

Croker Island Redress - UnitingWorld Board Decision 2 May 2022

1. Background

In July 2022, the Assembly Standing Committee passed the following resolution:

Note the summary of information regarding the history of the Methodist Overseas Mission with responsibility for Croker Island Mission; and agrees that the provision for redress and civil matters relating to child sexual abuse at Croker Island Mission should be apportioned equally between the Assembly Secretariat (ASM) and UnitingWorld; and request the General Secretary to inform the UnitingWorld Board of the resolutions of the Standing Committee with respect to Croker Island Mission, seeking their response.

The UnitingWorld Board considered the matter at their meeting of the 29th of September 2022, which was adjourned and reconvened on the 13th of October 2022 specifically to continue consideration of this matter. The board provided the ASC with a written response outlining its concerns which included the following proposal:

The UnitingWorld Board requests that the ASC reframe this conversation to be similar to that which surrounded the Mogumber Mission claims. In particular

- *That the ASC does not require the Board of UnitingWorld to accept legal liability*
- *That the ASC re-affirms UnitingWorld's Mandate and Constitution, acknowledging that the governance of UnitingWorld rests with the UnitingWorld Board, and that outside the reserve powers held by the ASC, the UnitingWorld Board has both a fiduciary duty and the authority to be the sole decision-making body regarding the use of UnitingWorld assets.*

The Board of UnitingWorld seeks to ensure that it can meet its fiduciary obligations as trustees, meet the standards for independent governance required by the sector and remain a committed Uniting Church partner in ensuring just outcomes for victims.

The UnitingWorld Board would be happy to consider its capacity to support redress payments for Croker Island through the utilisation of untied funds under such an alternative framework and seeks a conversation with the ASC through its Chair and National Director.

The ASC responded by inviting the UnitingWorld Chair (Lin Hatfield Dodds) and National Director (Sureka Goringe) to attend their November 2022 meeting in support of the written response. Following the meeting, the ASC's response came in the form of a November 2022 letter from the General Secretary to the UnitingWorld Chair (Steve Bevis):

The Assembly Standing Committee (ASC) was grateful to have Lin Hatfield Dodds and Sureka Goringe attend its November meeting, to discuss the response from the UnitingWorld Board regarding Croker Island Mission. Following this discussion, the ASC resolved to:

1. *Note the response from the UnitingWorld Board to the Standing Committee regarding Croker Island Mission matters*
2. *Note that following resolutions of the Standing Committee, the General Secretary has provided a briefing to the UnitingWorld Board to explain the history of Croker Island including UnitingWorld's historic connection; as well as explaining the current status of*

redress and civil claims. Therefore, that given the historical links that can be traced between the Methodist Overseas Mission and UnitingWorld, and in light of UnitingWorld's acceptance of that historical link and obligation; requests the UnitingWorld Board to share equally with the Assembly the funding of such redress and civil claims utilising funds and other assets to the extent that these can legitimately and appropriately be used for this purpose.

3. Request the General Secretary to communicate these resolutions to UnitingWorld.

I look forward to receiving the response from the UnitingWorld Board to the ASC and to these resolutions. Every blessing, Colleen Geyer Assembly General Secretary

The Board considered this correspondence at their meeting on the 1st of Dec 2022 and arrived at the following:

Excerpt and resolution from the UnitingWorld Board minutes for 1/12/22:

- *The ASC do not seem to have understood what we needed from them regarding allowing the UnitingWorld Board to make a response freely rather than directing a response.*
- *The Board does not wish to have an adversarial relationship with the ASC, and is keen to support them to address redress, but needs to do it in such a way as does not undermine governance principles.*
- *The Board again notes that we have not done the work which would lead us to accept legal liability, nor have we seen the details of the basis on which the ASC has made its own decision.*
- *The Board still requires responses to the two requests that we made to the ASC in our last paper.*
- *The Board wishes that the ASC made its request of us in the same manner that they made the request for Mogumber redress.*

UWB20221201- 26: Action – By consensus, the Board requested the Chair and National Director to enter into a conversation with the President and Gen Sec of Assembly with the aim of resetting the communication around redress. A circular resolution can follow prior to the March Board meeting.

The UnitingWorld Board wrote to the President and Gen Sec of Assembly, and followed up with a meeting and resolved that the President and Gen Sec of Assembly would attend a specially convened UnitingWorld Board meeting to further discuss the issue.

2. Key Considerations

At the time the matter was first raised with UnitingWorld the total liability was estimated to be in the order of AUD2.5 million – see reference below to the possible escalation of this figure.

