

MONETARY ASSESSMENT SCHEME

CONTEXT / INTRODUCTION

The Parties recognize that Racial Discrimination and Racial Harassment have no place in the Canadian Armed Forces (“**CAF**”), and further recognize and acknowledge the pain and suffering of Class Members who have experienced Racial Discrimination and Racial Harassment in the CAF.

The Final Settlement Agreement refers to a claims process, by which Class Member experiences and impacts of Racial Discrimination and/or Racial Harassment will be assessed in a trauma informed, transparent and culturally competent way. This Monetary Assessment Scheme sets forth the manner by which Class Member claims for a monetary payment will be assessed under the settlement.

Andrea Currie and Robert Wright were hired by Class Counsel as experts, to provide advice on the structure and format of a monetary claims process. They emphasized that: “racialized and Indigenous persons suffer daily indignities that affect their mental and physical health and limit their access to resources and social inclusion. The concept of micro-aggressions has been articulated to explain this phenomenon. These daily indignities take their toll.” They proposed a trauma informed method for assessing Class Member claims: “a method that accepts that racialized persons within the CAF have experienced racism and engages in a process of healing rather than subjects them to onerous investigation.”

Myrna McCallum was hired by the Parties as a joint expert, to provide advice on how to incorporate a trauma informed approach to the settlement process. She highlighted that trauma is unavoidable, because Class Members will relive the events/incidents. It is therefore important to plan for efficient support and to be transparent about the process and clear about expectations, so as to avoid surprises and guard against causing additional/greater trauma. She was also of the view that payment is only one component

of the healing process, and that other (policy) measures are critical for a complete process.

This Monetary Assessment Scheme has been developed with all of these points in mind. It is one part of a larger settlement, which also includes a commitment to systemic and institutional change.

HIGHLIGHTS

The key highlights of the Monetary Assessment Scheme are as follows:

- In providing for a Common Experience Payment, the purpose is to recognize systemic racism in the CAF and to provide payment without requiring Class Members to tell a story. The focus is on institutional betrayal as experienced by all racialized CAF members, without reference to specific incidents or harms.
- If Class Members wish to apply for an additional payment, they may do so. An additional payment will be based upon the Class Members' own personal story of racism. It will not be based upon medical diagnoses or corroborative reports.
- The additional payment will be assessed by consideration of severity and duration of impacts on: personal dignity; bodily and/or emotional integrity; spiritual well-being; and individual relationships.
- The assessment will be conducted by Assessors, who have been trained in critical race theory and trauma-informed approaches.
- The Assessors will be guided by an assessment grid. The goal is to be as efficient as possible, recognizing that a delayed process is not trauma-informed. The grid assumes that duration of impact will often correspond with severity of impact.
- As with any assessment scheme, however, the grid is not perfect. The Assessors can decide to depart from the grid in their own discretion. As an example, this could account for the possibility of a very serious impact of short duration. This could also account for cases of multiple impacts with different durations.
- When an Assessor decides to depart from the grid, they must explain why. This will allow for transparency of process and meaningful review.

TRANSPARENCY

As a matter of transparency, it is important to be candid about the following:

- It is repellant to assign dollar amounts to the indignities of racism and its effects.
- Participation in the settlement may be retraumatizing or triggering. The goal of the claims process is to cause as little harm as possible.
- It is integral to provide access to meaningful and appropriate supports throughout the claims process. The Claims Administrator will help to facilitate Class Member access to these supports.
- The word “compensation” is intentionally not used within the Monetary Assessment Scheme, as this word incorrectly implies that payment can “make someone whole again”.
- The monetary amounts may be viewed as too low. For some Class Members, no amount will ever be sufficient.
- There are finite resources. A fund of \$150,000,000 has been dedicated for payment to all eligible Class Members under the settlement. This is in addition to the financial resources that will be committed for systemic and institutional change under the Final Settlement Agreement.
- After all claims are assessed, the dollar amount may need to be adjusted.
- If the total payout to Class Members is assessed as more than \$150,000,000, payments to all Class Members will be reduced across the board.
- If the total payout to Class Members is assessed as less than \$100,000,000 (the “**Designated Amount**”), payments to Class Members will be increased across the board up to and including the Designated Amount. In the event of such an

increase, individual payments as initially assessed may be increased by a maximum of 20%.

- Class members who have received a monetary payment or damages through another settlement process, through a court decision or human rights complaint, or through some other form of court or administrative proceeding, are still eligible to receive payment under this Monetary Assessment Scheme.
- For greater certainty, Class Members who have received, or are eligible to receive, VAC benefits are not excluded from this class action. That said, they are encouraged to make applications for VAC benefits or to apply for a reassessment of VAC benefits if previously denied.

SCHEME

1. **Common Experience Payment (\$5,000)** – Class Member confirms that they experienced Racial Discrimination and/or Racial Harassment by checking off a box on the claim form.
2. **Assessment of Narrative Evidence of Racism** – in addition to applying for the Common Experience Payment, the Class Member can choose to provide their story about their experience(s) of Racial Discrimination and/or Racial Harassment while in the CAF.

The Assessors will then decide whether these Class Members are entitled to an additional monetary amount (over and above the Common Experience Payment), as follows:

LEVEL A (\$10,000)

LEVEL B (\$20,000)

LEVEL C (\$30,000)

This determination will be made by reference to the Assessment Grid below.

The Assessors can decide to depart from these levels if they explain why. In doing so, the Assessors may award an amount up to the maximum amount of \$30,000 (over and above the Common Experience Payment), but without any other limitations.

In either instance, the Assessor will focus on both duration of impact and severity of impact on:

- (a) Personal Dignity: this could include, but is not limited to, impact on identity, belonging, inclusion, development, opportunity, advancement, or faith in leadership and/or institutional response. To any extent that the narrative includes reference to the lack of appropriate response to (or retaliation for) any reporting of racist misconduct, the resulting impact on the Class Member could be considered as a component of Personal Dignity.
- (b) Bodily and/or Emotional Integrity: this could include, but is not limited to, impact on memory, reaction, concentration, affect, self-worth, stress, fear, vigilance, drug and/or alcohol consumption, fitness, blood pressure, or sleep. To any extent that the narrative includes reference to physical assault or emotional abuse by a fellow CAF member or superior, the resulting impact on the Class Member could be considered as a component of Bodily and/or Emotional Integrity.
- (c) Spiritual Well-Being: this could include, but is not limited to, impact on spirituality, religious practice, faith in humanity, or connection to meaning in life.
- (d) Individual Relationships: this could include, but is not limited to, impact on relationships with romantic partners, children, family members, friends, Elders, or communities.

ASSESSMENT GRID

Assessment Levels and Amounts	Indicia
<u>Common Experience Payment</u> (\$5,000)	Class Member ticks a box to confirm that they experienced Racial Discrimination and/or Racial Harassment while serving in the CAF.
<u>LEVEL A</u> (\$10,000)	Disruption to Personal Dignity, Bodily and/or Emotional Integrity, Spiritual Well-Being, and/or Individual Relationships, persisting for a duration of at least one month.
<u>LEVEL B</u> (\$20,000)	Significant disruption to Personal Dignity, Bodily and/or Emotional Integrity, Spiritual Well-Being, and/or Individual Relationships, persisting for a duration of at least six months.
<u>LEVEL C</u> (\$30,000)	Severe disruption to Personal Dignity, Bodily and/or Emotional Integrity, Spiritual Well-Being, and/or Individual Relationships, persisting for a duration of at least two years.