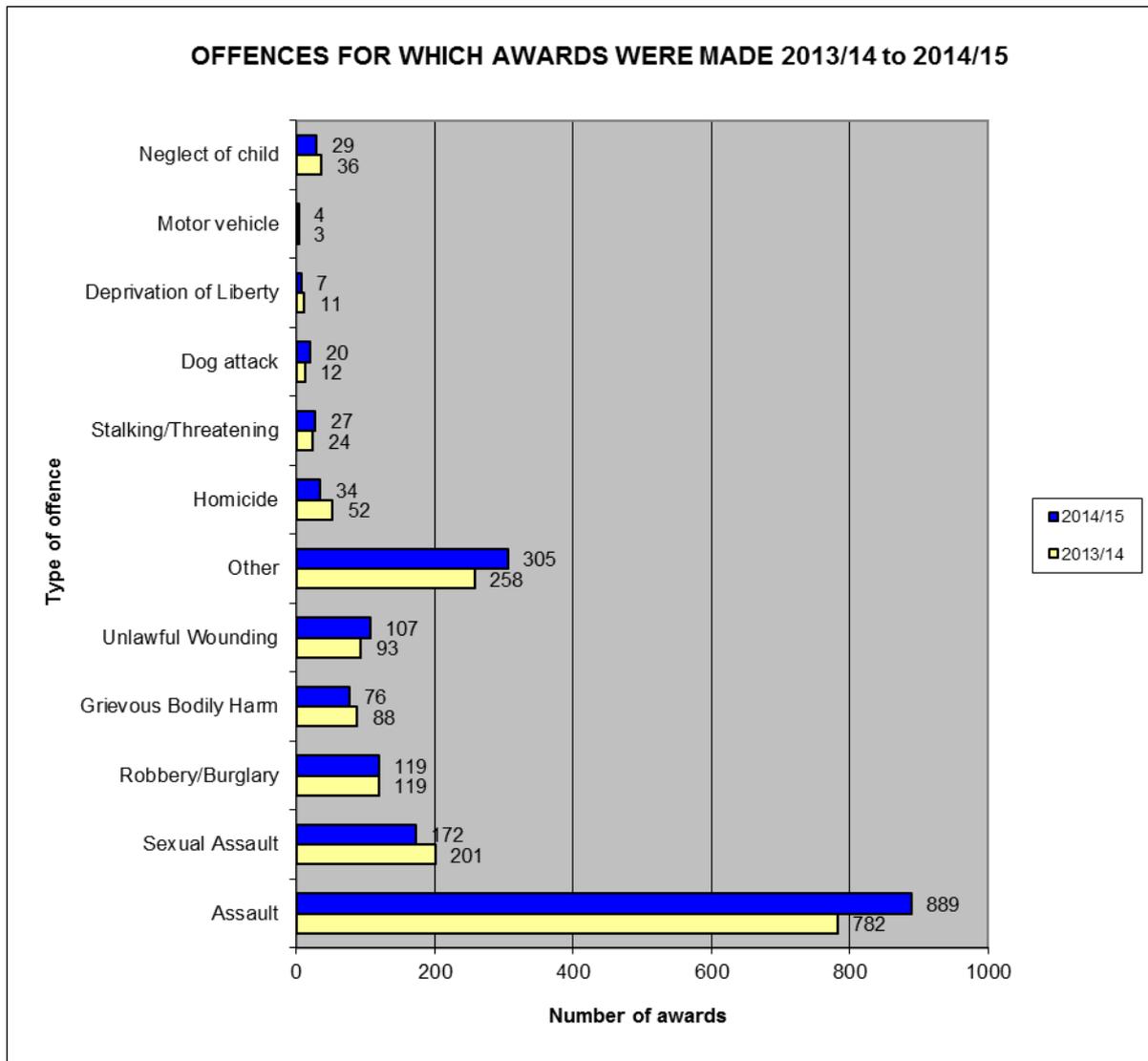


CLAIMS FINALISED



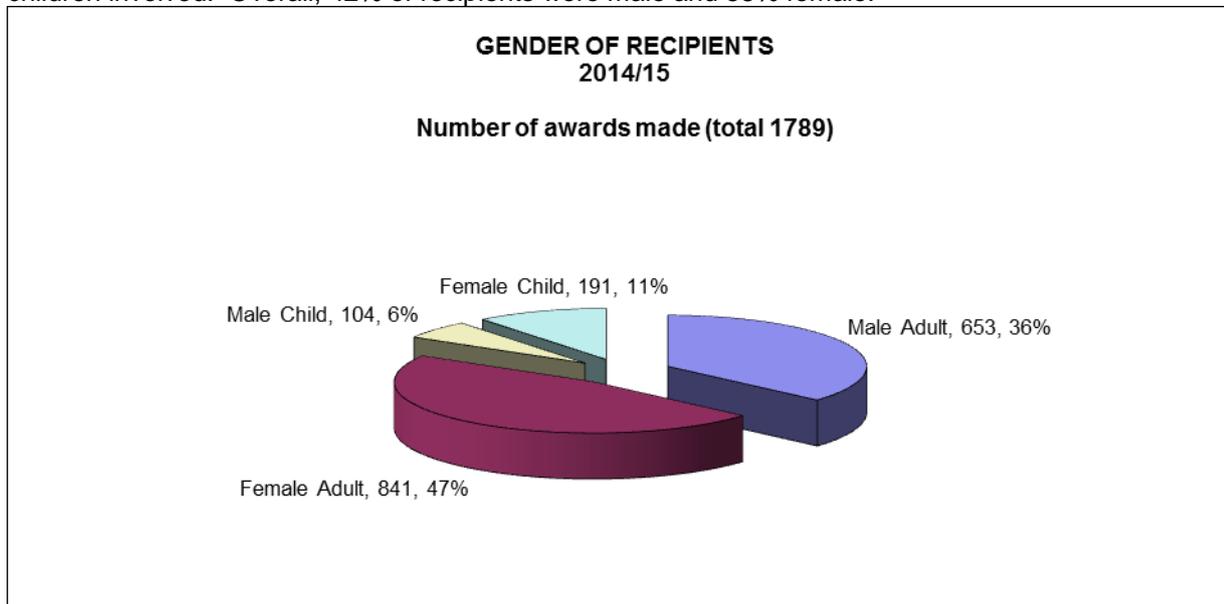
NATURE OF OFFENCES INVOLVED

The chart below illustrates the types of offences for which awards were made, with a comparison between 2013/14 and 2014/15.



