



OLGETA MERI IGAT RAITIS

“All women have rights”

Individual Reparations Program

**CLAIMS PROCESS PROCEDURES
MANUAL**



Objectives of the Individual Reparations Program	1
Overview of Claims process	1
Visual overview	1
Who may lodge a Claim	1
When Claims may be lodged	1
Where Claims may be lodged	2
Who runs the Program?	2
Step 1: Claim lodged with Claims Assessment Team	2
Initial meeting	3
(a) Information to be given to the Claimant	3
(b) Statement of Claim required from the Claimant	4
Step 2: Initial assessment of Claim by the CAT	4
Record Claim in database	4
Eligible Claims	5
Legitimate Claims	5
(a) Claims which do not require further assessment	5
(b) All other Claims: CAT assessment process	5
Preliminary Report	5
Timing	6
Step 3: Claim is accepted or rejected: Follow-up meeting	6
Step 3(a) – Claim accepted by CAT – Full Report	6
(a) Assessment of eligibility and legitimacy	6
(b) Recommendations of support programs	6
(c) Delivery of Full Report	7
(d) Timing	7
Step 3(b) – Claim assessed to be ineligible or illegitimate (Claim rejected by CAT)	7
(e) Timing	7
Step 4: Claim submitted to Independent Expert for consideration	7
Step 4(a) – Full Report of the CAT provided to the Independent Expert	7
Step 4(b) – Appeal to the Independent Expert of CAT assessment	9
Step 5: Appeal submitted to the Review Panel for consideration	10
(a) Review Panel's assessment process	10
(b) Review Panel prepares Appeal Report	10
(c) Timing	10
(d) Claimant agrees with Panel Assessment	10
(e) Claimant disagrees with Panel assessment	10
Step 6: Agreement between Barrick, PRFA and the Claimant	11
Protocols for communication	11



Internal communication between the CAT, Independent Expert and Review Panel	11
Communication with the Independent Legal Advisor	11
Communication with Barrick and the PJV	11
Referral process, external supporters and contact points	12
Support Person	12
Independent Legal Advisor	12
Reporting to the RPNGC	13
Accessing PNG Justice System	13
File management and document control	13
Database for electronic documents	13
Claimants' original documents	14
Hardcopy documents	14
Correspondence	14
How to complete the Forms attached to this Manual	14
Conduct of Claims Staff: Guiding principles for all Program staff	14
Confidentiality	14
Privacy	14
Impartiality	14
Independence	15
Respect	15
Attachment 1: Letter to PJV Contractors	18
Attachment 2: Information for Potential Claimants	20
Attachment 3: Olgeta Meri Igat Raits	24
Attachment 4 – Protocols for Independent Advisers and Support Persons	25
Form 1: File Note	29
Form 2: Statement of Claim	31
Form 3: Preliminary Report by Claims Assessment Team	33
Form 4: Full Report by Claims Assessment Team	37
Form 5: Report of Appeal to Independent Expert: Assessment of Ineligibility or Illegitimacy by Complaints Assessment Team	39
Form 6: Report of Appeal to Review Panel	41
Form 7: Claim Assessment by Independent Expert: Appeal of Final Report of CAT	42
Form 8: Statement of Arguments for Appeal	44
Form 9: Agreement	45
Form 10: Signed Statement of Independent Legal Advisor	48



Form 11: Record of Authority to Represent Claimant	49
Form 12: Letter Advising of First Breach of External Persons Protocols	50
Form 13: Letter Advising of Second Breach of External Persons Protocols	51



Objectives of the Individual Reparations Program

The Individual Reparations Program (the **Program**) is intended to provide appropriate support and services to women who have been the subject of sexual violence committed by a current or former employee of the Porgera Joint Venture (the **PJV**) while on duty, whether the assault took place at the mine or elsewhere.

Support programs and services will be chosen in consultation with the affected women, to help meet their specific needs. A key objective of the Program is to ensure the welfare and safety of those women. The objectives of the Program are set out more fully in the document 'Olgeta Meri Igat Raitis' (All Women Have Rights), in Attachment 4. The Program is intended to operate with other aspects of the Remediation Framework described in that document, including community level initiatives, and Papua New Guinea public policy initiatives.

Overview of Claims process

Visual overview

See Attached flowchart of the Claims process.

Who may lodge a Claim

A woman who has been the subject of sexual violence:

- involving one or more current or former PJV employees;
- where the assault took place after 1 January 1990, and before 31 December 2010; and
- where the assault took place while those employees were performing their duties for the Porgera mine, regardless of where the assault took place.

(the **Claimant**) may complete and lodge a Statement of Claim as set out in this Procedures Manual (a **Claim**).

