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COMPENSATION LAWYERS



Child vs adult abuse compensation: key differences explained

Date: Sunday May 4, 2025

In Australia, survivors of abuse, whether as a child or as an adult, can seek compensation through civil legal processes (a common law claim). But the laws that apply and the challenges survivors face will differ depending on when the abuse occurred.

This article explains some of the more important differences between compensation claims for child sexual abuse and adult sexual abuse, including applicable time limits, liability/evidentiary issues, and the available legal pathways. Whether you're a survivor or supporting/assisting someone who is, understanding these differences will help guide your next steps.

Abuse compensation in Australia: the basics

Abuse compensation refers to civil claims for damages brought by survivors of sexual, serious physical and/or psychological abuse. These claims can be made against:

- the individual abuser (if known and alive);
- an institution or organisation responsible for the abuser (such as a school, church, or community body);
- a government body (in cases of state care or detention).

Both child and adult survivors may be entitled to compensation for:

pain and suffering;

psychological/serious physical trauma;

past and future medical costs;

loss of income or future earning capacity;

the cost of care and support (in certain circumstances).

However, the legal processes and potential barriers can vary significantly depending on the age of the survivor at the time of the relevant abuse.

Time limits: a major difference for adults vs children

For survivors of child abuse

In all Australian states and territories, time limits (known as limitation periods) for bringing child sexual abuse claims have been completely removed. This means survivors of child abuse can generally bring a civil claim at any time, sometimes decades after the abuse occurred.

This change came about following the report of the Royal Commission into Institutional Responses to Child Sex Abuse, and recognised the long-lasting impact of childhood trauma and how long it can take for survivors to feel ready to take legal action.

For survivors of adult abuse

In contrast, survivors of abuse that occurred in adulthood still face strict limitation periods. These vary by state but are commonly 3 years from the date of the abuse.

Some adult survivors may be able to apply for an extension of time, but this is not guaranteed and often involves a complex court application.

Proving the case: legal challenges differ

Child abuse claims

Courts generally recognise the unique difficulties faced by survivors of childhood abuse, in particular in relation to gathering evidence. Courts now recognise that appropriate allowances should be made for:

delays in reporting the abuse;

lack of physical evidence;

the survivor's young age at the time.

In many cases, institutions are now required to nominate a proper defendant under "Ellis defence" reforms. These reforms were introduced after legal loopholes previously allowed some institutions to avoid liability.

You may also find our earlier blog, "Child sexual abuse claims with limited evidence or witnesses", interesting.

Adult abuse claims

For adult survivors, the courts may expect more immediate action and clearer evidence. Judges will typically scrutinise whether the survivor understood what was happening at the time.

Institutional responsibility and the concept of "vicarious liability"

Child abuse claims

Child abuse claims often involve institutions such as:

schools;

churches;

sporting clubs/community organisations;

foster care agencies.

These organisations may be held vicariously liable (legally responsible) for the actions of employees. Changes to the laws in most states/territories of Australia have made it easier to sue these institutions by:

making them responsible even if the abuser is deceased or unidentified

requiring them to prove they took reasonable steps to prevent abuse

Adult abuse claims

In adult abuse cases, vicarious liability will be less clear. For example:

If the abuser was not in a position of power or authority over the survivor

If the relationship between the abuser and the survivor was outside a formal employment setting. This is a very complex area of law, and careful consideration will need to be given to all relevant facts/circumstances of the alleged abuse.

Access to the National Redress Scheme

The National Redress Scheme is only available to people who were:

sexually abused as children; and

involved with a participating institution (e.g. religious groups, schools, government care).

This means survivors of adult abuse are not eligible for redress under this scheme. Their only legal option is a claim for compensation through civil court action.

You can read about the differences between a civil claim and redress compensation in our earlier blog, "Common law claims vs the National Redress Scheme for survivors of child sexual abuse".

Support needs may differ too

While both groups need trauma-informed legal and psychological support, the long-term effects and support needs can vary:

Childhood abuse often impacts emotional development, education, relationships, and long-term mental health and consequential impact upon the survivor's life trajectory (including what might have been their pre-abuse career goals/aspirations).

Adult abuse can result in sudden life disruptions, job loss, depression, and anxiety, but often affects those with pre-existing life structures in place.

Both groups deserve specialist support from legal, counselling, and healthcare professionals.

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Key differences at a glance

Aspect	Child abuse claims	Adult abuse claims
Time limits	No limitation periods in most cases	Limitation periods still apply
Evidence requirements	Usually more flexible due to age and trauma	Often stricter, depending on the delay and capacity
Institutional liability	Easier to establish, especially after reforms	May not be available, or may be harder to prove/establish, depending on circumstances
Access to Redress Scheme	Eligible (if the institution participated)	Not eligible
Legal perception	Courts are generally more accommodating	More focus on timing and the survivor's actions

Key takeaways

Child abuse survivors are now able to benefit from stronger legal protections and no time limits (no limitation periods to apply) to bring a claim.

Adult abuse survivors still face legal time limits and more stringent evidentiary requirements.

Institutions are more likely to be held responsible in child abuse cases.

Only child abuse survivors can access the National Redress Scheme.

Specialist legal advice is essential for both types of claims.

Get help from an abuse compensation lawyer

Whether the abuse occurred in childhood or adulthood, you don’t have to go through the process alone. An experienced lawyer can help explain your rights, advise on time limits, and support you through each step with care and confidentiality. The legal system can be complex, but with the right support, survivors can pursue justice and secure the compensation they deserve.

This article is of a general nature and should not be relied upon as legal advice. If you require further information, advice or assistance for your specific circumstances, please contact us.