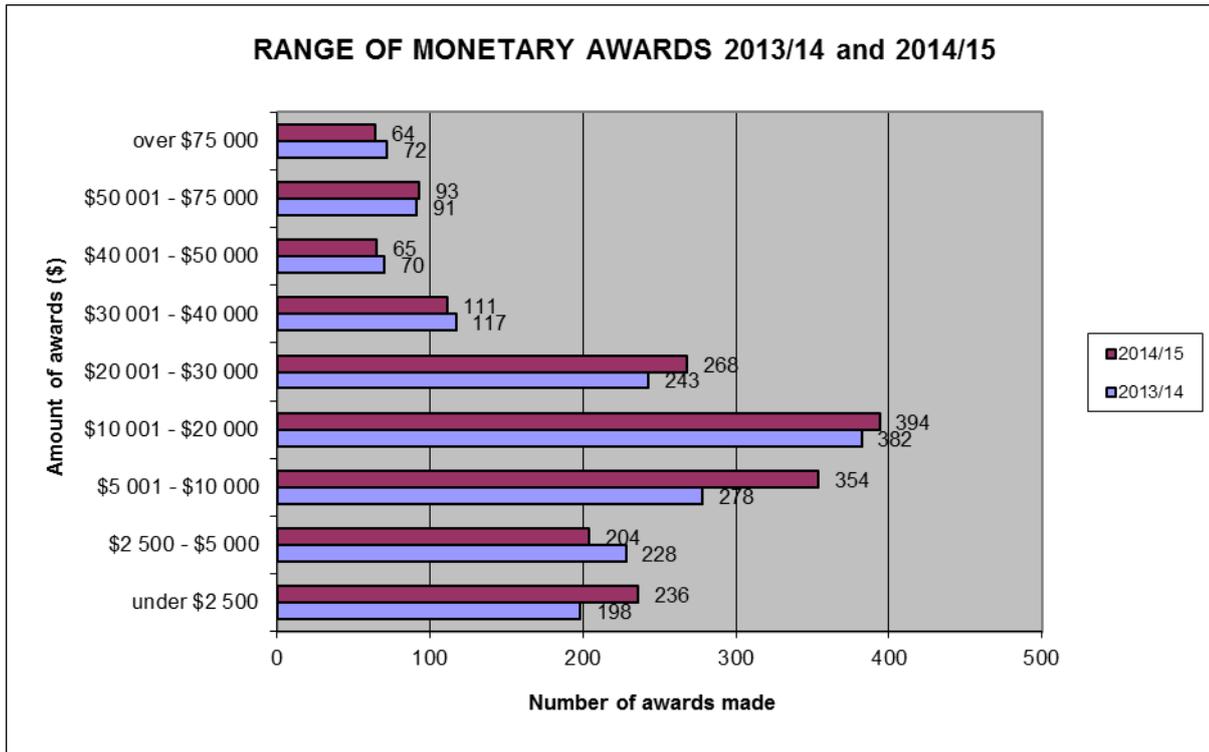
NUMBER OF MALES & FEMALES TO WHOM AWARDS WERE MADE

The following chart shows the gender of persons to whom awards were made and the number of adults and children involved. Overall, 42% of recipients were male and 58% female.