A woman who has been the subject of sexual violence allegedly involving current or former employees of companies which are or have been contracted to perform work for the PJV (the **PJV Contractors**), can not make a Claim against Barrick under this Program, however, they may be referred to appropriate services in accordance with the Referral Processes on pages 14–15 of this Manual, and where the contractor has agreed to participate in the framework, the CAT may refer a claim to the contractor as described below ("incidents involving employees of PJV contractors").

Only Claims which meet the eligibility and legitimacy requirements described in this Manual will be assessed as part of the Program.

When Claims may be lodged

Claims may be lodged from 25th October until the end of April 2013. Claims lodged after April 2013 will only be considered in certain circumstances, such as a reference to the program from a recognised organisation that is engaging with the framework process, including the Harvard University and New York University legal clinics, Human Rights Watch and others.



Where Claims may be lodged

Claims must be lodged with the Claims Assessment Team (**CAT**). A Claim may be referred to the CAT by the Community Programs Team or the Family and Sexual Violence Unit (**FSVU**) of the Royal Papua New Guinea Constabulary (**RPNGC**), with the permission of the Claimant.

Who runs the Program?

The Program is run by the Porgera Remediation Framework Association Inc. (PRFA) an association incorporated under the law of Papua New Guinea and independent of Barrick, the PJV or the PJV Contractors.

However, Barrick provides funding for the Program, through a Trust Fund managed by an independent Trustee.

Incidents involving employees of PJV Contractors

The Program does not automatically extend to the activities of PJV Contractors.

However, before the Program was launched, the PJV Mine General Manager wrote to key PJV Contractors (including all transport contractors):

- explaining that the Program was about to be launched and what it involves;
- stating the expectation that some Claims in the Program will involve the activities of PJV Contractor staff either directly or indirectly;
- seeking assurances from the PJV Contractor that they will take appropriate action if they are told about these Claims; and
- if the PJV Contractors give those assurances, the CAT and/or Barrick will give a report of the Claim to a Contractor if the staff of that Contractor are alleged to have engaged in inappropriate conduct on the Project lease area.

A copy of the text of this letter is included as Attachment 2 to this Manual.

Step 1: Claim lodged with Claims Assessment Team

All Claimants should bring their Claims in person. If Claimants are unable to write, translators will be made available by the CAT to assist the Claimant in lodging the Claim. The translator will ensure that the Claimant fully understands the nature and wording of the claim. If the Claimant is represented by a friend or family member, the CAT must make sure that the Claimant has given her full and free consent to the Claim being made on her behalf. The CAT must meet with both the Claimant and her Representative, and the Representative must sign a completed form declaring that they have been authorised to make the claim on the claimants behalf(see Form 11). This form must also be used when a Claimant is a minor (under the age of 18 years). If the Claimant is under 18 years old, her Representative must be one of her parents or her legal guardian. The CAT project officer should check the identity of a minor's parent or guardian and record how this was done.

The CAT project officer must tell the Representative of a Claimant that support programs agreed under the Program will be solely for the Claimant. At every step of the process, every claimant will be offered the services of a translator in a language of their choosing.



Initial meeting

An initial meeting must be held with each Claimant. At the initial meeting, the CAT project officer must take the following steps:

- tell the Claimant about the overall process of the Program, in a language the Claimant can understand, and explain that assessments made under the Program are made independently of Barrick, the PJV and PJV Contractors;
- give the Claimant a written outline of the process in a language that the Claimant understands (see the English version in Attachment 2). If the Claimant is not able to read, the project officer must arrange for the outline to be read to the Claimant in a language that they understand;
- if the Claimant does not bring a support person with her, the project officer must tell the Claimant that she can have a support person, and that a community support person can assist her if she chooses (see the Referral Processes on pages 14–15 of this Manual);
- assist the Claimant to access independent legal advice, which they must have to participate in the Program, and explain the limits on funding available for this advice (see the Referral Processes on pages 14–15 of this Manual). The project officer must explain that the role of the Independent Legal Advisor is to provide advice on different legal options, explain the process and consequences of resolving the claim, and to discuss whether it is in the best interests of the Claimant to accept any offer made to her under this Program. The project officer will also tell the Claimant that legal fees will be paid directly to the Independent Legal Advisor.

(a) Information to be given to the Claimant

The project officer must then explain the following to the Claimant:

- an outline of the criteria for determining eligibility and legitimacy;
- the steps available to protect the confidentiality, safety and privacy of the Claimant, and the limitations on those steps;
- the Claimant's rights under the Program, including the right to leave the Program at any time and take other action, such as using the site grievance mechanism or to institute formal legal processes against individual perpetrators or their employer;
- that the Claimant is allowed to report any criminal conduct to the RPNGC, and is encouraged but not required to do so;
- any Claims that involve one or more PJV employees will be referred to PJV. This will be done in a way that aims to protect but cannot guarantee the confidentiality of the Claimant, so that the PJV can investigate and take appropriate action against the employee. The Claimant's name and other personal information will be removed from the report before it is given to the PJV.

