



# **OFFICE OF CRIMINAL INJURIES COMPENSATION**

DEPARTMENT OF THE ATTORNEY GENERAL

WESTERN AUSTRALIA

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**Chief Assessor's Report**  
**2016 / 2017**

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## CRIMINAL INJURIES COMPENSATION

The Honourable John Quigley, MLA  
Attorney General of Western Australia  
10<sup>th</sup> Floor, London House  
216 St Georges Terrace  
PERTH WA 6000

Dear Attorney General

### **STATUTORY REPORT - CRIMINAL INJURIES COMPENSATION 2016/17**

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 2017.

Yours faithfully

A handwritten signature in blue ink, appearing to read 'H L Porter'.

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

25 August 2017

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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, and pregnancy suffered as a consequence of an offence. Compensation is available for pain and suffering, loss of enjoyment of life, loss of income, the cost of reports, some personal items and treatment expenses. The maximum amount payable is \$75,000.00 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). The number of staff has been at this level since June 2009. In that time the case load has increased from 750 applications to 3,313.

## KEY DATA FOR 2017

3,189 new applications for compensation were received.

3,167 applications were accepted for processing, an increase of 15.8%.

2,585 applications were finalised, an increase of 14.3%.

2,279 awards were made to a total value of \$39,777,383.00

The average award was \$17,454.00.

226 applications were refused.

3 hearings were held into applications for compensation.

The caseload increased by 582 to 3,313 applications on hand, an increase of 21.3%.

\$1,778,330.00 of debt owed to the State was recovered, an increase of 4.4%.

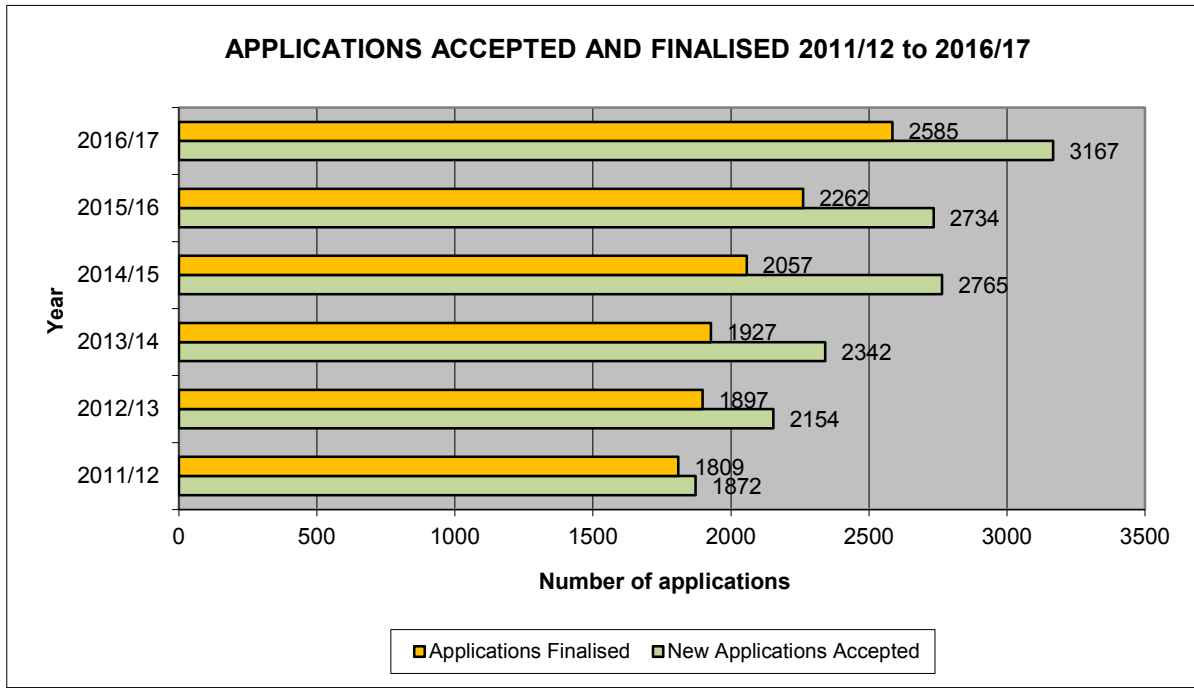
1,308 finalised applications arose from offences involving family and domestic violence, 50.6% of the finalised applications.

## STATISTICAL PROFILE

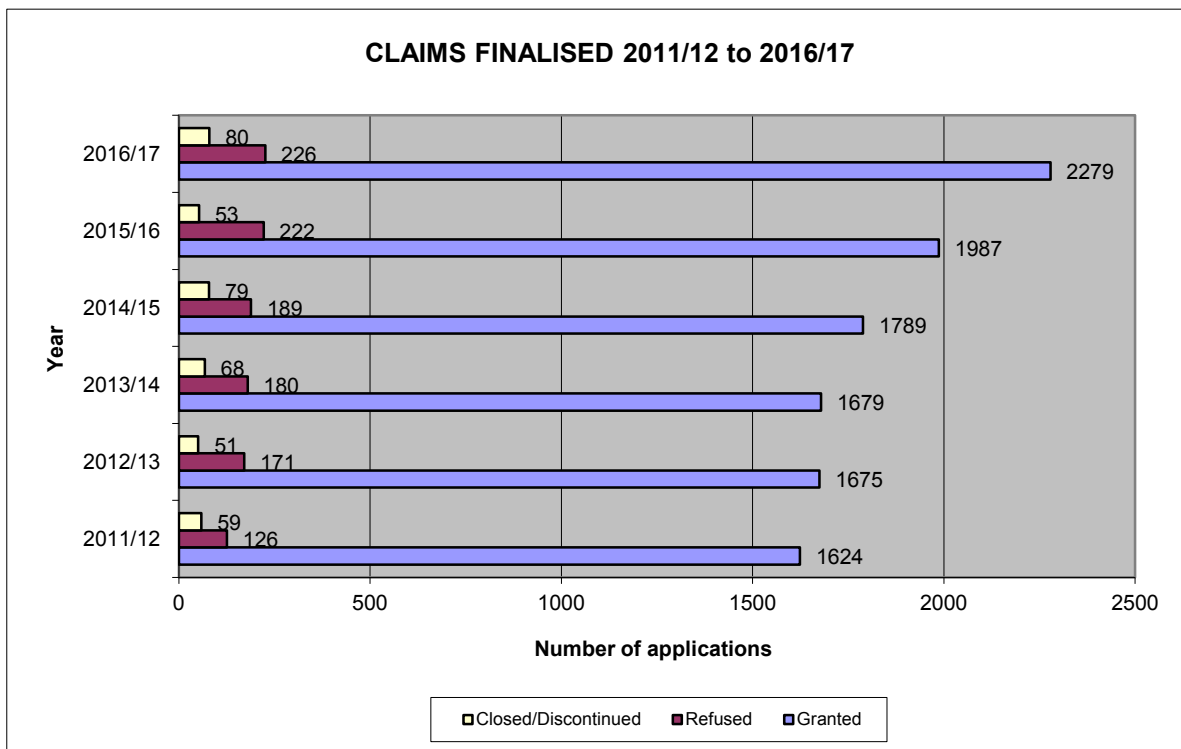
	<u>2012/13</u>	<u>2013/14</u>	<u>2014/15</u>	<u>2015/16</u>	<u>2016/17</u>
New applications received	2180	2391	2700	2769	<b>3189</b>
Accepted applications	2154	2342	2765	2734	<b>3167</b>
Rejected applications	443	694	687	707	<b>762</b>
Resubmitted applications	417	477	490	557	<b>699</b>
Awards granted	1675	1679	1789	1987	<b>2279</b>
Applications refused	171	180	189	222	<b>226</b>
Applications closed or discontinued	51	68	79	53	<b>80</b>
Applications outstanding at 30 June	1149	1556	2261	2731	<b>3313</b>

