

OUTLINE OF PROPOSED COMPENSATION MODEL

In order to make an assessment of the damages suffered by the victims of Charles Allan Smith and compensate them accordingly, we suggest that the method of assessment of damage used be that used in personal injury and the following steps be taken to ascertain an appropriate settlement agreement.

1. Identification of the Victims

It is important that the victims be accurately identified. Accordingly, the Army will require proof that the claimant is a victim of Mr Smith. This may be done by reference to:

- (a) the date of the offence;
- (b) the place where the offence took place;
- (c) the identity of any other officers or any other staff on the premises at the time;
- (d) evidence of any admission by Mr Smith or proof of his conviction for offences relating to the claimant.

2. Assessment by Counsellors

The model envisages a twofold process for assessment by counsellors. Firstly, the counsellors who have been given the task of counselling the claimants will be asked to prepare a comprehensive report consisting of all the relevant information they became aware of during counselling. The report will then be given to an independent counsellor who should consider the report, conduct an assessing interview with the claimant and prepare a recommendation which should include:

- (a) the assessor's view as to whether or not the claimant has suffered trauma;
- (b) the extent of that trauma;
- (c) the manifestation of that trauma;
- (d) whether the trauma occurred as a result of Mr Smith's actions.

3. **Medical Assessment**

Each claimant is asked to provide the name and addresses of all doctors who have examined and treated for him for any injury, physical or psychological, inflicted by Mr Smith. The claimant will be asked to sign an authority permitting the doctors to release all medical records to the Army and to provide a report to the Army if requested.

Each claimant will then be referred to a psychiatrist for independent assessment. If the claimant has received or is receiving psychiatric treatment the treating psychiatrist will be approached to provide a report. The psychiatrist will be asked to give his opinion on a number of matters including:

- (a) whether the claimant has any psychiatric medical condition;
- (b) whether the assault by Mr Smith is the cause of that condition or whether there another cause;
- (c) the manner in which the claimant's psychiatric condition has affected his lifestyle, his marriage, choice of career, employment, etc.
- (d) details of treatment given and/or likely to be needed.

4. **Legal Assessment**

There will need to be an assessment of pecuniary and non-pecuniary loss suffered by the claimant.

The assessment of a claimant's loss of amenities and enjoyment of life and pecuniary loss is probably best assessed by a solicitor in an interview situation. There may well be an overlap in some areas considered by the counsellor and the assessor.

It would be appropriate for the claimant's solicitor to prepare submissions and provide evidence of the claimant's losses in this regard.

Once this information gathering procedure has been completed the Army would like all parties to meet and attempt to negotiate a settlement. If settlement cannot be negotiated then the matter is to be referred to a Queens Counsel practising at the West Australian Bar, who is to be asked to act as mediator. We suggest that an approach be made to Mr Peter Nesbitt to act in this capacity.

Once the matter has been settled the claimants will be asked to enter into a deed of release to legally resolve the matter.

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