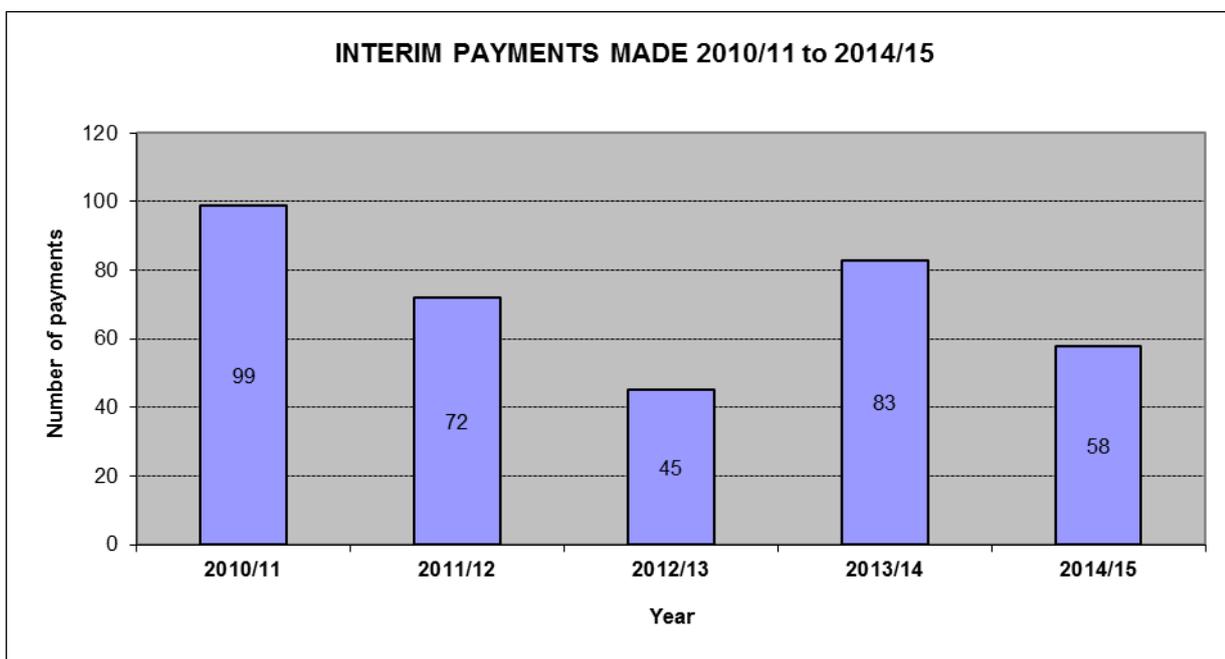
RANGE OF AWARDS MADE

The chart below illustrates the monetary range of awards made, with a comparison between 2013/14 and 2014/15.

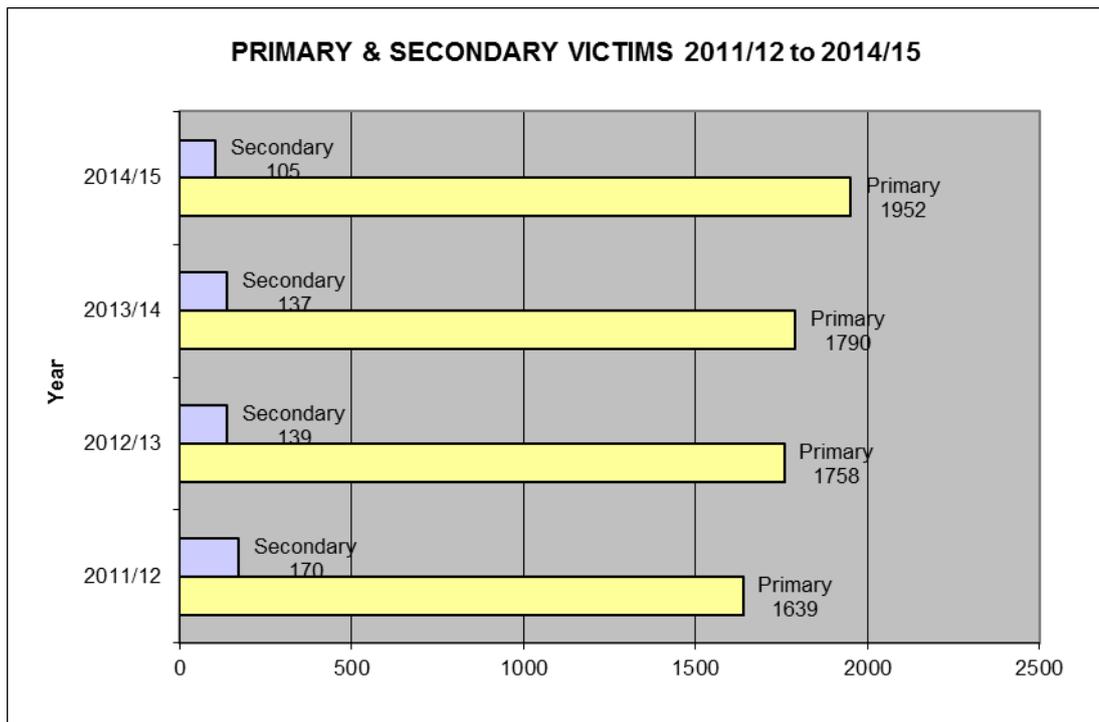


INTERIM PAYMENTS

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. The fall in the number of interim payments reflects the decision of the Assessors, in light of the significant workload pressure on all staff, to prioritise urgent requests for interim payments, such as where the applicant is otherwise unable to obtain a report or to obtain or continue with treatment. This means that applications for interim payment for funds already expended or to pay service providers who have agreed to be paid from the applicant’s compensation, are being deferred. As a consequence, some victims of crime and some service providers are experiencing a more significant delay before being paid. The impact of the pressure of the case load is, to an extent, defeating the purpose of the interim payment provisions.