## NEW APPLICATIONS RECEIVED

During 2016/17, 3,189 new applications were received. On 762 occasions applications were returned to the applicant for further work. Of the applications returned to the applicant, 699 were resubmitted on at least one occasion. As in the preceding year, it can be seen that over the past 5 years the OCIC has managed to increase the output of completed applications, with no increase in staff since June 2009. In 2016, 2,262 applications were finalised, and in 2017, 2,585 were finalised. This increase in output continues to be overtaken by 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. The case load increased this year by 582 applications.

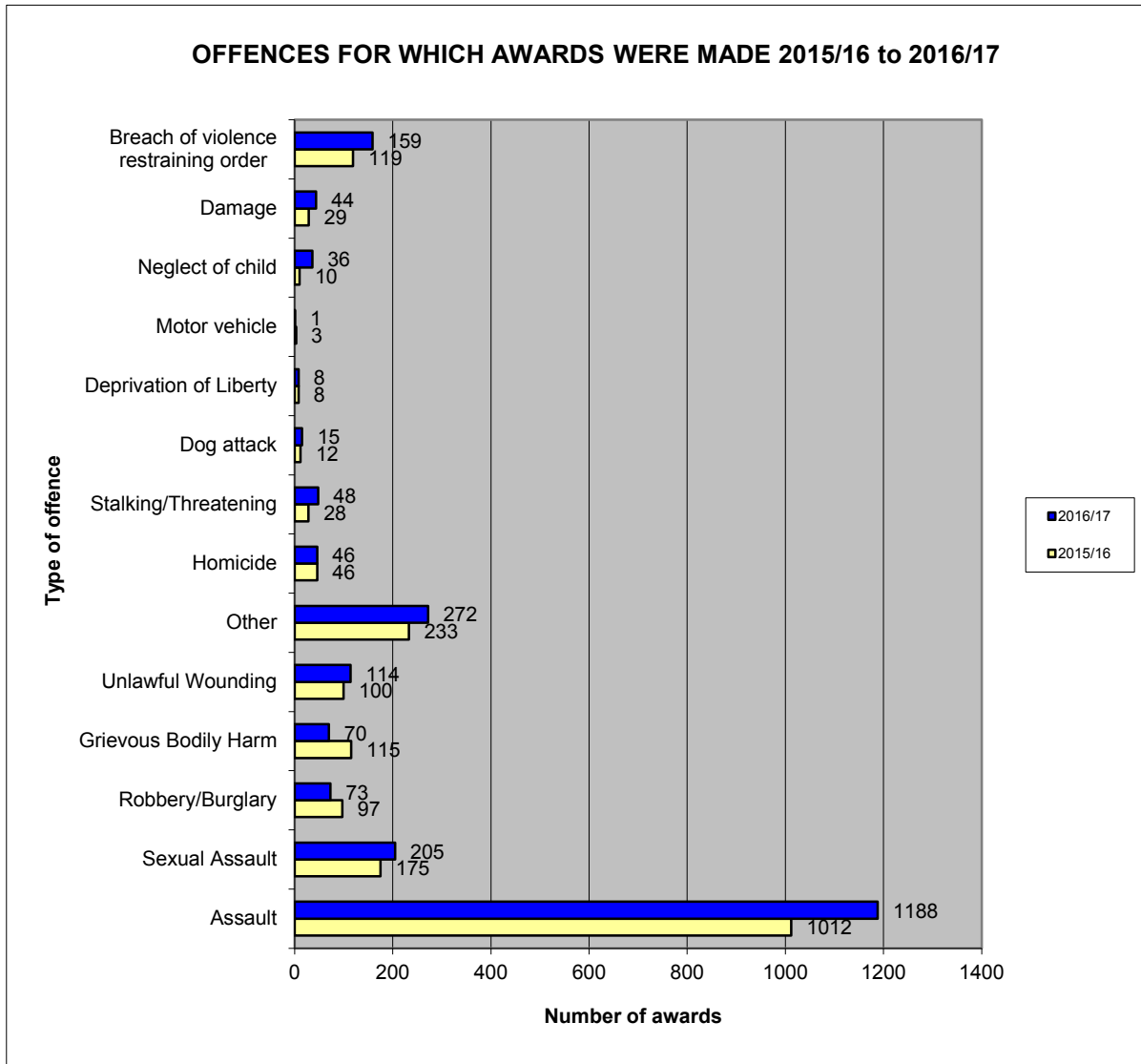


## CLAIMS FINALISED



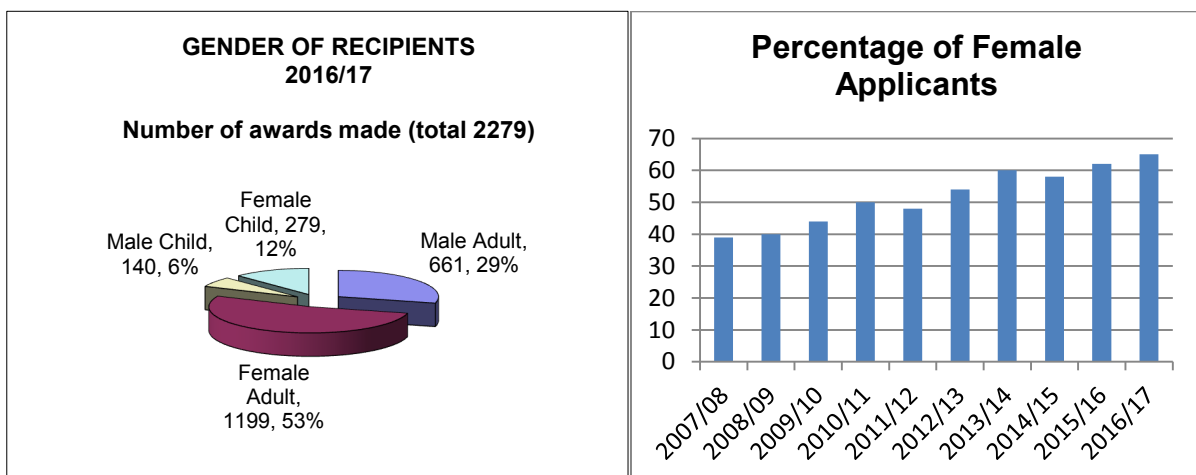
## NATURE OF OFFENCES INVOLVED

The chart below illustrates the types of offences for which awards were made, with a comparison between 2015/16 and 2016/17.



