

Roman Catholic Archbishop of Perth

Procedures for the Consideration of Requests for Re-examination of Previously Settled Claims and for New Claims Involving Allegations of Child Sexual Abuse where claimant has elected not to invoke the Towards Healing Process

1 Introduction

- 1.1 The Archbishop is saddened by the instances of Child Sexual Abuse which have taken place in the Roman Catholic Church over recent decades.
- 1.2 The Archbishop acknowledges how difficult it must be for victims of abuse to come forward and commends the bravery of each and every individual who finds the strength to do so.
- 1.3 The procedures set out below address the re-examination of previously settled claims ('**re-examination**') and for new claims ('**new claim**') in circumstances where claimants choose not to seek redress through Towards Healing or via pastoral assistance.
- 1.4 The Archbishop wishes to achieve a fair, just and timely resolution of each claim in the hope that claimants can then move on to a new chapter of their life, albeit with the knowledge that each of them has to live with the adverse impact of the abuse for the remainder of their lives.
- 1.5 The purpose of investigating each claim is for the Archbishop to achieve clarity on:
 - (a) the events that took place and which are the subject of a claim;
 - (b) the quantum of each claim.
- 1.6 Please note that all references to the 'Archbishop' in these procedures will also include the Archbishop's legal and other advisers.

2 Procedure on Applications for Re-Examination of previous claims

- 2.1 Any application for re-examination will be considered on its merits having regard to the particular circumstances of the case.
- 2.2 A request for a re-examination:

should be made by a claimant in writing by sending a letter to:

Mr Peter Stoyles
Executive Director
Professional Standards Office
29 Victoria Square
Perth WA 6000
Telephone: 9422-7904

with a copy being sent to:

**Irdi Legal
248 Oxford Street
Leederville WA 6007
Attention: Mr Gus Irdi**

- 2.3 For the Archbishop to address each claim in a timely fashion, it would assist if details of why the claim should be re-examined are provided including:
- (a) the claimant's full name and address;
 - (b) details of the terms of the previous settlement;
 - (c) a copy of any document (such as a deed of settlement) which records the terms of the previous settlement;
 - (d) the basis on which the claimant states that the previous settlement was unfair or unjust;
 - (e) a summary of the facts on which it is claimed that the previous settlement was unfair or unjust, including where appropriate, details of:
 - (i) whether the claimant was legally represented when the claim was resolved;
 - (ii) whether additional information is now available about the circumstances and the effect of the abuse, the circumstances of the claimant and the history of the alleged perpetrator, which was not known at the time of settlement;
 - (iii) the time which has elapsed since the claim was settled and the circumstances of its settlement;
 - (iv) any amounts paid by the Diocese or any other organisation (such as Redress WA) for the alleged abuse inclusive of both ex-gratia payments and lump sum compensation payments.

Please also attach a copy of all documents relevant to the application and on which the claimant relies.

- 2.4 Upon receipt of an application for re-examination supported by all relevant information as detailed in these procedures, the Professional Standards Office in conjunction with the Archbishop will consider the application and respond as soon as possible with a decision as to whether they believe that the previous settlement was on unjust or unfair terms and that the claim should be re-examined.
- 2.5 In coming to a determination (in accordance with paragraph 2.4) Irdi Legal may, at their discretion, forward to the claimant/claimant's solicitor a request for further and better particulars of the claim. A request for particulars will include a number of questions which will assist the Archbishop to properly assess the claim.
- 2.6 If a decision is made to re-examine a claim, it will be treated as a new claim in accordance with paragraph 3 below, and any previous payment will be taken into account in the settlement of the claim.

3 **Procedure on Examination of a New Claim**

- 3.1 All claimants making a new claim, should make their claims in writing by sending a letter to:

Mr Peter Stoyles
Executive Director
Professional Standards Office
29 Victoria Square
Perth WA 6000
Telephone: 9422-7904

with a copy being sent to:

Irdi Legal
248 Oxford Street
Leederville WA 6007
Attention: Mr Gus Irdi

- 3.2 For the Archbishop to address each new claim in a timely fashion, it would assist if details of the claim were provided including:
- (a) a clear summary of the facts on which the claim is based;
 - (b) what the claimant is seeking from the Archbishop as to financial and/or non-financial redress;
 - (c) if financial loss is claimed, an explanation of how the amount is calculated, taking into account any sums previously received by the claimant for the alleged abuse;
 - (d) list and provide authenticated copies of the essential documents on which the claimant intends to rely, including medical and/or psychiatric reports;
 - (e) providing a copy of any other documents relevant to the claim and on which the claimant relies; and
 - (f) confirmation that the claimant is prepared to attempt to settle the claim by discussion and negotiation.
- 3.3 If the claimant intends to claim reimbursement of treatment expenses, please submit the following information:
- (i) name and qualification of treatment provider;
 - (ii) date on which treatment was provided;
 - (iii) cost of treatment (with invoices attached);
 - (iv) basis on which treatment was sought; and
 - (v) where the claimant is seeking reimbursement for medication, receipts and/or an itemised list of applicable expenses from the claimant's pharmacy is to be provided.
- 3.4 The information requested will enable the Archbishop to assess any request for reimbursement as soon as practicable and will avoid unnecessary delays.
- 3.5 If it is considered that the Archbishop has insufficient information and/or documentation to properly assess the claim, a request for further and better particulars will be sent to the claimant.