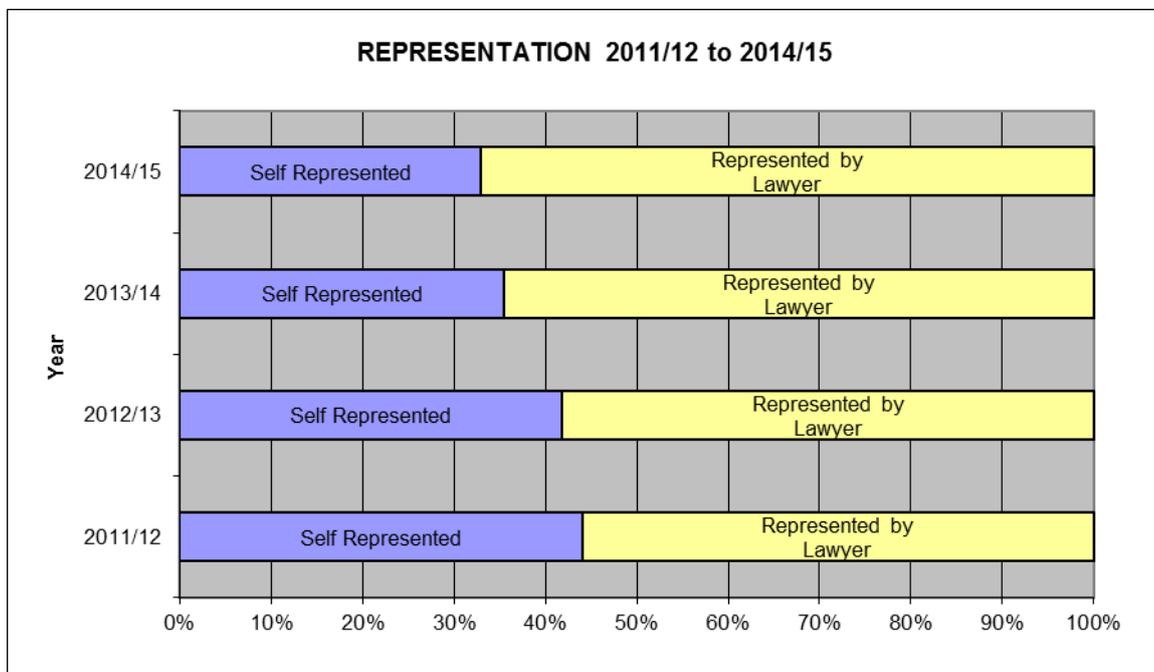


PRIMARY & SECONDARY VICTIMS



REPRESENTATION

The last 12 months has seen an increase in the proportion of applicants having legal representation with 67% of applicants represented.



APPEALS

32 appeals were lodged with the District Court following the determination of a compensation application. 22 appeals were finalised and of these 9 were successful, 3 were unsuccessful, 1 was abandoned and 9 were discontinued. In the previous financial year, 29 appeals were lodged, 51 were finalised and 8 were successful.

REFUSALS

Awards were refused on 189 applications for reasons detailed below. Of these refusals, 78 (41%) relate to matters involving family or domestic violence.

Section of Act	No of Refusals	Domestic matters refused	Reason for Refusal
9	36	22	Time expired, extension of time refused
13	10	1	Alleged offender acquitted
16	1	0	Alleged offender acquitted due to unsoundness of mind
17	38	24	Assessor not satisfied applicant injured in the commission of an alleged offence
21	1	0	Applicant required to enforce other remedies
35	9	4	Limitation of compensation for mental and nervous shock
36	1	1	No award if compensation likely to benefit offender
37	2	0	Injury caused by a motor vehicle
38	20	15	Applicant did not assist investigation, apprehension or prosecution of offender
39	18	4	Victim engaged in criminal conduct
40	6	6	Compensation previously awarded or refused
41	1	1	Behaviour etc of victim to be considered
42	46	0	Insurance payment deducted from award