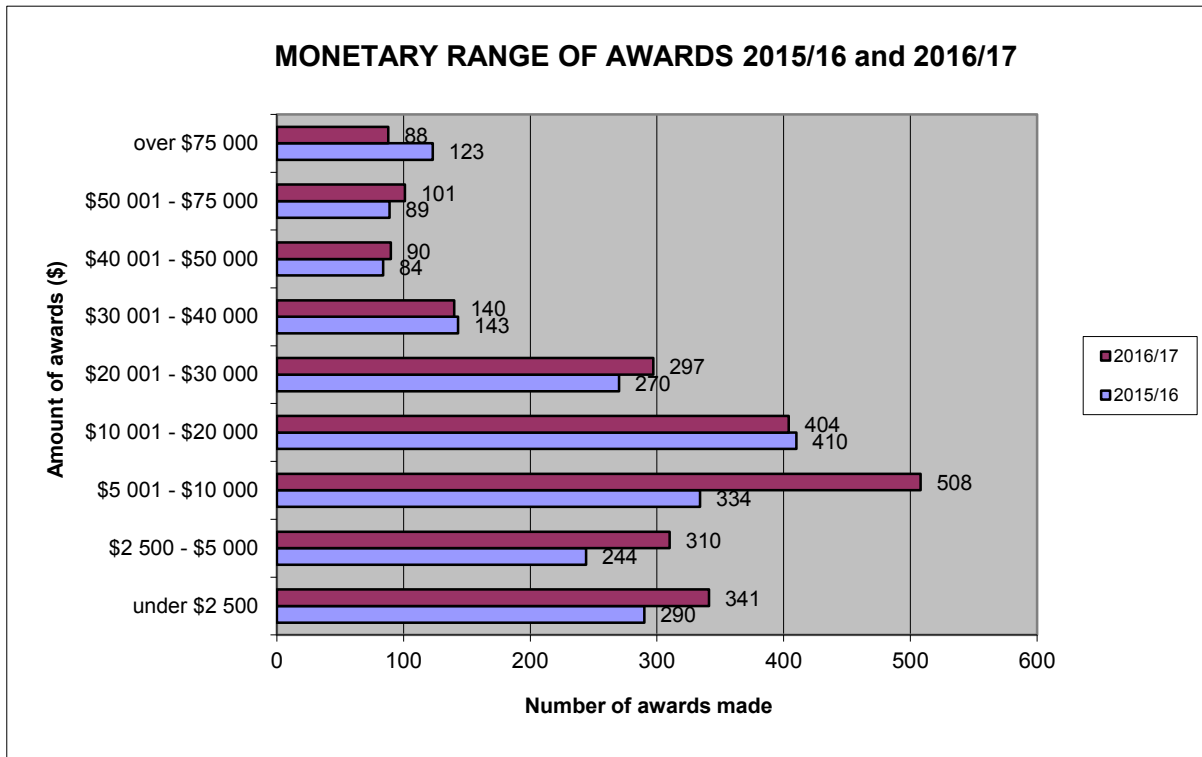
## NUMBER OF MALES & FEMALES TO WHOM AWARDS WERE MADE

The following chart shows the gender of persons to whom awards were made and the number of adults and children involved. Overall, 35% of recipients were male and 65% female. The number of female applicants is the highest recorded and represents a steady increase over the years since 2008 when the percentage of female applicants was 39%.



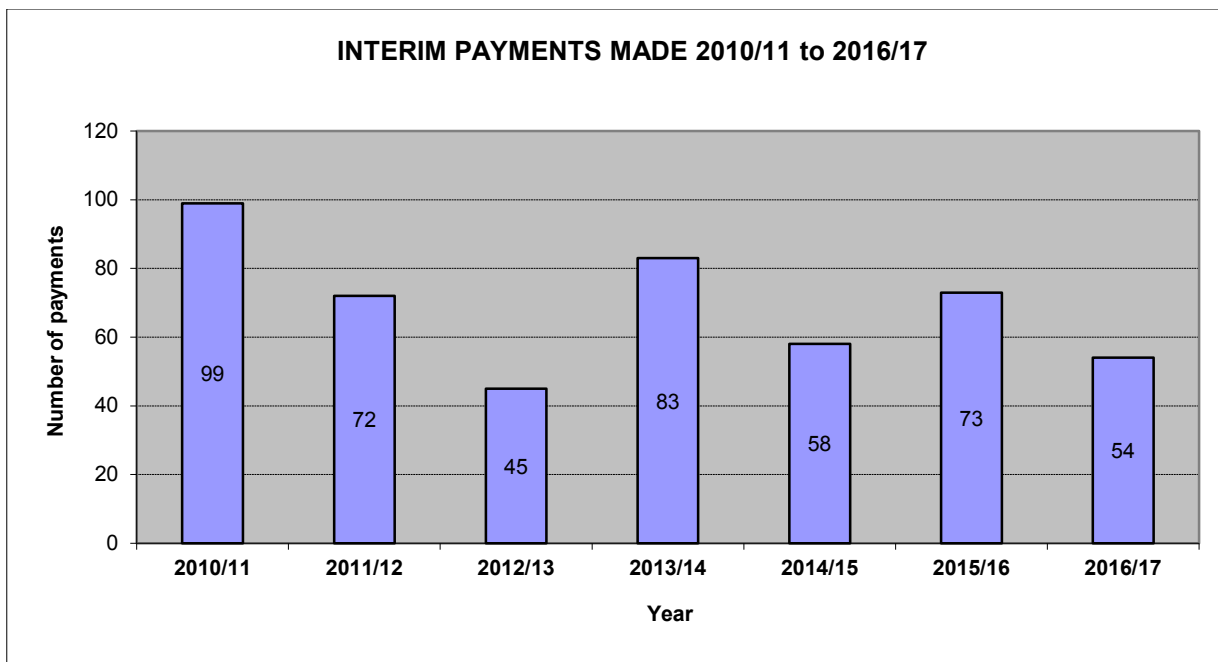
## RANGE OF AWARDS MADE

The chart below illustrates the monetary range of awards made, with a comparison between 2015/16 and 2016/17.

