



Abuse claims in paid childcare: your legal rights

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When parents place their children in paid childcare, they expect a safe and nurturing environment. Unfortunately, in rare but serious cases, abuse can occur at the hands of those entrusted to care for children. In Australia, survivors of abuse in paid childcare services have legal rights and may be entitled to seek compensation.

This article explains the legal process for making [abuse compensation claims](#) in the context of paid childcare. We outline what is considered “abuse”, who can be held responsible, and what steps are involved in seeking compensation.

What is considered abuse in childcare?

In legal terms, abuse can take many forms. In the context of paid childcare services, this includes:

Physical abuse – such as hitting, slapping or rough handling

Sexual abuse – including any unwanted sexual contact or exposure

Emotional or psychological abuse – such as verbal threats, humiliation or intimidation

Neglect – failing to meet a child's basic needs, including food, hygiene or supervision

Abuse can be carried out by employees of the childcare provider, volunteers (including parents of other children), or in some cases, other children (when staff failed to intervene).

Who can make an abuse compensation claim?

Compensation claims are usually made by:

The **child's parent or legal guardian** on behalf of the child;

The **survivors themselves**, once they reach adulthood;

In some cases, a **legal representative or advocate**.

Even if the abuse happened many years ago, survivors may still be eligible to claim. In Australia, all states and territory governments enacted legislation to **remove limitation periods** for child abuse compensation claims, meaning there is no time limit to start legal proceedings.

Can a childcare provider be held responsible for the actions of employees?

Yes. Childcare providers will, in most instances, be legally liable for the actions of their employees or for failing to take reasonable steps to prevent harm to children in their care. This includes:

Failing to screen or adequately train staff;

Not supervising children appropriately;

Ignoring or mishandling complaints or signs of abuse.

How to make an abuse compensation claim

Making a claim can feel overwhelming, and you should always get an experienced compensation lawyer to handle the case for you, but having a good understanding of the process can be helpful when considering your legal options at the outset.

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Here's a step-by-step overview for claiming abuse compensation:

Seek legal advice

As noted, speaking to a lawyer experienced in abuse compensation is a critical first step. They can assess your situation, explain your options, and support you through the process. We can certainly provide this to you at no charge.

Gather evidence

Evidence will typically include:

Medical or psychological records;

- [Witness statements](#) (if applicable);

Reports made to police or childcare regulators (if applicable);

Internal childcare centre records or staff files.

Your lawyer will help obtain and compile this information on your behalf.

Lodge a claim

Depending on the circumstances, your claim may be:

A **civil claim** (common law claim) against the childcare provider;

A **National Redress Scheme claim** if the provider has registered with the National Redress Scheme (though many are not).

You can learn more about the differences between these claims in our earlier blog, [“Common law claims vs the National Redress Scheme for survivors of child sexual abuse”](#).

Negotiate or go to court

Most claims are resolved through settlement, but if an agreement can't be reached, it may

proceed to court. Your lawyer will represent you and guide you through each step.

What compensation can be claimed in a civil common law claim?

Compensation aims to help survivors recover and rebuild. It may cover:

Pain and suffering resulting from injuries sustained, whether physical or psychological or both;

Medical and rehabilitation costs;

Loss of income both past and into the future;

Care or support needs.

The amount to be claimed will depend on the impact the abuse has had on the survivor's life.

Do I have to report the abuse to police?

While reporting abuse to police is strongly encouraged, it is not strictly required to make a civil compensation claim. Many people choose not to report abuse for personal reasons. However, any police or regulatory reports can be helpful in any subsequent compensation case.

What if the abuser has left the childcare centre?

A claim can still be made, even if:

the abuser no longer works at the centre;

the business has changed ownership;

the abuse happened many years ago.

The focus of a civil claim is often on the organisation, even more than on the individual. There are somewhat complex legal reasons for this, but suffice to say, the organisation will usually have a better capacity to pay any damages/compensation.

How long does the process take?

The timeframe depends on several factors, including how complex the case is and whether the claim settles out of court. On average, claims may take **12 to 24 months to resolve**, but some may be quicker if settled early.

Key takeaways

Abuse in paid childcare can include physical, sexual, emotional abuse or neglect.

Survivors can seek compensation, usually with no time limits to apply.

The childcare provider itself will usually be held liable for any failure in their duty of care.

Civil claims can be made through court action or negotiated settlement processes.

You will need an experienced abuse compensation lawyer to guide you through the process and ensure your rights are protected

Get help from an abuse compensation lawyer

If you or someone you care about has been affected by abuse in a paid childcare setting, seeking early legal advice can make a big difference. A lawyer experienced in child abuse claims can help you understand your rights and take the next steps without pressure or judgment. Confidential, caring support is available throughout the process.

At Cameron Hall Compensation Lawyers, your first consultation is free, and we run cases on a “no win, no fee” basis. So, it costs you nothing to find out where you stand.

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.