

Herald Sun

SNOOZE YOU LOSE

Sleeping burglary targets denied victim compensation

Lawyers argue courts ignoring psychological impact of crimes

VICTIMS whose homes are violated by intruders and ransacked while they sleep are being denied crime compensation.

Dozens of sleeping victims a year have cases rejected at the Victims of Crime Assistance Tribunal — with court officials finding they are not as traumatised as those who are robbed while awake.

Yet more crooks are drawn to breaking into homes at night and stealing car keys when owners

EXCLUSIVE MARK BUTTLER

are more likely to be asleep in bed.

There is mounting frustration in legal circles about what has been branded a lack of consistency in decisions by VOCAT in handling cases where thieves strike as the home's occupants sleep.

A five-year-old Broadmeadows Magistrates' Court ruling is often cited to deny sleeping victims com-

pensation — a judgment that compensation lawyers are keen to appeal. The case found against a family who made a claim for special financial assistance after their home was the target of a 3am attempted aggravated burglary. In another recent case, a couple in their 90s were denied a payout after their home was burgled while they slept.

They woke in the morning to find their property had been stolen but were rejected for compensation.

Critics say waking to find your home had been invaded is traumatic.

Lawyer Joshua Reimer, who specialises in crime compensation matters, said there had been many cases in recent years in which cars had been stolen by thieves who entered houses and took keys in the dead of night.

He said he did not believe it was right to argue victims who slept through crimes did not suffer.

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Fair compensation vital

VICTIMS of crime are victims, even if the trauma arises after the offence has occurred.

As revealed in today's *Herald Sun*, those who have suffered home burglaries have experienced confusion and frustration when applying for compensation.

Critics have argued the Victims of Crime Assistance Tribunal has shown a lack of consistency in handling cases where break-and-enter thieves raid homes as residents sleep.

In a recent case, a couple in their 90s were denied a payout by VOCAT after their home was burgled by intruders as they slept.

Law firm Johnstone and Reimer, which specialises in crimes compensation cases, is looking to elevate a case to the Victorian Civil and Administrative Tribunal to clarify who is eligible.

The firm estimates that two-thirds

of cases where homeowners were asleep during a burglary, and later woke to find their home had been invaded, were being denied victims' compensation.

Victims of Crime Commissioner Greg Davies has raised concerns about broader inconsistencies in VOCAT decisions and is lobbying for an administrative model similar to that of New South Wales, rather than a judicial tribunal.

Common sense must define both process and outcome. Innocent people who suffer loss as a result of crime are victims, plain and simple. But trauma and stress associated with being a victim will affect people differently. Indeed, secondary and related victims of crime can apply for compensation. Compensation must be available where needed for counselling, recovery or any valid medical expense as a result of trauma,

Snoozing victims are losers

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"The counter-argument is people wake up and they are immediately traumatised," Mr Reimer said.

"They've had their personal space invaded. That sense of personal security has been violated. That causes psychological injuries."

Mr Reimer said his firm dealt with hundreds of VOCAT matters a year and had handled dozens in which householders became victims while they slept.

He estimated two-thirds of judgments, made by magistrates and judicial registrars, went against the applicants.

"We are obtaining increasingly inconsistent results, depending on which tribunal members hear the matters," Mr Reimer said.

His firm, Johnstone and Reimer, is looking for a case to take to the Victorian Civil and Administrative Tribunal to clarify who is eligible.

"We are quite keen to see the Broadmeadows decision clarified on appeal at some point at VCAT or else have some legislative change to ensure that individuals traumatised (often quite significantly) due to crimes of this nature are able to be recognised as victims of crime for VOCAT purposes," Mr Reimer said.

VOCAT decisions can be reviewed by VCAT.

Victims of Crime Commissioner Greg Davies said there was a broader issue with inconsistency in VOCAT decisions.

His office has made a submission to a Victorian Law Reform Commission review of VOCAT — which last year issued \$53 million in financial assistance to victims.

It states that VOCAT's judicial model should be replaced with an administrative model similar to that in NSW.

Attorney-General Martin Pakula said VOCAT decisions were independent.

"The tribunal assesses each application on a case-by-case basis to determine the amount of financial assistance needed to assist people in their recovery," he said.

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