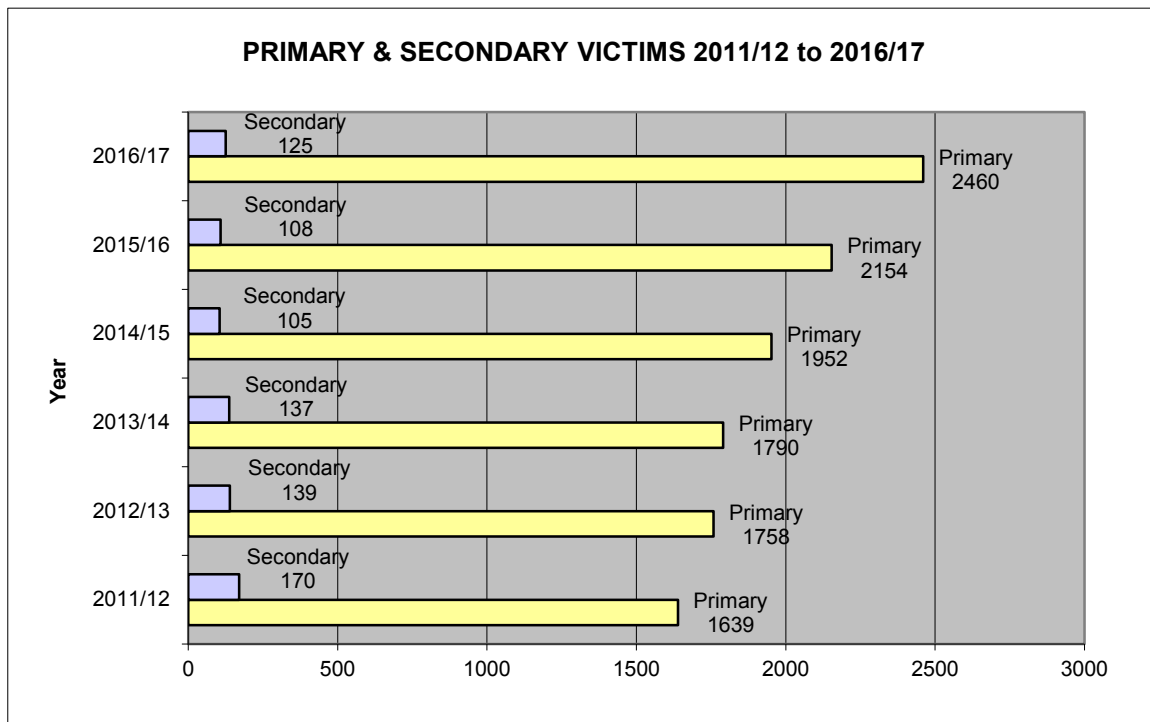


## INTERIM PAYMENTS

An Assessor may authorise an interim or “up front” payment before the finalisation of a claim, to a maximum of \$2,250.00 for expenses incurred as a consequence of a death or injury. The table below shows the number of applicants to whom interim payments were made.

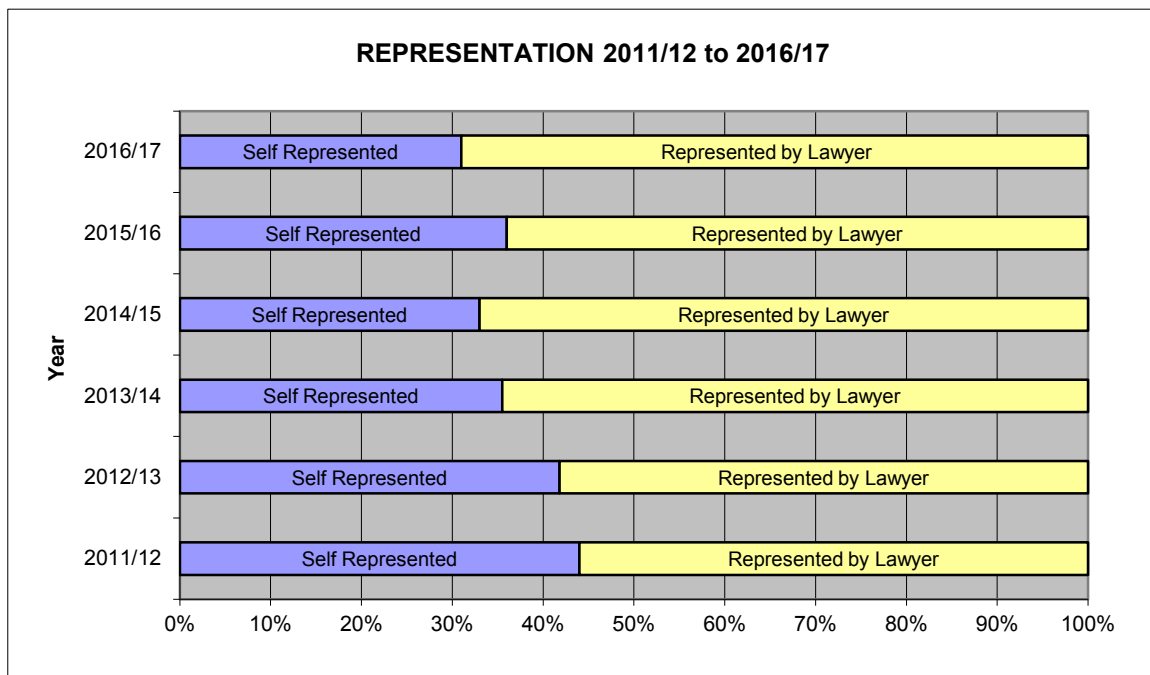


## PRIMARY & SECONDARY VICTIMS



## REPRESENTATION

The last 12 months has seen an increase in the proportion of applicants having legal representation, with 69% of applicants represented compared to 64% in the previous year.



## APPEALS

29 appeals were lodged with the District Court following the determination of a compensation application. 28 appeals were finalised and of these 6 were successful, 5 were unsuccessful, 5 were abandoned and 12 were discontinued.



## REFUSALS

Awards were refused on 224 applications for reasons detailed below. Of these refusals, 104 (46%) relate to matters involving allegations of family and domestic violence.

