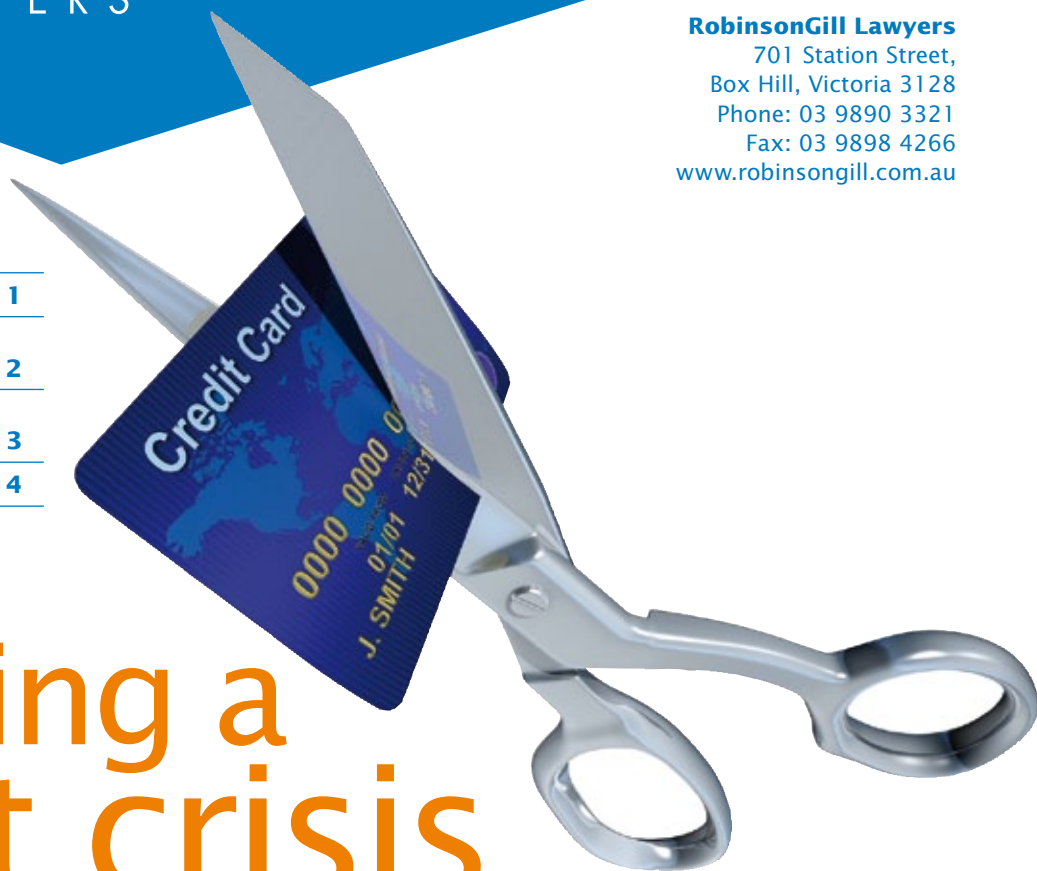


### Winter 2009

<b>Surviving a credit crisis</b>	<b>1</b>
<b>Challenging decisions made by the TAC</b>	<b>2</b>
<b>Government targets family violence</b>	<b>3</b>
<b>New members of our team</b>	<b>4</b>



# Surviving a credit crisis

A new year often brings with it a renewed resolve to exercise more self control and discipline in various areas of life. Unfortunately, for some of us, the festivities over Christmas and the holiday period put us severely behind the eight ball. We have eaten too much, partied too hard and spent far too much money enjoying the festive season and now we need to take stock.

The current tough economic times may have persuaded us to take it a little easier, but few of us will have ushered in the New Year without an increase in spending and a larger credit card debt. But don't despair, help is at hand.

If you owe money, it is important to make a realistic plan to repay it. Prepare a budget and commit to regular payments until the amount can be repaid in full. If you are experiencing difficulty in paying back money owed, it is important to act quickly. Do not ignore repayments or overdue notices. If possible, contact your credit provider and negotiate directly with them to make more suitable arrangements to repay the amount owed.

You can negotiate with your lender to reduce your regular loan repayments for a period of time to make the amount more manageable to repay.

Alternatively, if circumstances have left you unable to make any repayments, you may be able to wholly suspend your loan repayments for a period of time. For example, if you have become ill and unable to work or have lost your job, you may be able to vary your loan on grounds of hardship.

The Victorian Consumer Credit Code (the Code) covers most private purpose (non-business) loans and outlines the requirements for hardship variations and the procedure to be followed. The Code also provides guidelines for the credit industry and offers protection for consumers dealing with credit providers.