Similarly, if a PJV Contractor is implicated, the same information will be passed on to the Contractor so it can take any necessary action. The project officer should explain that if such a report is given to either the PJV or a Contractor, the information will be edited to remove the Claimant's name and personal information;



- if the Claim is found to be both eligible and legitimate and an assessment is made by the Independent Expert that the Claimant should be assisted under the Program, then an agreement on those recommendations will be signed by the Claimant, Barrick and PRFA. The agreement will mean that Barrick and PRFA must provide the recommended Program response and the Claimant agrees not to make any further civil claim based on the facts of the claim being resolved against Barrick and PRFA, in or outside Papua New Guinea. The Claimant is still able to take legal action against the individual perpetrator if the identity of that person is known.

Once the Claimant has discussed this information with the project officer, the project officer must give the Claimant an opportunity to consider whether she wishes to continue to assessment of her Claim. If necessary, the Claimant may take some time to consider this and may come back on a later day to continue. If the Claimant has asked that a support person be present, the project officer must not proceed to obtain a Statement of Claim from the Claimant unless the support person is present.

(b) Statement of Claim required from the Claimant

If the Claimant decides to continue, the project officer must ask the Claimant to give the following details about each incident of violence:

- what type of violence was involved;
- when it occurred;
- where it occurred;
- who was involved, either directly or indirectly (for example by providing assistance);
- any witnesses to the incident;
- whether any reports were made to an authority such as the RPNGC;
- whether the Claimant undertook a medical examination in response to the incident and if so, whether the Claimant has a copy of the medical report or could obtain a copy; and
- whether any other persons know the Claimant's story.

This information must be given in the form of a Statement of Claim (see Form 2).

A Statement of Claim must be completed by all Claimants, including those who have previously reported the incident to the RPNGC or Ila Geno.

The CAT project officer should encourage the Claimant to provide as much detail in the Statement as possible as possible. A copy of the Statement must be offered to the Claimant, or held by the CAT for safe-keeping if requested by the Claimant to do so.

Step 2: Initial assessment of Claim by the CAT

Record Claim in database

The CAT project officer must record the details of each Claim in a secure database. The project officer will then complete an initial review of the Claim to determine the eligibility and legitimacy of the Claim. All Claims must be both eligible and legitimate in order to proceed.



Eligible Claims

An eligible Claim must involve all of the following:

- an allegation that a PJV employee sexually assaulted the Claimant in the course of performing his duties while working for the Porgera mine, regardless of where the assault occurred and;
- the Claimant and/or her duly authorised Independent Legal Representative coming forward in person to make a Claim.

If the project officer finds that the Claim does not meet all the eligibility requirements, the Claim will not be assessed for legitimacy.

Legitimate Claims

If the CAT finds that the Claim is eligible, the project officer will then make an initial high-level assessment of the Claim for legitimacy. There are two types of legitimate Claim.

(a) Claims which do not require further assessment

A Claim will be legitimate if it has been properly investigated by Ila Geno, credible civil or non-government organisations or previously referred to the RPNGC. These Claims do not require further consideration by the CAT and, with permission from the Claimant, will proceed directly to the Independent Expert for assessment. As noted above, these Claimants must still complete a Statement of Claim (see Form 2).

(b) All other Claims: CAT assessment process

All other Claims are to be assessed by the CAT, which will make an assessment based on the information available to the project officer and their expertise. The project officer must make the assessment objectively, and will not refer to civil or criminal law or standards of evidence.

The project officer must consider the following:

- if and how the incident was first reported;
- the truthfulness of the story told, drawing on the project officer's experience in gender-based violence;
- any incident reports that have been filed with any relevant authority;
- the consistency of the information provided; and
- available supporting information, such as statements by witnesses or persons to whom the Claimant told her story, and medical or incident reports.

Preliminary Report

When the CAT has assessed the eligibility and legitimacy of the Claim, the CAT will prepare a Preliminary Report of its assessment (see Form 3). This Preliminary Report must be prepared whether or not the Claim meets the eligibility and legitimacy requirements. The Preliminary Report will be kept in the database, along with any supporting documents.



Timing

The CAT must make every reasonable effort to prepare the Preliminary Report within 14 days of lodgement of a completed Statement of Claim.

Step 3: Claim is accepted or rejected: Follow-up meeting

The CAT must organise a follow-up meeting with the Claimant, whether the Claim is accepted or rejected by the CAT. At this meeting, the following will occur:

Step 3(a) – Claim accepted by CAT – Full Report

If the CAT determines that the Claim is both eligible and legitimate, the CAT will prepare a Full Report of the incident (see Form 4).

(a) Assessment of eligibility and legitimacy

The CAT's report will include a statement that the claim meets the eligibility and legitimacy criteria of the program.