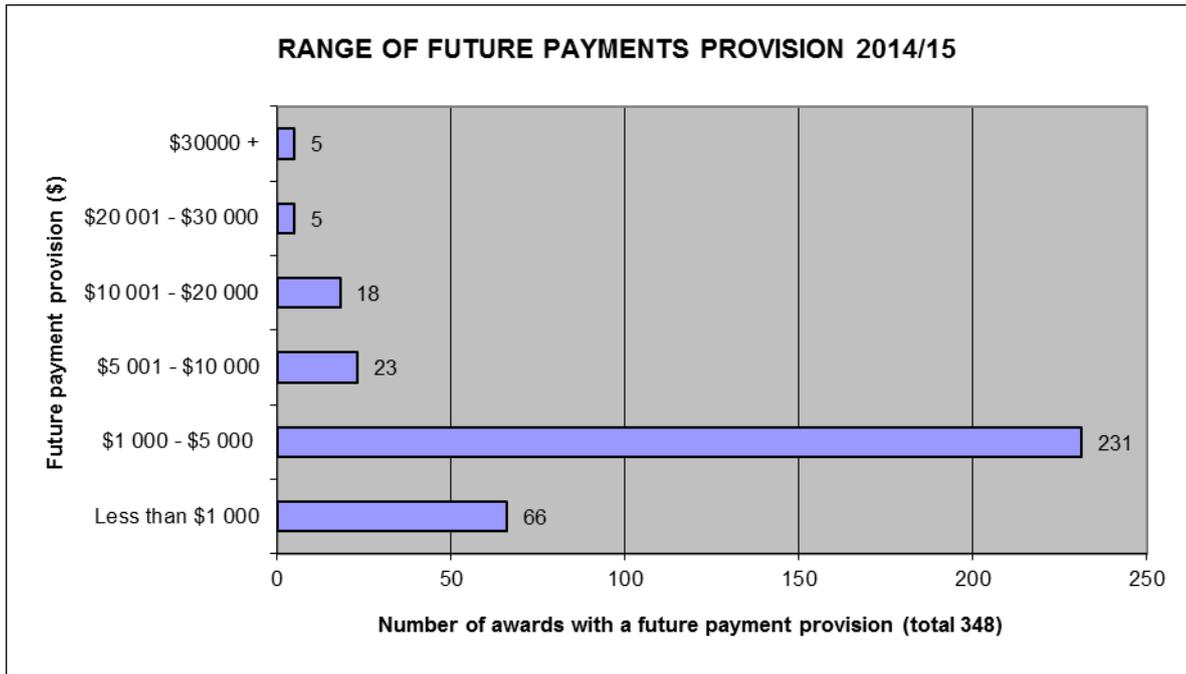
The marked increase in refusals under section 42 of the Act, from 7 in the preceding year, is a result of the decision of the Supreme Court in *Baker -v- His Honour Judge Stone of the District Court Of Western Australia* [2015] WASCA 56, delivered on 20 March 2015. The Court upheld the decision in *Robertson v Baker* [2014] WADC 14 which limited the eligibility of applicants for compensation where other compensation had been received for the same event to a total exceeding the maximum available under the Act.

REDUCTIONS TO AWARDS FOR CONTRIBUTION

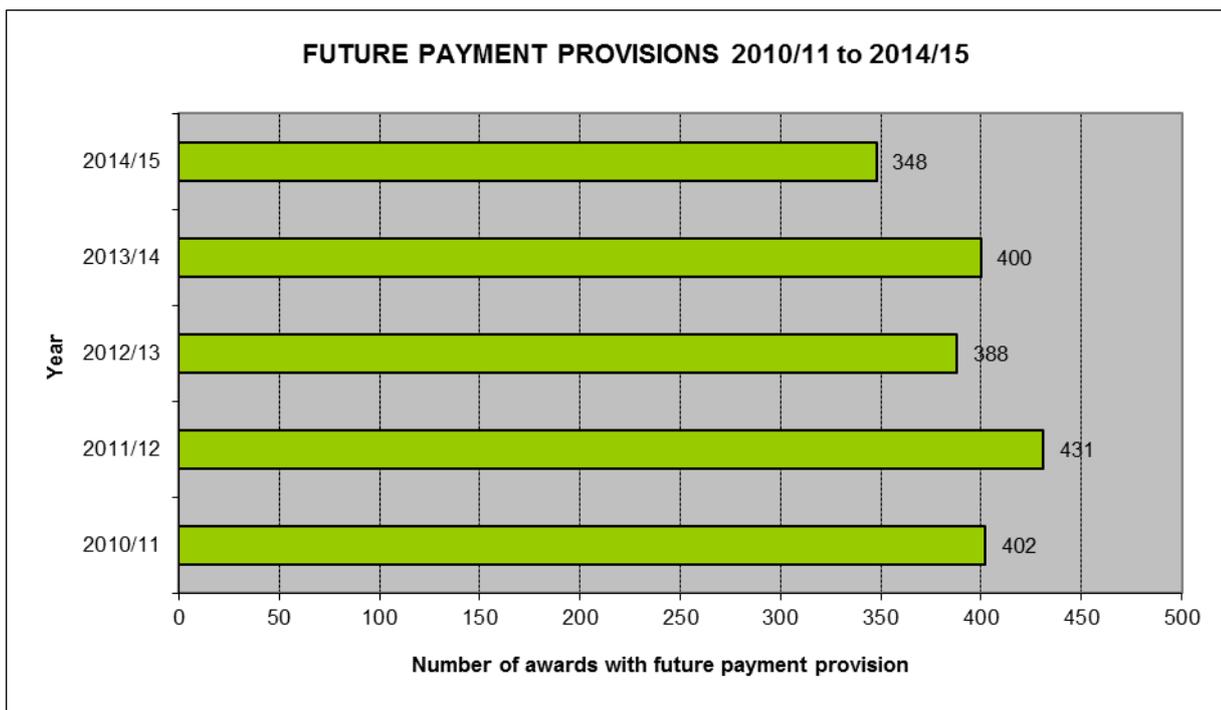
Section 41 of the Act requires that regard be had to “any behaviour, condition, attitude, or disposition of the victim that contributed, directly or indirectly, to the victim’s injury or death”, and allows the award to be refused or the amount of an award to be reduced. Reductions for contributory behaviour, ranging from 10% to 75%, were made in 18 awards during 2014/15. Of these, 7 awards were reduced by 20% or less, 11 awards were reduced by over 20%. In addition, 1 award was refused (see Table above).