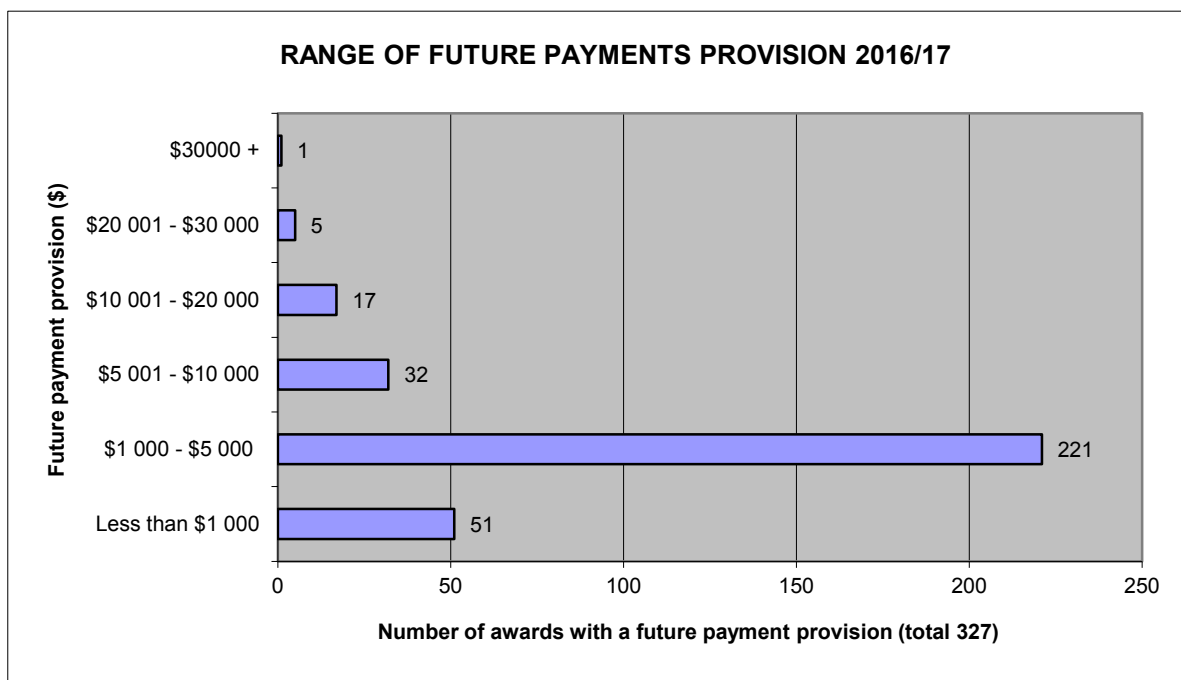
<b>Section of Act</b>	<b>No of Refusals</b>	<b>Family and Domestic Violence Matters Refused</b>	<b>Reason for Refusal</b>
9	23	15	Time expired, extension of time refused
10	4	1	Entitlement ceases on death of victim
12	9	6	Assessor not satisfied applicant injured in the commission of a proved offence
13	21	7	Alleged offender acquitted
16	8	4	Alleged offender acquitted due to unsoundness of mind
17	61	40	Assessor not satisfied applicant injured in the commission of an alleged offence
21	0	0	Applicant required to enforce other remedies
35	9	0	Limitation of compensation for mental and nervous shock
36	0	0	No award if compensation likely to benefit offender
37	4	1	Injury caused by a motor vehicle
38	31	21	Applicant did not assist investigation, apprehension or prosecution of offender
39	26	4	Victim engaged in criminal conduct
40	8	5	Compensation previously awarded or refused
41	4	0	Behaviour etc of victim to be considered
42	16	0	Insurance payment deducted from award

## REDUCTIONS TO AWARDS FOR CONTRIBUTION

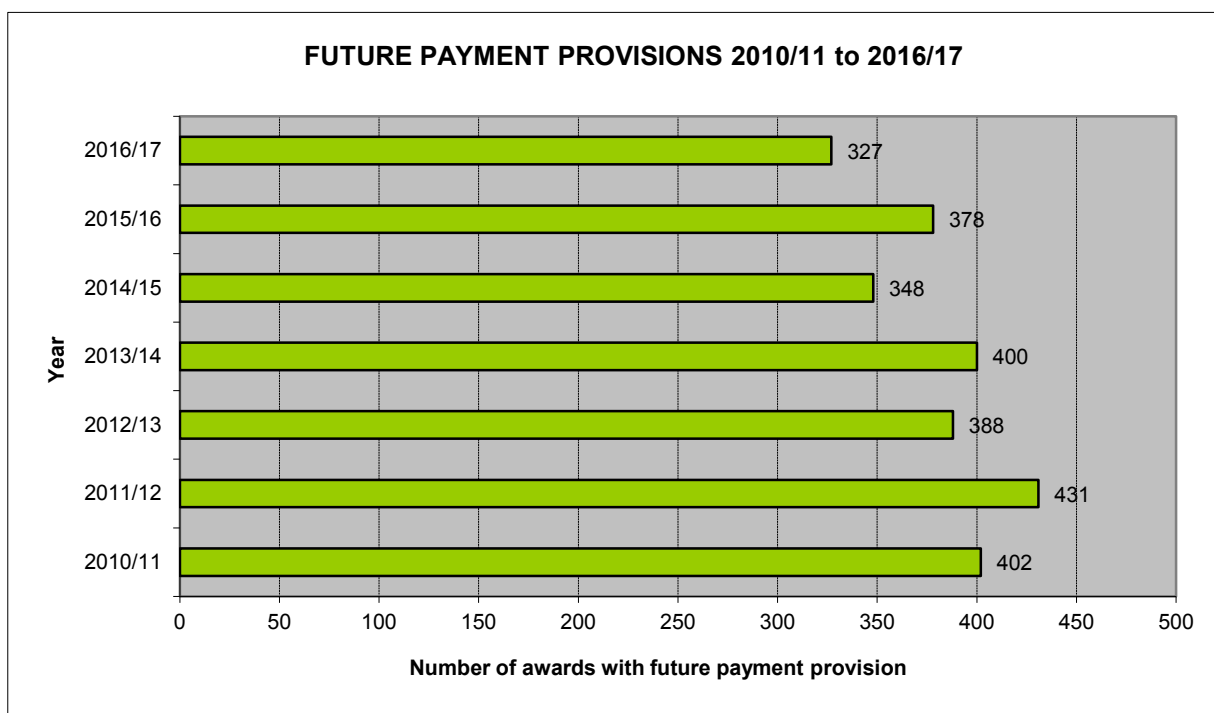
Section 41 of the Act requires that regard be had to “any behaviour, condition, attitude, or disposition of the victim that contributed, directly or indirectly, to the victim’s injury or death”, and authorises the assessor to refuse or reduce the award. Reductions for contributory behaviour, ranging from 10% to 50%, were made in 26 awards during 2016/17. Of these, 20 awards were reduced by 20% or less and 6 awards were reduced by over 20%. No application was refused for contributory behaviour. None of the applications on which a reduction was made for contributory behaviour involved instances of family and domestic violence.

## 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 within 10 years of finalisation of the application.



In 2016/17 provision was made in 327 awards for future treatment expenses totalling \$1,227,782.00. increasing the total provision made under the Act since 1 July 2004 to \$14,019,535.00. Of this, \$234,971.00 was paid out in 2016/17 bringing the total paid since the commencement of the Act on 1 July 2004 to \$2,314,598.00. 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 after the date the applicant reached 18 years of age, whichever is the later.