(b) Recommendations of support programs

The CAT's report will include recommendations of any programs that should be made available to the Claimant. These programs will be chosen with the Claimant during the follow-up meeting, and selected from a standard range of programs available to Claimants in general. These may include (but are not limited to):

- counselling;
- health care for the Claimant;
- education and training for the Claimant;
- appropriate financial reparations for personal harm or economic damage suffered;
- livelihood assistance (such as livestock, cooking utensils, clothing);
- micro-credit or economic development grants;
- assistance with the payment of school fees for the Claimant's children;
- assistance with returning to the Claimant's home village or province; and
- support for making a complaint with the RPNGC.

According to the international law firm Allens Linklaters, published case law in PNG reflects that in the civil justice system in Papua New Guinea, damage awards for proven instances of rape, similar to those experienced at Porgera, have fallen within an upper range of between 20,000 to 25,000 Kina. In designing a tailored remediation package in conjunction with the Claimant, that range of civil damages awarded by PNG courts for proven instances of rape, similar to those experienced at Porgera, should be considered as a point of reference for the total value of the remediation package in cases where the CAT determines a claimant is eligible and legitimate, with appropriate values placed on any in-kind support that is provided (exclusive of programs open to all members of the community). Any award of cash to the Claimant must be carefully considered and discussed with the Claimant to minimise any risk that this would present to the Claimant.



(c) Delivery of Full Report

The CAT will then give its Full Report to the Independent Expert, with a copy of the Claim and any supporting documents.

A copy of the report will be made in a language or form that the Claimant can understand and offered to her, or held for safe-keeping by the CAT if requested by the Claimant to do so.

An edited copy of the report will be given to the PJV, to enable the PJV to carry out their internal investigation and consider whether any action should be taken in respect of any PJV employee implicated in the Claim. The edited copy should not include the Claimant's name or other information which could identify her. The CAT should give the PJV a timeframe of approximately 14 days in which to give feedback about each individual Claim. This is so that any feedback from the PJV can be considered by the Independent Expert.

If the Claim relates to a staff member of a PJV Contractor which has provided the assurances required (see Attachment 2), the edited version will be provided to that Contractor. Again, the edited copy should not include the Claimant's name or other details about her which could identify her.

(d) Timing

The CAT must make every reasonable effort to complete the Full Report within 28 days of completion of the Preliminary Report.

Step 3(b) – Claim assessed to be ineligible or illegitimate (Claim rejected by CAT)

If the CAT considers that a Claim is illegitimate or ineligible, during the follow-up meeting it will:

- tell the Claimant of the assessment, and the reasons for the assessment; and
- tell the Claimant that there is an appeal process, and explain the steps for lodging an appeal.

The CAT project officer must complete a file note of this meeting (see Form 1). If the Claimant accepts the assessment of the CAT, the case file will be closed. Where appropriate, the project officer should refer the Claimant to relevant services (see the Referral Processes on pages 14–15 of this Manual).

If the Claimant wishes to appeal the assessment of the CAT, the Claimant must complete the Statement of Arguments for Appeal (see Form 8).

(e) Timing

The CAT must make every reasonable effort to hold the follow-up meeting and complete the File Note within 28 days of completion of the Preliminary Report.

Step 4: Claim submitted to Independent Expert for consideration

Step 4(a) – Full Report of the CAT provided to the Independent Expert

The Independent Expert must consider the assessment and recommendations of the CAT as described in the Full Report, and make its own assessment as to (1) whether the claim is eligible and legitimate and (2) whether the recommended remediation program is appropriate, with reference to the range of damage awards for proven, similar instances of rape within the civil justice system of Papua New Guinea. In making their assessment, the Independent Expert may take into account:



- any initial reports of the incident;
- the information in the Full Report made by the CAT and any supporting documents;
- any further information considered necessary to the assessment. This may require interviews with relevant persons including the Claimant and any support person, Barrick, the RPNGC or a PJV Contractor; and
- any information given by Barrick or the PJV in response to the CAT report.

(i) Independent Expert's assessment process

The Independent Expert will make their assessment based on their expertise, experience, and what they consider as being fair and reasonable. The Independent Expert will not refer to civil or criminal law or standards of evidence.

The Independent Expert should be guided by the following factors, where applicable:

- corroborating physical or testimonial evidence;
- permanent physical effects of the violence;
- evidence that women are being threatened, victimised or coerced into making Claims;
- whether the matter was previously reported to the RPNGC;
- whether the victim has sought or received medical or psychological treatment;
- how much time has passed since the incident occurred; and
- any other relevant factors or criteria, as determined by the Independent Expert.

(ii) Independent Expert prepares and delivers Claim Assessment

The Independent Expert will prepare a Claim Assessment that outlines their assessment and provide the CAT with the Assessment for inclusion in the database (see Form 7). A copy of the Claim Assessment, prepared in a manner or format that the Claimant can understand, must be given to the Claimant.