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 2014/15 in 348 awards for future payments totalling \$1,245,435 increasing the total provision made under the Act since 1 July 2004 to \$11,303,615. Of this, \$253,175 was paid out in 2014/15 bringing the total paid since the commencement of the Act on 1 July 2004 to \$1,736,349. Pursuant to section 48 of the Act, payment is not made until expenses have been incurred and any available rebate has been claimed. Further, payment may only be made if the expense was incurred before the expiry of 10 years after the date of the award or the date the applicant reached 18 years of age, whichever is the later. The reduction in provision for future treatment expenses (down from 400 in the previous year) arises from recognition by the Assessors that many applicants for whom such provision is made do not incur expenses for treatment after finalisation of the award, especially where provision was made for psychological treatment.

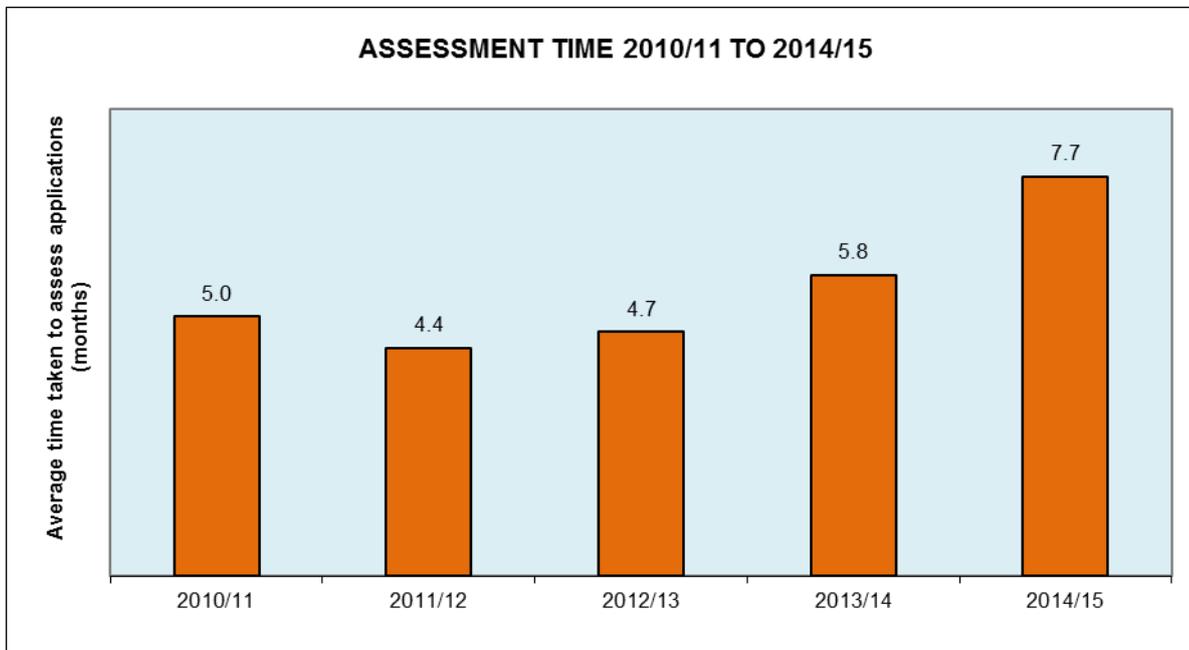


PERFORMANCE MEASURES

	July - Sep 14	Oct - Dec 14	Jan - Mar 15	Apr - Jun 15	Annual
Lodgements accepted	951	435	605	774	2765
New applications	800	678	687	535	2700
Finalisations	368	604	399	686	2057
39 weeks & less	284	401	265	161	1111
39 to 52 weeks	55	143	59	322	579
More than 52 weeks	29	60	75	203	367
Listings matters heard	1	2	2	3	8
Cases on hand	2137	2011	2176	2261	2261
Less than 39 weeks	1749	1596	1564	1530	1530
39 to 52 weeks	168	143	296	390	390
More than 52 weeks	220	272	316	341	341
Applications New & Resub	800	678	660	533	2671
Applications Rejected	174	140	193	180	687
Applications Resubmitted	117	154	112	107	490

