

## **Framework for Compensation**

*This Framework for Compensation is intended for the benefit of eligible individuals as identified below, in order to facilitate the payment of compensation to such eligible individuals and to prevent any need for legal proceedings aimed at securing the same or a similar end.*

### **Eligibility for consideration**

1. Compensation may be paid to any individual (“applicant”) identified during the Operation Unique investigations as having suffered personal injury as a result of being a direct victim of criminal sexual abuse on Pitcairn, where the police considered there to be sufficient evidence to charge another person (an “assailant”) with one or more criminal offences in relation to that injury.
2. Compensation will only be considered for the injured person and not for their spouse, dependents or estate.
3. Compensation will not be considered where the criminal injury was sustained before 7 September 1961.
4. An application will be considered where the injured person and assailant were living together at the time as members of the same family.
5. Personal injury includes physical injury and mental injury (that is temporary mental anxiety, medically verified, or a disabling mental illness confirmed by psychiatric diagnosis). Mental injury may either result directly from the physical injury or from a sexual offence.
6. It is not necessary for the assailant to have been convicted of a criminal offence in connection with the injury. This may be for reason of age, insanity or death of the assailant, but where the assailant’s conduct may nevertheless be treated as constituting a criminal act.
7. All references to “the Governor” refer to the Governor of Pitcairn, Henderson, Ducie and Oeno Islands, and “the Deputy Governor” refers to the Deputy Governor thereof, and both may include reference to alternates or other officials working in the Governor’s Office.

### **Eligibility to receive**

8. Compensation will be withheld where it is considered:
  - a) the applicant failed to co-operate with the Governor, police or other authority in attempting to bring an assailant to justice; or
  - b) the applicant has failed to give all reasonable assistance to the Governor, police or other authority in connection with the applicant’s application for compensation; or

- c) the conduct of the applicant before, during or after the incident giving rise to the application makes it inappropriate that an award be made.
9. Compensation shall be withheld unless the applicant renounces any and all potential, existing or future claims or cases against the United Kingdom of Great Britain and Northern Ireland and/or any of its subsidiary entities or branches, including but not limited to HM Government, the Foreign and Commonwealth Office, the Government of the Pitcairn Islands, the Governor's Office, the British High Commission in New Zealand, any and all police authorities and officers involved, and any other natural or legal person connected with the United Kingdom, the Pitcairn Islands, and/or Operation Unique (save and except the assailant(s)), in respect of any actions or omissions in relation to Operation Unique, or in respect of any prior or subsequent situation which gave rise to the type of criminal activity that came to light following the Operation Unique investigations. The compensation paid to any applicant will be made in full and final settlement of any such claims or cases, without any admission or concession of liability on the part of any branch of the United Kingdom of Great Britain and Northern Ireland.
10. An award will only be made where the Governor is satisfied there is no likelihood that an assailant would benefit, directly or indirectly, if an award were made.

#### Levels of compensation

11. The amount of compensation will be decided by the Governor, taking advice from the United Kingdom's Criminal Injuries Compensation Authority ("UK CICA") in accordance with their guidelines in relation to the determination of appropriate levels of quantum of compensation, in particular paragraphs 26 and 27 of the United Kingdom's Criminal Injuries Compensation Scheme (2001) ("the UK Scheme"). The considerations stated in paragraphs 26 and 27 of the UK Scheme are:

“(26) The standard amount of compensation will be the amount shown in respect of the relevant description of injury in the Tariff, which sets out:

- (a) a scale of fixed levels of compensation;
- (b) the level and corresponding amount of compensation for each description of injury; and
- (c) qualifying notes.

Level 1 represents the minimum award under this Scheme, and Level 25 represents the maximum award for any single description of injury. Where the injury has the effect of accelerating or exacerbating a pre-existing condition, the compensation awarded will reflect only the degree of acceleration or exacerbation.

(27) Minor multiple injuries will be compensated in accordance with *Note 12* to the Tariff. The standard amount of compensation for more serious but separate multiple injuries will, unless expressly provided for otherwise in the Tariff, be calculated as:

- (a) the Tariff amount for the highest-rated description of injury; plus
- (b) 30 per cent of the Tariff amount for the second highest-rated description of injury; plus, where there are three or more injuries,

(c) 15 per cent of the Tariff amount for the third highest-rated description of injury.”