(iii) Claimant agrees with Independent Expert

If the Claimant agrees with the Claim Assessment of the Independent Expert, an Agreement will be entered into between Barrick, PRFA and the Claimant, setting out the agreed program (see Form 9).

Before the claimant enters into the Agreement, their Independent Legal Advisor will:

- ensure they have advised the Claimant on the merits of her Claim;
- advise the Claimant how she can take criminal or civil legal action against the alleged perpetrator, and advise the Claimant of other legal options available to her, including alternatives to the remedy program in seeking redress against the PJV or others through the courts;
- advise the Claimant on the terms of the Agreement to be signed by the Complainant, PRFA and Barrick, and the legal consequences of signing that agreement, including specifically the provisions of the agreement not to make any further civil claim against PJV, PRFA, or based on the facts of the claim being resolved; and



- give to the CAT for its records a signed statement stating that it has provided the above advice to the Claimant in an independent manner.

(iv) Claimant disagrees with Independent Expert

If the Claimant does not agree with the Claim Assessment of the Independent Expert, she can either leave the Program, or appeal to the Review Panel (see the Statement of Arguments for Appeal in Form 9).

(v) Timing

The Independent Expert must make every reasonable effort to complete the Claim Assessment within 14 days after receiving the Full Report from the CAT.

Step 4(b) – Appeal to the Independent Expert of CAT assessment

The Independent Expert will review any appeal from an assessment of the CAT that a particular Claim is not eligible or not legitimate. This review will consider the information given to the CAT, as well as the Claimant's Statement of Arguments for Appeal, explaining why the Claimant does not agree with the CAT's assessment. The Appeal Assessment of the Independent Expert must be completed within 14 days after receiving the Statement of Arguments for Appeal from the Claimant.

(i) Independent Expert agrees with CAT assessment

If the Independent Expert agrees with the assessment of the CAT, the Claim is terminated. The Independent Expert must prepare an Appeal Assessment, setting out the reasons for agreeing with the CAT assessment, and disagreeing with the Claimant's Arguments for Appeal.

A copy of the Appeal Assessment must be made in a language or format that the Claimant can understand, and offered to her by the CAT, or retained for safe-keeping if requested to do so by the Claimant.

(ii) Independent Expert disagrees with CAT assessment

If the Independent Expert disagrees with the assessment of the CAT, the Independent Expert will assess the Claim by reference to the procedures, information and standards set out in step 4(a) above. The Independent Expert will meet with the Claimant and any support person to agree on recommended support programs. The Independent Expert must prepare a Claim Assessment (see Form 8) stating these recommendations.

A copy of the Claim Assessment must be made in a language or format that the Claimant can understand, and offered to her by the CAT, or retained for safe-keeping if requested by the Claimant to do so. An edited version of the Assessment will also be given to the PJV, so the PJV can consider whether any action should be taken against any PJV employee implicated in the Claim. The Claimant's name and personal information must be removed from this edited copy.

(iii) Claimant agrees with Independent Expert

If the Claimant agrees with the assessment of the Independent Expert, an Agreement is entered into between Barrick, PRFA and the Claimant, setting out the agreed program.

The Independent Legal Advisor will advise the Claimant (see Step 4(a)(c) above).

(iv) Claimant disagrees with Independent Expert



If the Claimant disagrees with the assessment of the Independent Expert, the Claimant can either leave the Program, or appeal to the Review Panel. If the Claimant decides to appeal to the Review Panel, the Claimant must provide written reasons in a Statement of Arguments for Appeal why she does not agree with the Independent Expert's assessment (see Form 8). The Claimant must be offered a copy of the Statement, or a copy retained for her for safe-keeping by the CAT if requested to do so by the Claimant.

Step 5: Appeal submitted to the Review Panel for consideration

The Review Panel will consider and determine appeals from assessments of the Independent Expert. A meeting of the Review Panel will be organised by the CAT.

(a) Review Panel's assessment process

The Review Panel will make an assessment based on their expertise, experience, and what they consider as being fair and reasonable. The Review Panel will not refer to civil or criminal law or standards of evidence.

The Review Panel will review an assessment made by the Independent Expert based on the following, to be provided by the CAT:

- the report of the Independent Expert;
- any information given to the Independent Expert;
- the Claimant's written reasons for disagreeing with the Independent Expert; and
- any further information the Panel considers necessary to make its assessment.

(b) Review Panel prepares Appeal Report

The Review Panel will prepare a report that outlines their assessment, and give the report to the CAT for inclusion in the database. The CAT will then offer the Claimant a copy of this report, made in a language or form which she can understand, or retain a copy for safe-keeping if requested to do so by the Claimant.