ASSESSMENT DELAY

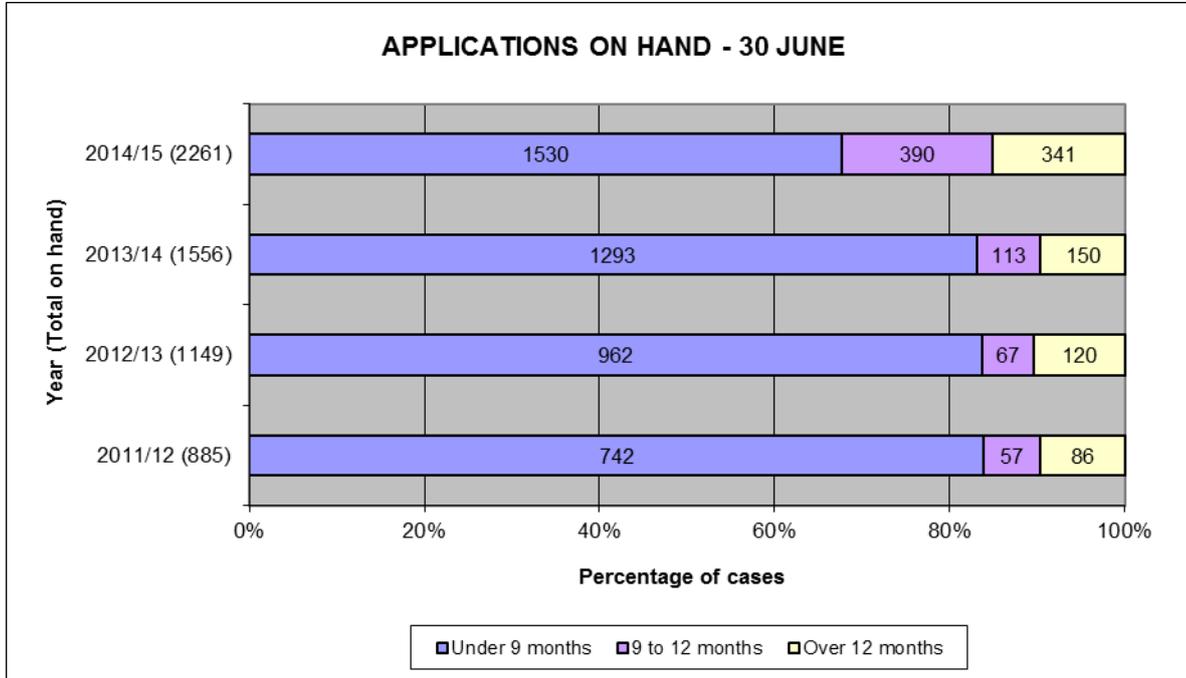
The calculation of the average time taken to finalise an application, referred to as the assessment delay, has been made on the basis of only those applications finalised *in less than 12 months from receipt*. This assumption reflects the likelihood that, in cases which take more than 12 months to finalise, the delay is caused by external factors such as ongoing treatment, finalisation of the prosecution, and resolution of other avenues for compensation. On this basis, the assessment delay during 2014/15 was 7.7 months, an increase from 5.8 months in 2013/14. For the month of June 2015, the assessment delay was 8.9 months, calculated on the assumption set out above.



The assessment delay calculated using *all applications finalised in the financial year* was 8.8 months. Given the volume of applications being received, it is expected that the time taken to finalise applications will continue to increase. The calculation of assessment delay based on files opened under 12 months only may need to be reconsidered in future.

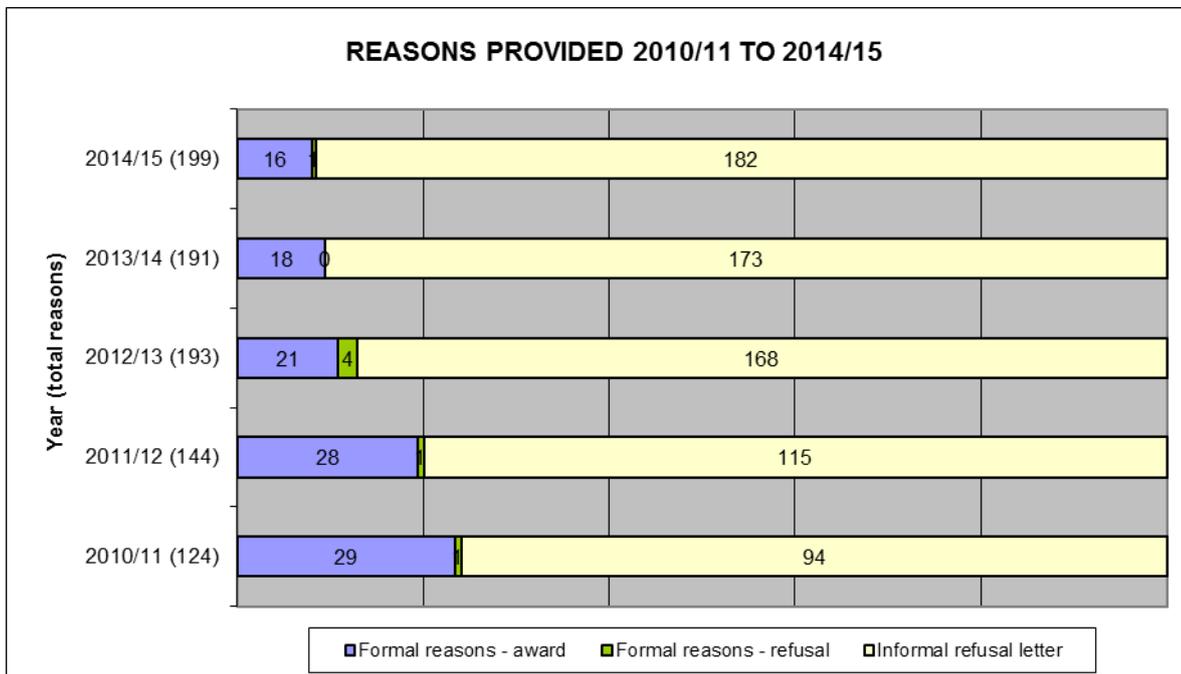
OUTSTANDING APPLICATIONS

On 30 June 2015, 2261 applications were on hand, an increase of 705, or 45%, 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 127%. The proportion of the caseload represented by applications which have been in the Office under 9 months has decreased to 67%. The proportion of cases aged between 9 and 12 months has increased to 17%, and the proportion aged over 12 months has also increased to 15%. The number of files aged less than 9 months increased by 237 to 1530 while the number of files aged over 9 months increased by 468 to 731. These figures demonstrate the impact on the assessment delay of the high volume of applications being received.



