

## **PROPOSED PROTOCOL FOR SETTLEMENT OF CIVIL CLAIMS BROUGHT OUTSIDE OF TOWARDS HEALING**

*(Without Prejudice)*

1. Claimants must be legally represented.
2. Each claim is to be dealt with as an individual claim and to be assessed on its merits.
3. 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.
4. Within reason, the Diocese will not rely on a defence of there being no proper defendant when dealing with claims for damages resulting from the sexual assault of children.
5. Claim details to be submitted as soon as practicable and to include such details as:
  - a. name and address of claimant;
  - b. date of birth of the claimant;
  - c. copy of Police statement if one exists or a sworn statement by the claimant detailing the alleged incidents that form the basis of the claims;
  - d. to the extent that relevant details are not contained in the Police or other statement, your office should prepare a supplementary statement to include:
    - times, dates, places and circumstances of contact with alleged abuser;
    - details of the misconduct alleged;
    - whether any report was made of the alleged abuser's misconduct to anyone at the school, parish or diocese;
    - details of personal history and work history of claimant;
    - details of any counseling or medical treatment obtained since the events took place;
    - name and address of counselors/therapists/medical practitioners consulted since the events took place;
    - any other details considered relevant and appropriate to the particular claim.
6. Where a medical report already exists in relation to the claimant, such medical report is to be provided to us.

7. Where a medical report does not already exist, or if one does exist but does not include relevant details to enable us to assess the claim, we will organize a medical assessment in relation to the claimant at the cost of the Diocese. This will generally be with a forensic psychiatrist but may on occasions be with a forensic psychologist.
8. The Diocese will need to obtain access to appropriate medical records of the claimant. This can be achieved by either:
  - a. you obtaining reports from the claimant's GP and specialist(s) and submitting them to us prior to the appointment with the psychologist/psychiatrist; or
  - b. the claimant can provide us with a signed authority to release such information and we can obtain the reports from the relevant GPs and specialists at our client's expense.
9. In either of the situations set out in the preceding paragraph, it will be necessary to obtain this information prior to the date of appointment with the psychiatrist or psychologist. In the case of no such information being available, the Diocese will draw this to the attention of the psychiatrist as a possibly relevant circumstance to be taken into account.
10. Where possible, the parties to agree as to the appropriate psychiatrist/psychologist to whom the claimant is to be referred. In the absence of agreement each party may obtain their own medico-legal report. In such case, each party is to pay their own costs of such medico-legal report.
11. Except where the solicitors for the Diocese indicate to the contrary, the relevant psychiatrist/psychologist to whom the claimant has been referred will be requested to undertake a thorough forensic exercise in:
  - a. obtaining a proper history from the claimant as to the alleged abuse and other stressors in the plaintiff's life whether in respect of personal or work related matters; and
  - b. providing an analytical assessment of any causal relationship between the claimant's present symptoms and the alleged clergy abuse (or other stressors in the claimant's life).
12. Once information in paragraph 5 is available we can write to the psychiatrist/psychologist seeking a medical report. A draft pro-forma letter is enclosed. In the appropriate case, the pro-forma letter may need to be amended to suit the particular circumstances. Reports received from the psychiatrist/psychologist are to be provided to both parties.
13. The Diocese reserves the right to obtain further medical evidence, if appropriate, in order to assess the claim.
14. The Diocese will need to undertake enquiries and properly assess all aspects of the claim, whether in relation to factual, legal or damages issues, before an informal settlement conference is arranged. This is particularly the case in relation to claims where there are no criminal proceedings on foot against the alleged abuser, there is no admission of guilt and/or no conviction.

15. When the Diocese has made such an assessment of the claim, and has available all necessary factual material and medical evidence, an informal settlement conference can be arranged. It is the Diocese's position that the claimant should meet with a representative of the Diocese at the commencement of the negotiations, without prejudice, to allow:
- a. the claimant to voice their position to the Diocesan representative, and
  - b. the Diocesan representative to state the Diocese's sincere regret.
16. In order to allow settlement discussions to occur, the Diocese is prepared not to raise any limitation issue from the date of notification of the claim by the claimant's legal representatives until court proceedings are commenced.
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