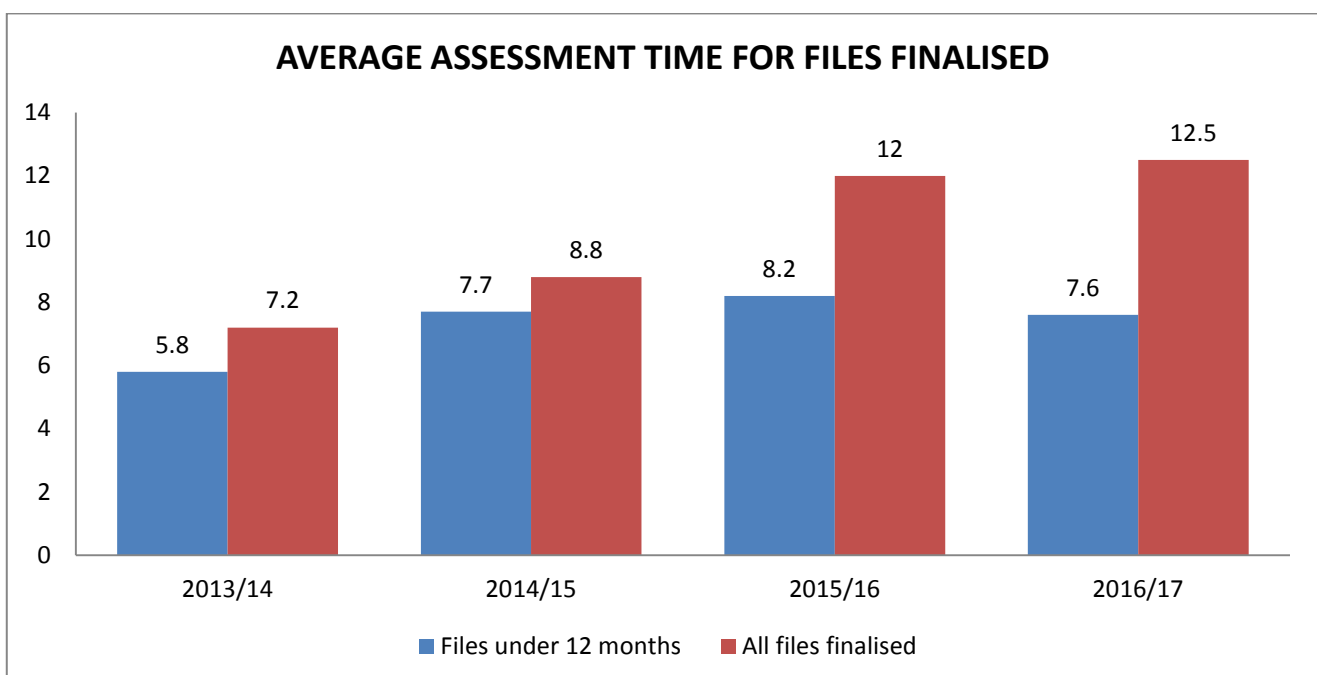
## PERFORMANCE MEASURES

The Table below represents the quarterly and end of year statistics reported to the Department of Justice.

	July - Sep 16	Oct - Dec 16	Jan - Mar 17	Apr - Jun 17	Annual
Lodgements accepted	442	856	821	1048	3167
New applications	482	616	760	632	2490
<b>Finalisations</b>	<b>652</b>	<b>768</b>	<b>651</b>	<b>514</b>	<b>2585</b>
39 weeks & less	214	281	188	163	846
39 to 52 weeks	135	208	132	92	567
More than 52 weeks	303	279	331	259	1172
Listings matters heard	2	0	0	1	3
<b>Cases on hand</b>	<b>2520</b>	<b>2609</b>	<b>2777</b>	<b>3313</b>	<b>3313</b>
Less than 39 weeks	1502	1635	1843	2320	2320
39 to 52 weeks	440	330	373	322	322
More than 52 weeks	578	644	561	671	671
Applications New & Resub	621	775	936	857	3189
Applications Rejected	156	147	276	183	762
Applications Resubmitted	139	159	176	225	699

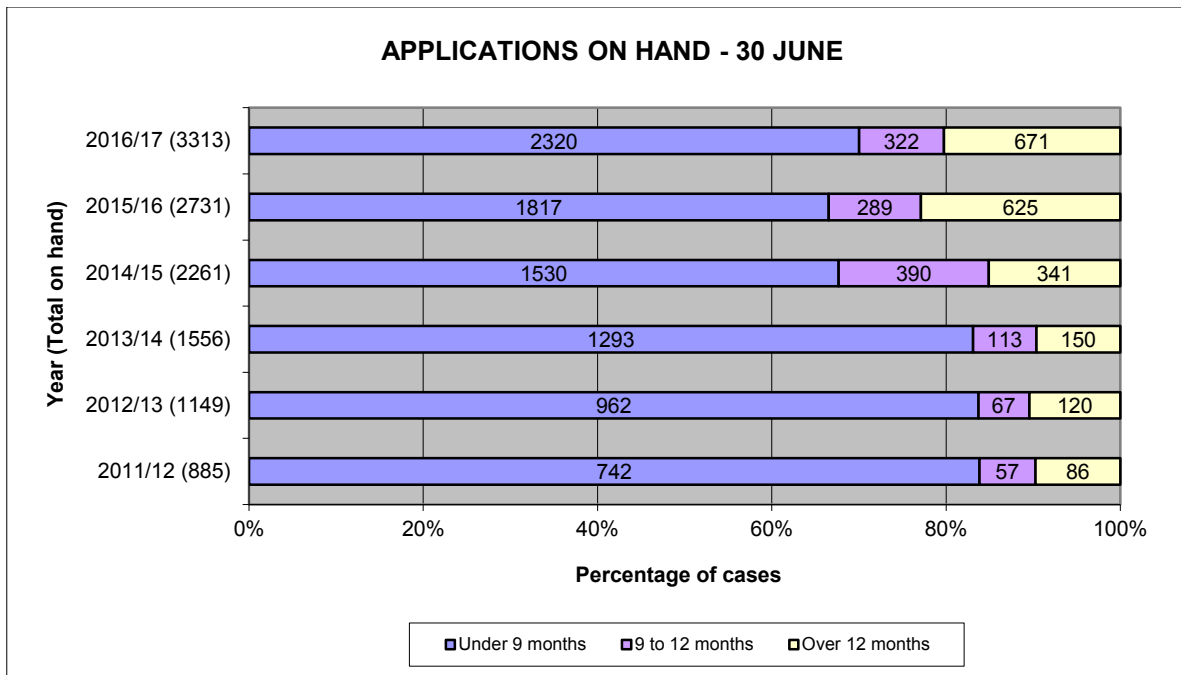
## ASSESSMENT TIME

The calculation of the average time taken to finalise an application has in the past been made on the basis of only those applications finalised *in less than 12 months from receipt*. This assumption reflected 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 time during 2016/17 was 7.6 months, a decrease from 8.2 months in 2015/16. However, the assessment time over *all applications finalised in the financial year* was 12.5 months. The table below compares the assessment time of applications determined in less than 12 months for the years 2013/14 to 2016/17, with *all applications* determined in those years. The increased time taken to finalise applications is now significantly contributed to by the volume of the work of the Office.