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 2014/15, formal reasons for decision were provided in 17 cases and in total reasons were provided in 199 cases, a decrease of 8 over the previous year. The chart below sets out the breakdown of these reasons.

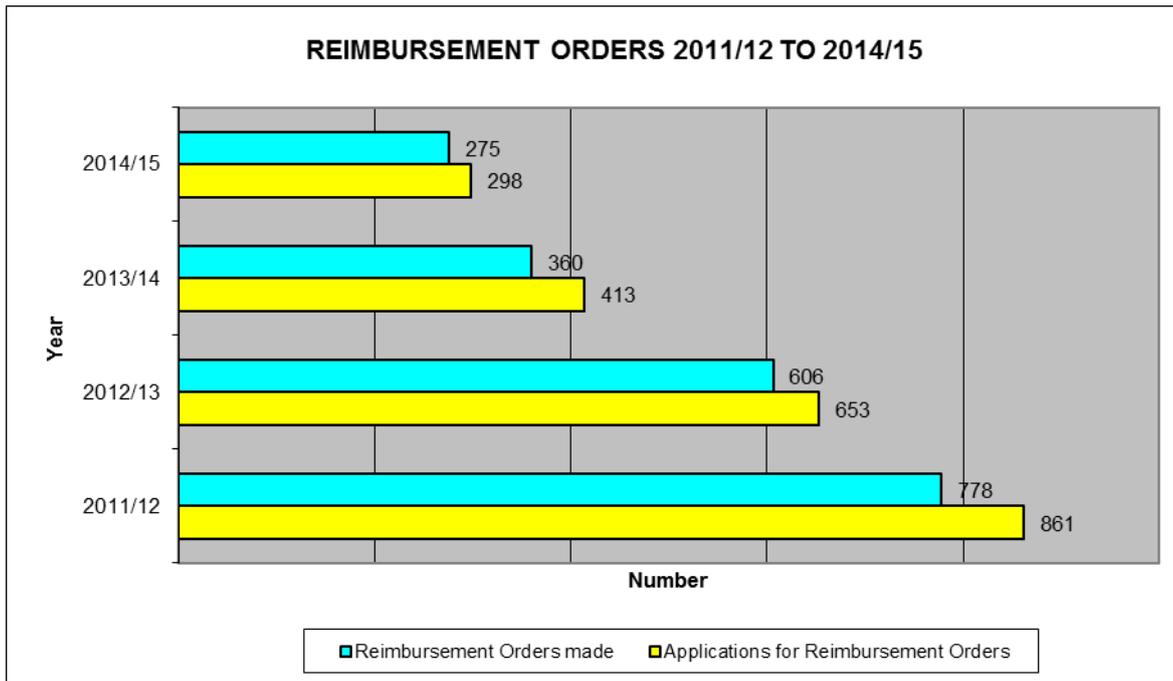


COMMUNITY SERVICE

During the year Assessors have participated in a number of public speaking engagements and education and training opportunities, including seminars at the Murdoch University Law School – SCALES service, the Aboriginal Family Law Service, the Women’s law Centre and Curtin University – John Curtin Institute for Public Police/Graduate School of Business. In addition preparations were made to work with the Citizens Advice Bureau to provide a program to train volunteers to provide assistance in completing applications for compensation.

RECOVERY OF DEBT

A Compensation Reimbursement Order (CRO), which enables the State to take enforcement action 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. The making of a CRO requires an application to be listed before an Assessor with notice to the offender to enable the offender to be heard on the application.



In 2014/15, \$1,716,691 of debt owed to the State was recovered, compared to \$1,742,621 in the previous year. This represents a 1.5% decrease. From 4 June 2013, the number of CRO Hearings listed was reduced from 6 per month to 3 per month. This decision to reduce the time spent on the reimbursement process was taken by the Chief Assessor 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 753 at 30 June 2015.

ACKNOWLEDGEMENTS

As is always the case, the statistics measuring the performance of the Office in 2014-15 reveal the ongoing efforts of all involved in its operation to maintain a high standard of service to the community. All members of staff have continued to produce excellent output in the face of the continued very high workload. On behalf of the community I congratulate and thank each of the officers concerned.

The assistance of the Office of the Commissioner for Victims of Crime in facilitating feedback to the OCIC from community members is gratefully acknowledged.

I also thank the officers of the Courts and Tribunals branch of the Department of the Attorney General who have sought to assist the Office in the face of the increasing workload, and in particular for the steps taken to provide some additional temporary resources.

H L Porter

CHIEF ASSESSOR OF CRIMINAL INJURIES COMPENSATION

13 October 2015