While UnitingWorld Board deliberations to date have been sympathetic in principle to the request, in considering how UnitingWorld might contribute noting the established historical links, two issues have been raised.

a) The nature of the request

There was some initial concern that the wording of the request from the ASC might suggest that the ASC was pre-empting the autonomy of the UW Board by at least implicitly directing the Board of Uniting World to make a contribution to the redress scheme.

b) The board's legal obligations

Noting that the Board is sympathetic to the request, it must consider its position in relation to whether it can make a contribution consistent with the board's duties and obligations, specifically, its duty to act in good faith in the best interests of UnitingWorld and for a proper purpose.

3. The Mogumber Precedent:

The ASC meeting in July 2020 made the following resolution regarding Mogumber:

Request the General Secretary to have a discussion with the UnitingWorld Board to explain the history of Mogumber including UnitingWorld's historic connections; explain the basis for the ASC decision in 2012; explain the current status of claims and its impact on the sustainability of the Assembly; consider UnitingWorld's capacity to assume shared responsibility for Mogumber claims and; to provide a report to the November ASC meeting.

After extensive consideration, the UnitingWorld Board responded with the following resolutions:

UWB20200924-20: By consensus, it was resolved that the given the historical links that can be traced between the Methodist Overseas Mission and UnitingWorld and the long-term acceptance of the possibility of redress funds being required at some stage by the Board of UnitingWorld in its Risk Register we accept that historical link and obligation.

UWB20200924-21: It was resolved that the UnitingWorld agree to share equally with the Assembly the funding of such redress utilising funds and other assets to the extent that can legitimately and appropriately be used for this purpose.

UWB20200924-22: By consensus, it was resolved that the Board assess funds and other assets that can be applied to meeting obligations under the national redress scheme.

The UW Board Pack for the September 2022 meeting, page 160, (extract) notes:

" [] the Board has already set a precedent with the redress claims from Mogumber, of agreeing to help Assembly with redress claims at their request, without accepting legal liability.

This is in line with UnitingWorld's commitment to doing what we can to ensure that victims of abuse have their redress claims met and acknowledges that we continue today in the tradition of the Methodist Overseas Mission in relation to international work.

Therefore, it is possible for the Board to make a similar decision regarding Croker Island.

However, before any such decision, the Board must make a determination of a minimum level of unrestricted reserves it must maintain, to allow UnitingWorld to weather the storms that lie ahead and invest in new strategic initiatives. As these are not well identified costs at this point, the Board will need to make a judgement call."

4. Special UW Board meeting on 27 April 2023

The UW Board met on 27 April to discuss the ASC's request in relation to the Croker Is redress scheme. At this meeting the General Secretary confirmed that it had not been the intention of the ASC to direct the UW Board in relation to this matter.

In discussion which followed, the Board:

- Reiterated its view that it was sympathetic to the request;
- At the same time, reiterated its view that it was a matter for the UnitingWorld Board, and the UnitingWorld Board alone, to determine whether the agency would make a contribution;
- Noted the historical connection between the Croker Island management of the time, and Uniting World;
- Reiterated its position that UW should not accept legal liability for the claims;
- Agreed that any contribution would be made on a voluntary basis;
- Noted the National Director's advice that even without considering this contribution the Agency was facing a deficit budget in the coming financial year;
- Noted informal advice received at the board meeting on 27 April 2023 by the UCA President that the current estimate of the total liability should be considered conservative, and the possibility of further requests to contribute to redress.

5. Proposal:

In light of the above, it is proposed that the Board:

1. *Notes the historical links that can be traced between the Methodist Overseas Mission and UnitingWorld and the long-term acceptance of the possibility of redress funds being required at some stage by the Board of UnitingWorld in its Risk Register,*
2. *Confirms that the Board does not accept legal liability for the matters which are the subject of the Redress scheme,*
3. *Notes UnitingWorld's Mandate and Constitution, including that the governance of UnitingWorld rests with the UnitingWorld Board, and that outside the reserve powers held by the ASC, the UnitingWorld Board has both a fiduciary duty and the authority to be the sole decision-making body regarding the use of UnitingWorld assets.*
4. *Notes and is grateful for the clarification provided by the General Secretary of the ASC at the Board Meeting on 27 April 2023 that the request from the ASC was not intended to direct the board,*
5. *Notes that a contribution of the amount proposed below would not be in breach of UnitingWorld's reserves policy.*
6. *Notes that any further requests for contributions to matters of redress will be considered by the UnitingWorld Board on a case by case basis.*
and
7. *Resolves:*
 - *That UnitingWorld agrees to share equally with the Assembly the funding of such redress utilising funds and other assets to the extent that these can legitimately and appropriately be used for this purpose, up to a total of AUD1.5m,*
 - *That UnitingWorld source funds for this purpose through the sale of one of the remaining manses, subject to advice from the National Director.*

UWB20230502-1 Passed by circular resolution via email on 2 May 2022 with one abstention.