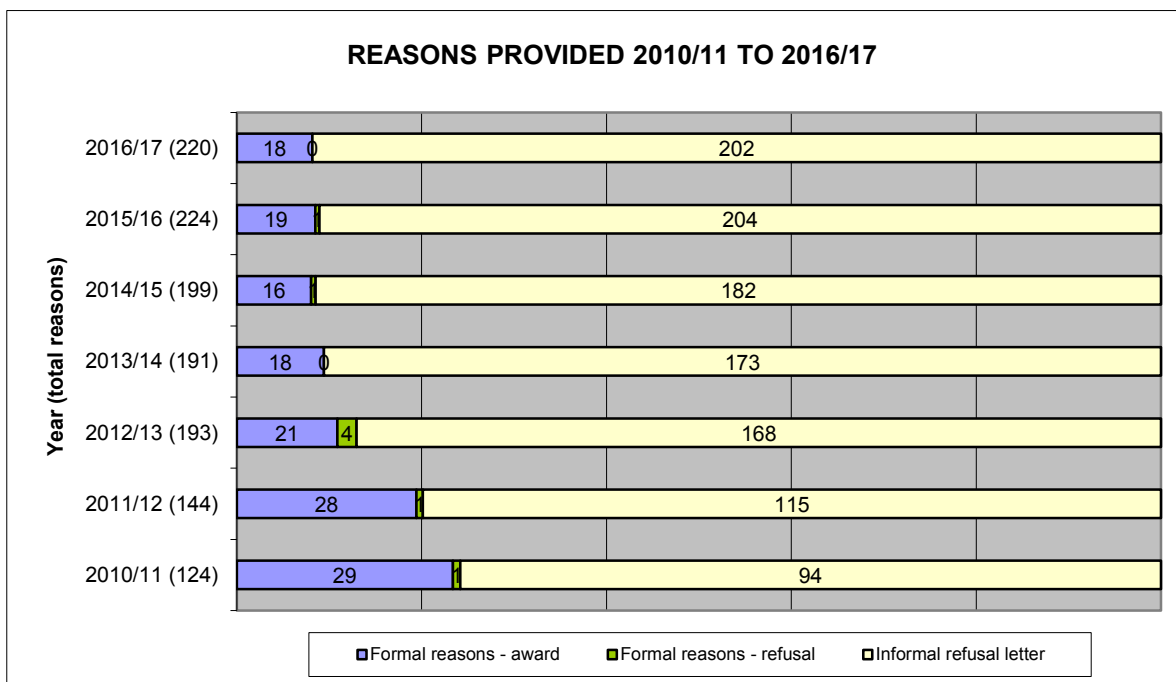
## OUTSTANDING APPLICATIONS

On 30 June 2017, 3,313 applications were on hand, an increase of 582, or 21.3%, over the preceding 12 months. The breakdown of the age of the cases on hand in the table below shows that the number of applications which have been in the Office for more than 12 months has increased by 7.4%.



## 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 2016/17, formal reasons for decision were provided in 18 cases and in total reasons were provided in 220 cases, a decrease of 4 over the previous year. The chart below sets out the breakdown of these reasons.



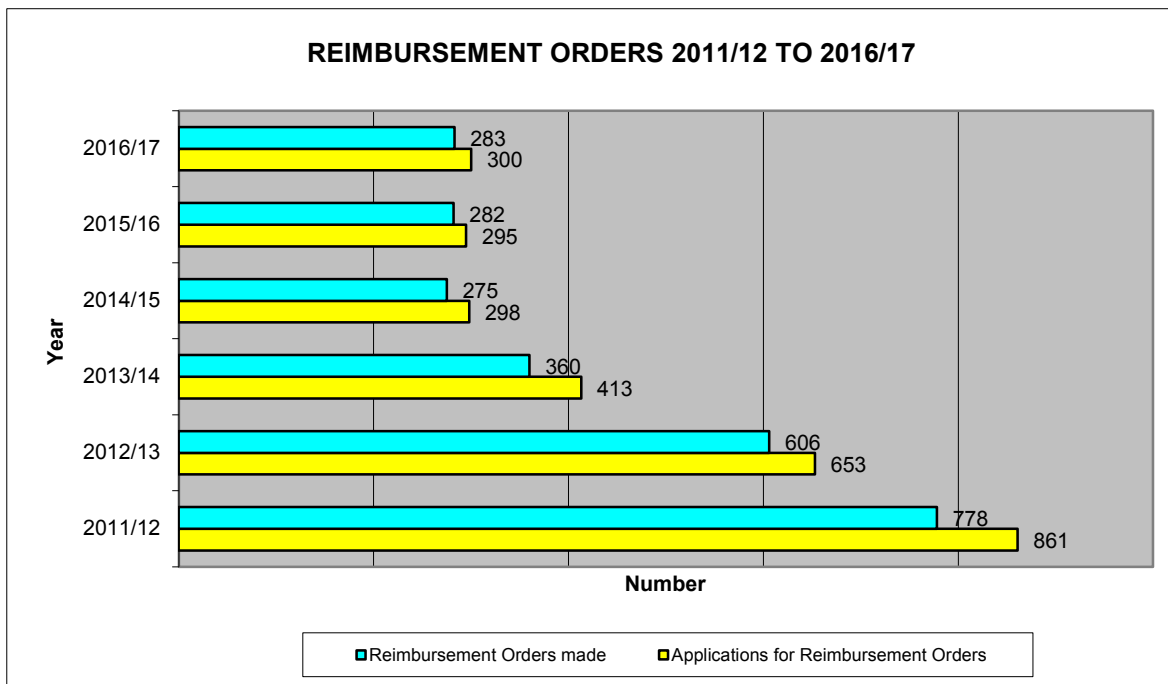
## COMMUNITY SERVICE

During the year Assessors have participated in a number of public speaking engagements and education and training opportunities, including at the John Curtin Institute of Public Policy, Curtin University, the Australian Lawyers Alliance Conference, the Aboriginal Family Law Service CLE day, Community Legal Services' Quarterly CLE day, the SCALES Community Legal Centre seminar series and the ANZAPPL seminar series. In addition the OCIC continues to provide opportunities for Murdoch University Law Students to complete research work to contribute to their degree program.

## RECOVERY OF DEBT

When a compensation award is made in a case where an offender was convicted, the State may apply to an Assessor for a Compensation Reimbursement Order (CRO) to determine whether the offender should be required to repay the amount awarded, to fix the amount of the debt and in an appropriate case to provide for the method of repayment of the debt to the State. The application is listed before the Assessor and the offender must be served with a notice advising of the date, time and purpose of the application. The State's opportunity to take action to recover compensation paid to a victim of crime from the convicted offender depends on the determination of the Assessor of the appropriate amount of recovery, taking into account all of the circumstances. Issues which are relevant to this determination include, for example, the offender's assets, the impact on the offender's earning capacity of a period of imprisonment and issues relating to the offence itself. Under the Act, there is no recoverable debt until a CRO is made, although some offenders voluntarily make payment on demand under the Act without the requirement of a CRO.

The Table below represents the number of applications for a CRO brought before an Assessor in each of the years listed, and the number of orders made. The number of applications has been reduced over the period because of the demand on the Assessors' time brought about by the increasing caseload, but has been stable for the last three years.