If the Review Panel determines in favour of a Claimant after the Independent Expert had made an assessment against the Claimant, then where necessary, an edited version of the Appeal Assessment will be given to the PJV so the PJV can decide if any action should be taken in relation to any PJV employees implicated in the Claim.

(c) Timing

The Review Panel must make every reasonable effort to complete an Appeal Assessment within 7 days after receiving a Statement of Arguments for Appeal from the Claimant.

(d) Claimant agrees with Panel Assessment

If the Claimant agrees with the Appeal Assessment of the Panel, the Claimant will enter into an Agreement with Barrick and PRFA, setting out the agreed program (see Form 9).

The Independent Legal Advisor will advise the Claimant (see Step 4(a)(c) above).

(e) Claimant disagrees with Panel assessment



If the Claimant does not agree with the assessment of the Panel, then the Claimant will leave the Program. The CAT will tell the Claimant that her Claim has been closed.

Step 6: Agreement between Barrick, PRFA and the Claimant

Once a program has been agreed with a Claimant, Barrick, PRFA and the Claimant will enter into an Agreement (see Form 9). The Agreement will provide for the following:

- the Claimant agrees to the general content of the report and the recommendations of the Independent Expert, or of the Review Panel;
- PRFA agree to provide all programs recommended for the Claimant;
- Barrick acknowledges its regret for the harm suffered by the Claimant and encourages the Claimant to pursue criminal and any other civil legal action against the alleged individual perpetrator; and
- the Claimant agrees that she will not make any further civil claim based on the facts of the claim being resolved against the PJV, PRFA or Barrick whether in or outside Papua New Guinea. PRFA and Barrick will be able to rely on the Agreement as a bar to any legal proceedings that may be brought by the Claimant in breach of the Agreement.

Protocols for communication

Internal communication between the CAT, Independent Expert and Review Panel

The Independent Expert and the members of the CAT and Review Panel are entitled to discuss administrative aspects of the Program and Claims made under the Program, but must not discuss the merits or personal information of any individual Claim.

Communication with the Independent Legal Advisor

Communication by the CAT members with an Independent Legal Advisor should be respectful, however, the merits of individual Claims should not be discussed with the Advisor. Copies of the Reports and Assessments prepared under this Program and required to be offered to the Claimant may also be provided to the Independent Legal Advisor with the authority of the Claimant. The Independent Legal Advisor must not be given copies of other documents, such as File Notes. A Claimant and the Independent Legal Advisor (other than providing to the CAT the completed signed statement - Form 10) must not be asked for the details of any advice given to the Claimant by the Independent Legal Advisor.

Copies of all correspondence sent to and from an Independent Legal Advisor must be stored in the database. All telephone calls and meetings by the CAT members with an Independent Legal Advisor must be recorded in a File Note (see Form 1).

Communication with Barrick and the PJV

Communication with Barrick and the PJV should be kept to a minimum. Information about individual Claims should only be given to Barrick or the PJV in accordance with this Manual, to allow Barrick and the PJV to take any necessary action against PJV employees implicated in the Claims. If the Independent Expert or Review Panel deems it necessary to interview personnel from Barrick, a PJV



Contractor or the PJV for the purposes of considering a Claim, they must not disclose the confidential information of the Claimant.

Copies of all correspondence sent to and from Barrick, the PJV or a PJV Contractor must be stored in the database. All telephone calls and meetings with a representative of Barrick, the PJV or a PJV Contractor must be recorded in a File Note (see Form 1).

Referral process, external supporters and contact points

Support Person

Contact with a support person should be made as soon as possible after first contact with the Claimant. If a Claimant has a support person, they should be encouraged to bring the support person to meetings with the CAT. Note that the support person will need to understand and acknowledge certain protocols governing their involvement in the claims process, and must have those protocols explained to them at the first meeting they attend. (See Attachment 4)

Independent Legal Advisor

To participate in the Program, a Complainant must have access to independent legal advice. Contact with an Independent Legal Advisor should be made as soon as possible after first contact with the Claimant.

If the Complainant does not have a lawyer, the CAT will facilitate the Complainant's access to an Independent Legal Advisor.

Note that the Independent Legal Advisor will need to understand and acknowledge certain protocols governing their involvement in the claims process, and must have those protocols explained to them at the first meeting they attend. (See Attachment 4)

The Program will assist with the financing of independent legal advice from the time that the Claimant lodges their Claim.

Funds for legal advice will be provided as follows:

- 600 kina from the time of lodgment of a Claim to finalisation of assessment of the Claim by the Independent Expert;
- If the Claim is considered by the CAT to be illegitimate or ineligible, 600 kina from notification of this assessment to finalisation of an appeal to the Independent Expert, if an appeal is made;
- If the assessment of the Independent Expert is appealed, 600 kina from notification of the assessment of the Independent Expert to finalisation of the appeal to the Expert Review Panel.