If you are unsuccessful in negotiating directly with your lender, you can make an application to the Victorian Civil and Administrative Tribunal (VCAT) to have the terms of your loan agreement varied.

If you are unsure about dealing directly with your credit provider or need to

make an application to VCAT, contact your lawyer. Your lawyer will be able to negotiate on your behalf and look over any variation documentation prepared by your lender.

Similarly, if you feel you are being treated unfairly or unduly harassed or pressured by a lender, there are various remedies available to you.

Complaint processes available through industry external dispute resolution schemes such as the Banking and Financial Services Ombudsman, Consumer Affairs Victoria and, at the national level, the Australian Securities and Investment Commission (ASIC) and the Australian Competition and Consumer Commission all offer protection and assistance for consumers.

Other agencies such as the Consumer Action Law Centre provide valuable information on a range of consumer credit issues including comprehensive factsheets on their website [www.consumeraction.org.au](http://www.consumeraction.org.au).

Resolving to take control of your financial obligations will pay off in the long run.

# Challenging decisions made by the TAC

By Jeremy King and Harry Gill

In the past, it was often difficult for claimants to challenge decisions made by the TAC regarding entitlements to loss of earnings and medical and other like expenses. A claimant has 12 months to challenge any decision of the TAC. This period is non-extendable. You will need to obtain legal advice as soon as possible after TAC makes a decision.

## Some examples of frequently challenged decisions of the TAC include:

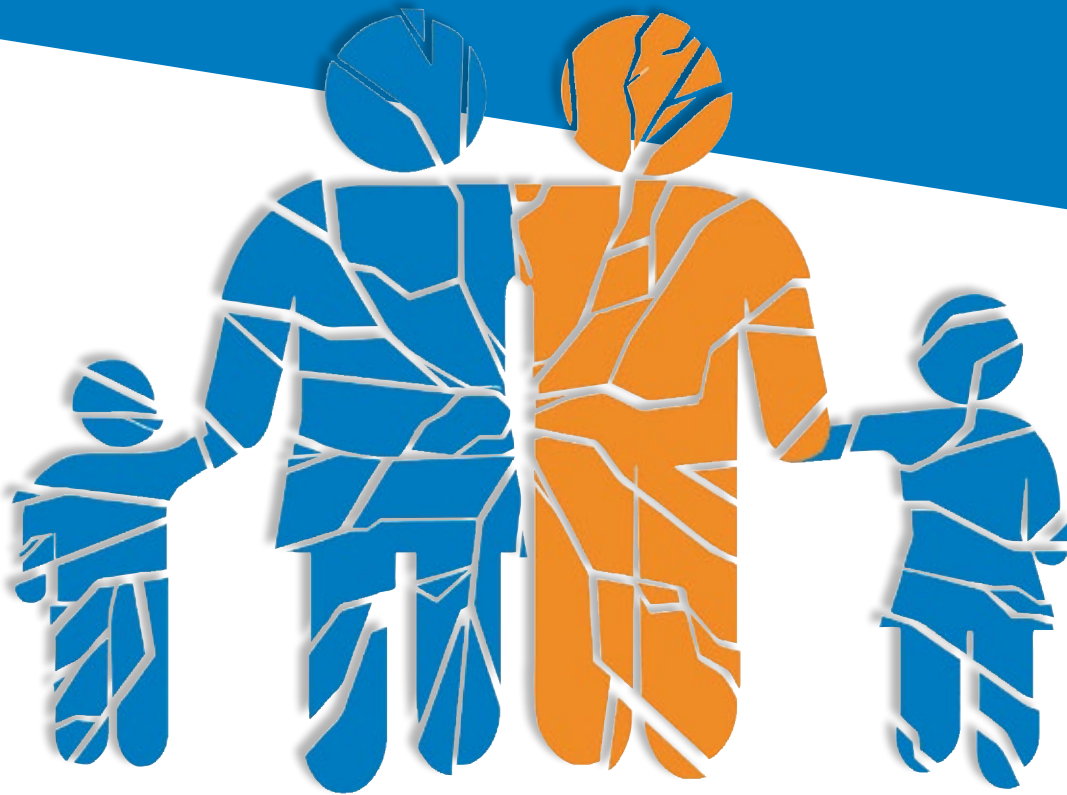
1. Decisions regarding the amount of weekly compensation Claimants are entitled to.
2. Decisions regarding the amount of medical treatment the TAC will pay for. This includes a wide range of areas including dental treatment, osteopathic treatment, chiropractic treatment and in some cases, home and/or car modification.
3. Decisions regarding the amount of funding the TAC will contribute towards home help and other expenses.

