

10/99

File: CHI.008

**P.L.T. MEMO**

**To** : PLT Members AND National Committee Members  
**FROM** : Br. Tony Shanahan  
**DATE** : 1 February 1999  
**SUBJECT** : WIND-UP OF THE W.A. INSTITUTIONS' RECONCILIATION TRUST

1. In a telephone conversation with Peter McGowan Q.C. on 29 January 1999, I was again informed that the unused funds in the Trust was likely to be about \$700,000.00.
2. The Trust has sought independent legal advice as to whether there is any "room for manoeuvre" in regard to their ability to utilise the money. Peter McGowan's own opinion is that the Trust Deed is clear cut and that the Trustees do not have any flexibility to use the funds other than in the way they have already been doing.
3. Peter wanted to inform us of these developments so that we could consider our position in regard to how we will use the funds, which according to the Trust Deed must be returned to the founder "for the relief of hardship, poverty and distress amongst those persons who claim to have been the subject of sexual and other abuse whilst in institutions operated by the founder within Australia" (Clause 29).
4. The Trustees of the W.A. Institutions' Reconciliation Trust meet on February 4<sup>th</sup>, but the legal advice referred to above is not expected to be available at that meeting. It should arrive somewhere between the February meeting and the following meeting, which would be in late March.
5. Some considerations pertinent to our decision about disposal of the funds include:
  - a) We gave an indication to the Chairman of the Trust, Barry MacKinnon about twelve months ago that we were willing for seven men to have their payouts under the sexual abuse clause topped up from \$10,000 to \$25,000 because of the merits of their particular cases. If we adhere to this, this would account for  $7 \times \$15,000 = \$105,000.00$ .
  - b) There are a lot of politics and perceptions around the money and what we do with it. There is an argument that doing anything with it except distributing it amongst the plaintiffs in the legal action would become the occasion for further complaints and would be seen as the plaintiffs being deprived of what they were "entitled to".
  - c) What was our expectation in all this? Did we assume this was money "gone forever"? Or were we anticipating that funds on this scale might be returned to us?
  - d) I would be loathe to use the funds to provide services that we would otherwise be funding anyway, e.g. I would be reluctant to apply the funds to running C-BERS, and the C-BERS Board of Management have indicated they would be reluctant to receive such funds. This could easily appear to be the Christian Brothers "getting out of" things that we had otherwise committed ourselves to.
  - e) This raises the question of what meaningful ways are there for us to use the funds?
  - f) Given that all Provinces contributed to the legal settlement, should the money be in some way divided among the Provinces for them to use according to the Trust Deed?

Tony