At the conclusion of the Independent Legal Advisor advising the Claimant, the Independent Legal Advisor will provide to the CAT a signed written statement (see Form 10 annexed to this manual) that the Independent Legal Advisor has:

1. met with the Claimant in person; and
2. advised the Claimant on:



- a) the merits of her claim;
- b) the process for pursuing a claim through the Framework, including each step in the Framework, and who the relevant participants and decision-makers are at each of those steps;
- c) the availability of translators during her participation in the Framework. This includes an obligation to check that the Claimant understands what has been said during the Framework process;
- d) the remedies that may be available to the Claimant if her claim is found to be eligible and legitimate;
- e) the legal consequences of accepting any offer made by Barrick, and the consequences of signing the proposed agreement with Barrick, in particular the scope and effect of the release from making further civil claims against Barrick in or outside of PNG, and;
- f) the legal options available to the claimant, including:
 - her right to opt out of the Framework process and pursue her claim through formal legal processes at any time;
 - if this choice is taken, how to take legal action against the individual perpetrator(s) and/or Barrick if the Claimant wishes to do so, and the potential outcomes and likely timeframes of such actions; and
- g) her possible exposure under PNG law should any false claim be made during her participation in the Framework process.

Reporting to the RPNGC

Claimants are not required to report any incidents to the RPNGC, although they will be encouraged to do so. Contact with the police can be made through the RPNGC's FSVU. Direct contact between the RPNGC and the Claimant may be made with the Claimant's support person in attendance.

Accessing PNG Justice System

Claimants are to be encouraged to access the PNG justice system to pursue civil remedies against the individual perpetrators of the violence if they wish. A Claimant may be referred to an appropriate legal service or non-profit organisation to assist in this process, where appropriate.

File management and document control

The following file management guidelines apply to all Program staff

Database for electronic documents

All documents relating to Claims made under this Program must be stored on a secure electronic database. Computers used to access the database should be routinely maintained and data must be backed up regularly. This database will be confidential and will not be accessible by any outside person or organisation, including the PJV or Barrick.



Claimants' original documents

If a Claimant provides an original document which is relevant to her Claim, such as a medical or incident report, the CAT should not keep the original on file. The CAT must photocopy the original document, keep a copy, and return the original to the Claimant (with a file note confirming that the original document has been returned to the Claimant).

Hardcopy documents

Hardcopy documents must be stored securely, such as in locked cupboards or drawers. Do not leave hardcopy documents on desks or in workspaces where they may be read by third parties. All documents should be readily identifiable and legible. Supporting documentation for each Claim should be scanned and stored on the secure database.

Correspondence

A copy of all correspondence sent or received must be kept on file.

How to complete the Forms attached to this Manual

With the exception of the File Note, the Forms should be completed electronically, then printed and signed. The File Note may be completed by hand and then scanned and saved on the electronic database. When completing the Forms, more space may be added; the copies in this Manual are for reference only. Where appropriate, more lines should be added so there is sufficient space for all relevant information.

Conduct of Claims Staff: Guiding principles for all Program staff

Confidentiality

You must protect the confidentiality of each Claimant's identity and Claim information at all times. This information must not be shared with third parties (except the nominated representatives of Claimants), including family members, without the consent of the Claimant, or as required by this Manual. Confidential information must not be discussed in situations where it may be overheard by others. You must ensure the security of all documents containing personal or confidential information of Claimants.

Privacy

You must respect the privacy of Claimants and collect information in a manner which is non-intrusive. You must explain to each Claimant how her personal information will be used, and who will have access to that information. You should only collect personal information which is relevant to the Claim.

Impartiality

You must avoid any conflict between your own interests and those of each Claimant. You must allow each Claimant a reasonable opportunity to discuss her story. You should not make an assessment about eligibility or legitimacy of a Claim until you have heard everything the Claimant has to say. Your assessments must be made objectively and on the basis of your expertise. If a