4 Documents

- 4.1 It is acknowledged by the Archbishop that:
- (a) claimants may not have in their possession all of the relevant documents that they may need to support their claim;
 - (b) the Archbishop's records may contain documents that are material to the issues to be considered.
 - (c) if a claimant considers that:
 - (i) there are relevant documents which he does not have and which are likely to be in the possession of the Archbishop; and
 - (ii) he requires copies of those documents for the purposes of a claim under these procedures;

please forward to Irdi Legal a letter setting out the classes of documents which the claimant states are relevant and which are to be disclosed.
 - (d) if a claimant requests documents under paragraph 4.1(c), the Archbishop will, as soon as practicable:
 - (i) where he has in his possession the documents sought, and after receiving legal advice on the matter, provide copies of the documentation to the claimant;
 - (ii) where he does not have all or any of the documentation sought, inform the claimant of that fact as soon as practicable.
- 4.2 The Archbishop will pay for any photocopying costs for the purposes of providing the documents under paragraph 4.1.

5 Resolution of the Claim

- 5.1 The Archbishop will endeavour to facilitate an early resolution of each claim, subject to receiving all of the information and documents mentioned above.
- 5.2 The preferred method of resolving a claim is by discussion and negotiation on a 'without prejudice' basis and without admission of any liability on the part of the Archbishop, following the exchange of information as provided for in these procedures.
- 5.3 It is expected that the majority of claims will be resolved by discussion and negotiation without the need for a formal mediation.
- 5.4 If the claim cannot be settled by negotiation as provided for in paragraph 5.2, then the parties will in good faith agree on the appointment of an independent accredited mediator to conduct a mediation of the claim. The reasonable costs of the mediator will be paid for by the Archbishop.
- 5.5 If the claim cannot be settled by mediation as provided for in paragraph 5.4, then the parties will in good faith agree on a further Alternative Dispute Resolution procedure in the hope that the matter can be resolved.
- 5.6 Any settlement of a claim will be recorded in a Deed of Settlement or supplementary Deed of Settlement as appropriate.

6 **Deductions**

- 6.1 Any financial settlement may be subject to deduction where:
- (a) there was a previous monetary settlement;
 - (b) there is strong evidence of a number of life circumstances (not including those of the subject claim against the Archbishop) which contributed to the claimant's psychiatric and/or medical condition, in which case, a percentage will be apportioned to:
 - (i) the current claim;
 - (ii) the life circumstances mentioned and/or;
 - (iii) any pre-existing condition of relevance to the claim.
- 6.2 The Archbishop will only make a deduction under 6.1(b) if there is strong and compelling evidence in support of the adverse effect of life circumstances which are unrelated to the current claim.

7 **Guide for Monetary Compensation Payments**

- 7.1 Claims will be assessed on a case by case basis on their merits, taking into account a number of contributing factors, including, but not limited to:
- (a) Period in care;
 - (b) Age of claimant at the time of abuse;
 - (c) Nature of the alleged abuse;
 - (d) Number of incidences of abuse;
 - (e) Apparent impact of abuse;
 - (f) Needs of the claimant, inclusive of treatment expenses;
 - (g) Clinical findings;
 - (h) Any previous settlement (paragraph 6.1(a))
 - (i) Circumstances unrelated to the claim against the Archbishop (paragraph 6.1(b)).

8 **General**

- 8.1 Claimants are free to obtain their own psychiatric and/or medical reports however claimants may be requested, at the Archbishop's expense, to see experts appointed by him for the purpose of obtaining his own assessments.
- 8.2 The question of reimbursement for the claimant's psychiatric and other related treatment will be decided on a case by case basis.
- 8.3 **Annexure A** (attached) provides a suggested timeframe for resolution of disputes and the Archbishop will attempt to adhere to the same.

9 **Conclusion**

- 9.1 The objective of this document is to provide clarity to claimants and claimants' solicitors on the procedures put in place by the Archbishop for the consideration of new claims and previously settled claims where claimants do not wish to avail themselves of the Towards Healing process.

- 9.2 The Archbishop acknowledges that therapeutic and/or pastoral support are an important part of the healing process.
- 9.3 The overriding aim of these procedures is to achieve an individually focused, just, equitable, cost and time effective outcome for each and every claimant.
- 9.4 Claimants and their lawyers are encouraged to discuss with the Archbishop's solicitors, Irdi Legal, any variation which they consider is required to these procedures when an application for re-examination or a new claim is submitted.

Annexure A Timeframe for Resolution of Disputes

Please note, that whilst the Archbishop will attempt to adhere to the guidelines set out below, this may not always be possible.

Event	<u>Timeframe</u>
Initial letter to claimant/claimant's solicitor.	<u>Within 7 days</u> of receipt of notification of a claim
Request for further and better particulars and documentation (if required).	<u>Within 28 days</u> of receipt of notification of a claim
Upon receipt of a request by the claimant/claimant's solicitor for documentation.	<u>Within 28 days</u> of receipt of the request.
Where the Archbishop requires the claimant to be examined by his own nominated medical expert.	Provide the claimant with at least <u>21 days' notice</u> of the time, date and location of any such appointment.
Letter to claimant/claimant's solicitor regarding Medicare Notice of Charge.	Within <u>21 days</u> of receipt of notification of a claim.
On a settlement being reached between the parties.	<p>Within <u>14 days</u>, the Archbishop will forward to the claimant/claimant's solicitor:</p> <ul style="list-style-type: none"> • Notice of Judgment or Settlement Form (M0022). • An Authority to Receive for completion by the claimant/claimant's solicitor. • A Deed of Release

Towards Healing