The TAC often refuses to cover the entire cost of a claimant's medical treatment. The TAC has a schedule of fees which it uses to justify how much it will contribute towards a claimant's medical treatment. However, the TAC is not legally entitled to limit funding to its schedule. The law states that the TAC has to cover medical treatment which is "reasonable". Provided a claimant's medical practitioner states the cost of the treatment is "reasonable", the claimant should be entitled to have the complete amount of that medical treatment covered by the TAC.

Claimants will usually require legal assistance to ensure that entitlements are maximized. The TAC is required to pay some or all of the claimant's legal costs if the TAC decision is successfully challenged. Consequently, it has become economically viable for claimants to utilise legal services to challenge decisions, a course which would have been too expensive in the past. This applies especially to decisions of small financial significance which may have a significant impact on a claimant's life. For example, many clients of ours require physiotherapy services. When these services are terminated by the TAC, the claimant will often cease obtaining physiotherapy as they cannot afford the relatively small financial commitment.

This article contains general information only and is not provided as legal advice. Professional advice should be taken before any course of action is pursued, or any information here is relied upon. For advice about challenging decisions of the TAC contact our Injury Law Team comprising Harry Gill, Jodie Gerritsen, Henri Kauthen, Danielle Meyer or Nadia Fabris on 9890 3321.





# Government targets family violence

As the work year begins and families look back on the holiday season, not all of them had a happy relaxing time.

Many families experience considerable stress as they deal with mounting credit card debt after Christmas, long hot summer school holidays and doomed New Year's resolutions.

Unfortunately, some of these pressures lead to family violence, particularly towards women and children.

The number of women and children who suffer significant risk, and even death, at the hands of other family members, remains a scourge on our society.

In Victoria during 2005-06, 43 per cent of homicides were related to family violence. While homicide rates in Australia have dropped by one third in the past seven years, the rate of family violence homicides has remained the same.

As Victorian Attorney-General Rob Hulls states, "Research indicates that these homicides are the escalation of a predictable pattern of behaviour and should be viewed as a connected group, not as isolated events".

Clearly, more targeted crime prevention measures in this area need to be considered.

The inaugural White Ribbon Day, held in November 2008, put the spotlight on family violence and the need to speak out about it.

Mr Hulls said at its launch, "It is important that as a community, and as a government, we condemn family violence in our words and in our actions, in our policies and in the way we approach and support family violence victims and perpetrators".

To address this issue, the Victorian government has announced an independent review into family violence deaths.

The review, which will be led by the State Coroner's Office, will investigate such deaths and gather information for future intervention and prevention strategies.

The new Coroner's Prevention Unit will conduct the review as part of its mandate to improve the health and safety of Victorians.

Also, new legislation aims to provide improvements in the way family violence is dealt with by the police and courts.

*The Family Violence Protection Act 2008 (Vic)* came into operation on 8 December 2008.

Under this Act, police can intervene more quickly to deal with violence and threats within families by issuing family violence safety notices.

Similarly, new laws protecting vulnerable victims by making it easier for them to stay in the family home and requiring the perpetrator to leave, all combine to seek to minimise the effects and occurrence of family violence.

# New members of our team



**Anna Vadaketh**

Litigation & Commercial Law  
Medical Negligence; VOCAT

Anna obtained her LLB (Hons) degree at Kings College, University of London and then completed her Bar Finals as a member of Lincoln's Inn, London. She was admitted as an Advocate and Solicitor in Malaysia in 1989 where she practised in the area of general civil law and litigation for 6 years. Anna moved to Australia in 1995 and completed an MBA through the University of Melbourne's Business School. She lived in Chicago for a year and then worked in management for some years in Melbourne before completing admission requirements for practise in Victoria. Anna commenced with Robinson Gill in 2008 and was admitted to practise in Victoria in 2009. Anna works in the Commercial area of the practice and can assist you with the following legal matters: General Litigation, Commercial Law/Litigation, Victims of Crime Compensation and Medical Negligence.



**Nadia Fabris**

Injury Law

Nadia completed her law degree at La Trobe University in 2000, following which she completed her articles at Abbott Stillman and Wilson. She continued to work at Abbott Stillman and Wilson, which later became Dibbs Abbott Stillman, practicing in the area of WorkCover, until 2006 when she left to have a family. Nadia commenced with Robinson Gill in 2009 and practices in the area of injury law, particularly TAC claims, WorkCover and public liability.



**Danielle Meyer**

Injury Law

Danielle graduated from Monash University with degrees in Law and Arts. Upon being admitted to practice she lived in Taiwan for 15 months, teaching English and studying Mandarin Chinese.

## **RobinsonGill areas of practice:**

- Family law
- Injury law
- Litigation and employment law
- Property and commercial law
- Wills and deceased estates