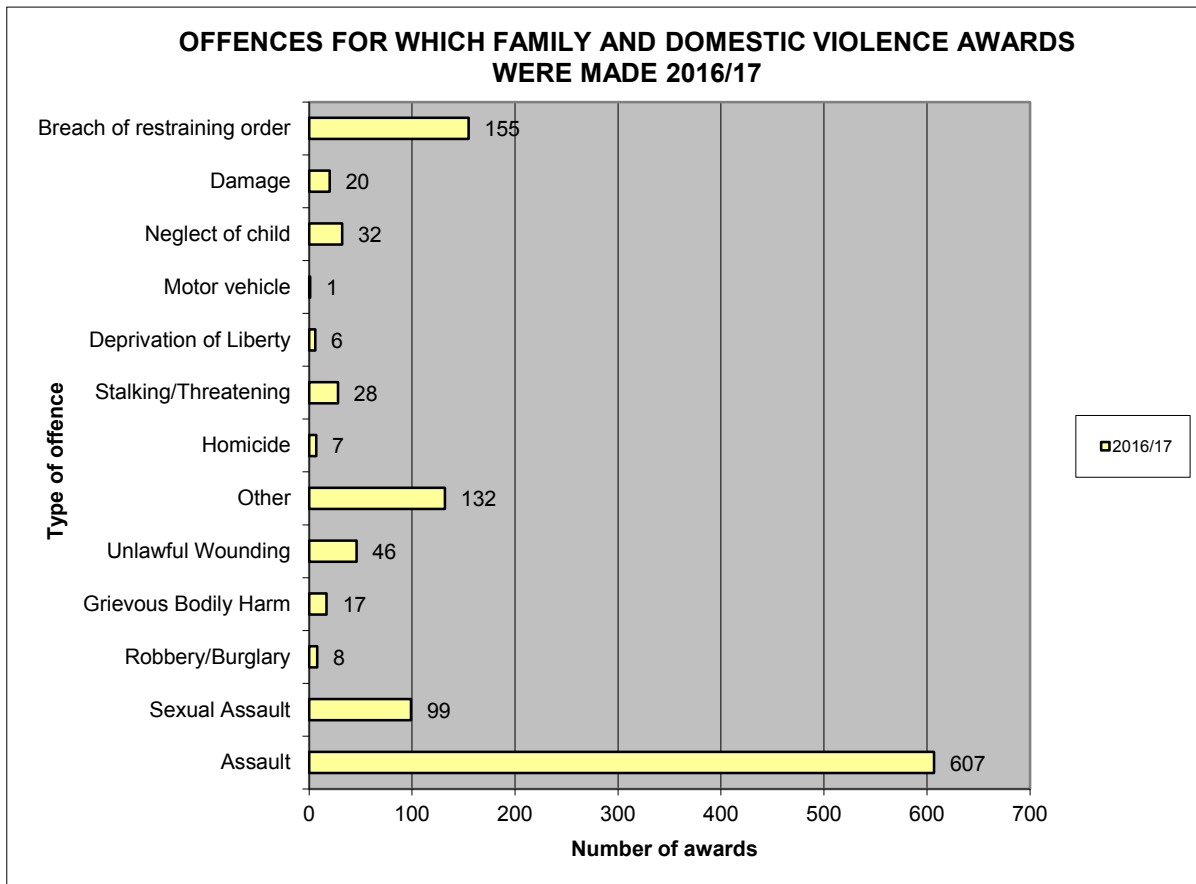
In 2016/17, \$1,778,330.00 of debt owed to the State was recovered, compared to \$1,702,640.00 in the previous year. This represents a 4.4% increase in the amount recovered, notwithstanding the maintenance of the restrictions on the number of hearings which are available to the recoveries team to facilitate the debt collection work, and the fact that some Recoveries Office staff were diverted during the year to assist in processing the large volume of applications for compensation. The amount represents a net gain to the State over the cost of administering the recoveries process.

# FAMILY AND DOMESTIC VIOLENCE

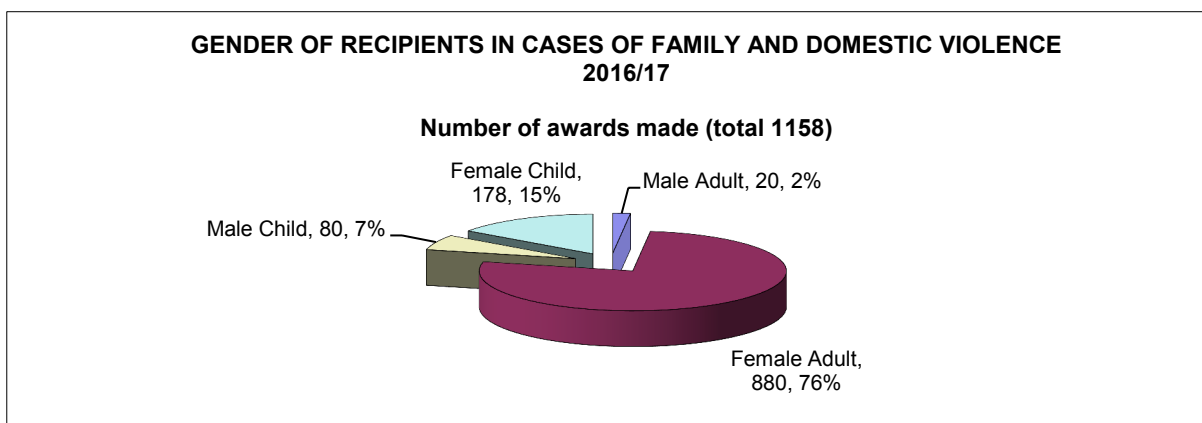
As a result of the recommendations of the Law Reform Commission of Western Australia in the Final Report on Enhancing Laws Concerning Family and Domestic Violence, June 2014, the OCIC began collecting data concerning applications arising from allegations of family and domestic violence. The data below relates to the 1,308 applications finalised this year involving family and domestic violence.

## NATURE OF OFFENCES INVOLVED

The chart below illustrates the types of offences for which awards were made during 2016/17 for offences committed in the context of family and domestic violence.



In the previous year, 982 applications were finalised for incidents of family and domestic violence. The number of finalised applications relating to incidents of family and domestic violence in the current year represents a 33.2% increase over the previous year. Of the 1,308 applications finalised, 1,262 were brought by the primary victim, and 46 by a secondary victim such as a child of the primary victim who witnessed the incident. Applications were refused in cases involving family and domestic violence in 104 cases, of which 103 claimed to be primary victims and 1 secondary victim.



## **ACKNOWLEDGEMENTS**

The statistics measuring the performance of the OCIC in 2016-17 reveal a continued increase in the caseload and consequently an increase in the pressure placed on all staff to meet the needs and expectations of the community. In addition to the case load impacting on all officers, work has been done by all staff during the year on the development and implementation of the Integrated Courts Management System (ICMS). It is to be hoped that ICMS, when fully developed and applied to the OCIC, will assist staff to cope with the demands of the workload and consequently assist the community in providing more timely outcomes for criminal injuries compensation applications.

All members of staff have continued to produce excellent output in the face of the continued very high workload, and have joined in the ICMS development work with enthusiasm and commitment. On behalf of the community I congratulate and thank each of the officers concerned.



**H L Porter**

**CHIEF ASSESSOR OF CRIMINAL INJURIES COMPENSATION**

25 August 2017