Details of the UK Scheme’s Tariff are available at the UK CICA website ([www.cica.gov.uk](http://www.cica.gov.uk)) or on request from the Pitcairn Governor’s Office.

12. However, the use of the UK Scheme to assist the Governor in determining the proper level of compensation in no way implies either an extension of the UK Scheme to Pitcairn, nor the import into this Framework for Compensation of any other parts of the UK Scheme.
13. There will be no compensation for any loss of earnings.
14. Compensation payments will be made by cheque or bank transfer from the Governor’s office in British Pounds Sterling or the equivalent in New Zealand Dollars.
15. Any compensation payments are made on an ex gratia basis and are not subject to income tax in the United Kingdom. But New Zealand-based recipients will need to obtain an exemption certificate from IRD and persons residing in other countries should check their tax position with the relevant tax authorities. The Governor’s office will assist in providing documentation about the source of the funds but recipients are ultimately responsible for establishing their own tax liability if any.

#### Making an application

16. Applications must be made on the forms provided which are available from the Governor’s office or the Pitcairn Government website ([www.government.pn](http://www.government.pn)). These applications must be sent to the Governor’s office in writing, by fax, or by e-mail. Contact details are:

Office of the Governor of Pitcairn, Henderson, Ducie and Oeno Islands  
c/o British High Commission  
PO Box 1812  
Wellington 6140  
New Zealand

Tel: (+64) (4) 924 2888  
Fax: (+64) (4) 924 2831  
Email: [Ginny.Silva@fco.gov.uk](mailto:Ginny.Silva@fco.gov.uk)

17. Applications may also be made in person to the Governor’s Representative resident on Pitcairn.
18. If an application is made by e-mail then a signed copy of the application form must be sent, by post, to the Governor’s office or handed to the Governor’s Representative on Pitcairn at the earliest opportunity. If the injured person appoints a representative to act on their behalf, a signed authority must accompany the application or, if applying by email, be sent to the Governor’s office or handed to the Governor’s Representative on Pitcairn at the earliest opportunity.

**By making an application, the injured person agrees to this information being shared with the UK CICA, Pitcairn Courts and police officers involved in Operation Unique only to assess the validity of the application and suitable level of compensation.**

Administration of the payments

19. The Deputy Governor, as assisted by the Foreign and Commonwealth Office (FCO) and UK CICA, will administer this mechanism.
20. Acknowledgement of receipt will be sent to the injured person or their appointed representative by their preferred means of communication within 3 working days of receiving a signed copy of the letter or signed authority.
21. The Deputy Governor will assess the validity of the application using information taken from police and court records held in the UK and New Zealand where necessary. If the Deputy Governor considers it a valid application, the application will be forwarded to the UK CICA, together with any additional relevant information, for their advice on the levels of compensation to award in accordance with their guidelines.
22. The target for making a decision on the validity of any application is 8 weeks. If this target is not met, a letter explaining the delay will be sent.
23. After receiving the advice from UK CICA and making a decision on the levels of compensation, the Deputy Governor will write to the applicant or their appointed representative informing them of the decision, the reasons for this decision, and detailing the levels of compensation offered if appropriate.
24. Any request to reconsider the decision, in whole or in part, including providing further representations, must be made to the Governor within 45 days of the original written notification being sent. Contact details are:  
  
The Governor of Pitcairn, Henderson, Ducie and Oeno Islands  
c/o British High Commission  
PO Box 1812  
Wellington 6140  
New Zealand  
  
Tel: (+64) (4) 924 2888  
Fax: (+64) (4) 924 2809  
Email: [tracey.temple@fco.gov.uk](mailto:tracey.temple@fco.gov.uk)
25. An acknowledgement will be sent within 2 weeks with the target to undertake the review within 6 weeks of receipt. If this target is not met, a letter explaining the delay will be sent.
26. This Framework of Compensation will be made public through the Governor's Office and Office of the Pitcairn Island Government. Applications will be accepted between 1 October 2008 until 31 March 2009, after which time no further applications will be accepted.

The Governor of Pitcairn, Henderson, Ducie and Oeno Islands  
September 2008  
Wellington