



**PROPOSED PROTOCOL FOR PRODUCING A REVISED
SETTLEMENT FOR A PREVIOUSLY SETTLED CLAIM**
(Without Prejudice)

The following protocol is proposed as a means of equitably dealing with requests for the Diocese to reconsider claims for damages that have been previously settled. This protocol only applies to those matters where a pre-existing settlement deed has been ratified by the claimant.

This protocol does not apply where the claimant instead chooses to commence court proceedings rather than proceed in accordance with the steps below.

This protocol is an attempt to resolve the request in a manner which minimises any further distress to the claimant and limits unnecessary costs.

1. The claimant must be legally represented.
2. The claim was settled by the Diocese or its agent at an earlier time and a deed of settlement and release was signed by the claimant.
3. Claims for obtaining a revised settlement for a previously settled claim will be assessed on the individual merits of each claim.
4. The Diocese will endeavour to ensure that the claimant receives appropriate recompense for the settlement of their claim, at a level commensurate for the time the original claim was settled.
5. Only claims where the settlement sum may be considered manifestly inadequate will be reconsidered.
6. The Diocese is prepared not to raise any limitation issue in relation to subsequent court proceedings from the date of notification from the claimant requesting reconsideration of a previously settled claim. The Diocese will not rely on a defence of there being no proper defendant.
7. The claimant is invited to access or continue to receive assistance through the Healing and Support Team of Zimmerman Services during this process.
 - a. Provision of normative service through the Healing and Support Team will not be considered as part of any agreed settlement. Normative services is inclusive of counselling services arranged through and funded by the Diocese.
 - b. For the purposes of this process all communication between the claimant and the Healing and Support Team is considered privileged and will not be considered by the Diocese.

8. The Diocese will use all reasonable endeavours to retrieve records that were considered by the Diocese in assessing the original claim ('original claims brief') to avoid the claimant having to undertake further assessments.
 9. The Diocese is prepared to reconsider the claim based on the original claims brief, including the available medico-legal assessments. However, the Diocese reserves the right to raise with the claimant the need to obtain further material, should the original claims brief prove to be inadequate for the Diocese to make an informed reassessment for the period prior to the original settlement.
 10. The Diocese invites the claimant to make a submission:
 - a. detailing the basis for his/her view that the original settlement was manifestly inadequate,
 - b. providing a proposed settlement sum and detailing the basis for the revised quantum, and
 - c. any other particular components of a proposed settlement additional to the proposed financial recompense.
 11. On receipt of the claimant's submission, the Diocese will consider its position and provide a response, in writing, to the claimant, including a proposed settlement (addressing quantum and any other components raised by the claimant).
 12. If required, an informal settlement conference can be arranged between the claimant and the Diocese.
 13. Should a further settlement be negotiated, the claimant will be obliged to enter into a secondary deed of settlement and release with the Diocese and any other relevant parties.
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