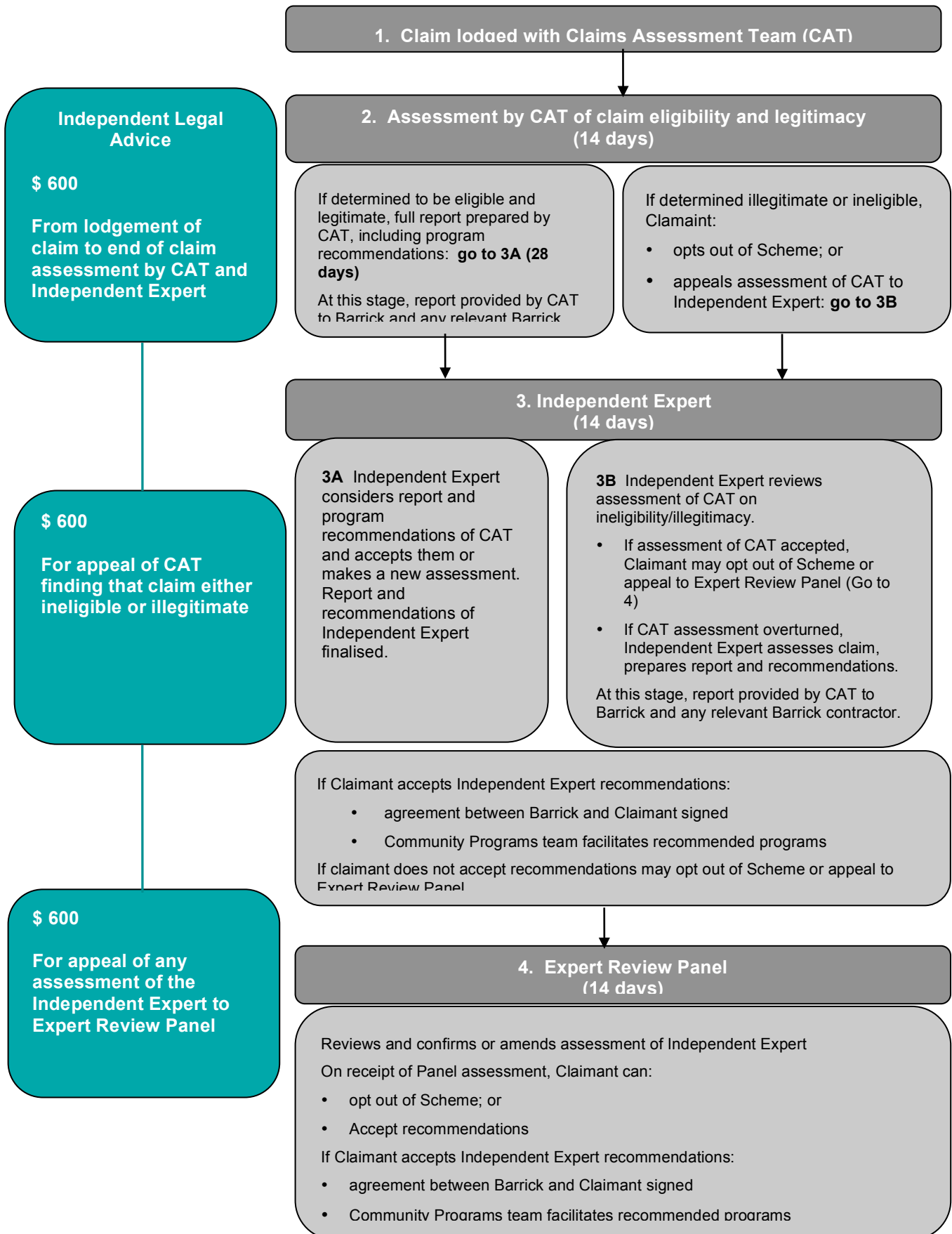
Claimant chooses to appeal an assessment, you should not give your opinion as to the likelihood of the appeal succeeding.

Independence

PRFA must make assessments independently of Barrick, the PJV or PJV Contractors. You must not discuss the merits of any individual Claim with a representative of Barrick, the PJV or any of the PJV Contractors. If you are contacted by anyone other than the Claimant or their duly nominated representative, who wishes to discuss a specific Claim, you must decline to comment and refer the matter to the claimant.

Respect

You must ensure that each Claimant feels as comfortable as possible while meeting with you. If possible, meet in a quiet place, close the door and ensure others are not in the immediate vicinity. If a Claimant becomes distressed, encourage her to take a break or drink a glass of water. Avoid asking the same questions repeatedly, to minimise the risk of re-traumatising the Claimant. If a Claimant becomes highly distressed, do not force the Claimant to complete the interview; rather, reschedule the interview for another day.





The role of the **Claims Assessment Team** is to:

1. receive Claims from women in the Porgera Valley, assess their eligibility for the Program and, if found eligible, assess the legitimacy of the Claim lodged; and
2. if the Claim is found both eligible and legitimate, assess the Claim and prepare a report and recommendations for consideration by the Independent Expert.

The role of the **Independent Expert** is to:

1. consider reports and recommendations of the CAT on Claims the CAT has found to be eligible and legitimate and to make an assessment on (a) whether the Claim is eligible and legitimate and (b) if the Claim is both eligible and legitimate, the remedy package that should be provided to the Claimant; and
2. review appeals from any assessment by the CAT that a Claim is ineligible and/or illegitimate.

The role of the **Review Panel** is to:

2. review reports and recommendations of the Independent Expert on claims the Independent Expert has found to be ineligible or illegitimate, that have been appealed to the Expert Review Panel and to make an assessment on (a) their eligibility and legitimacy and (b) if the Claim is found to be both eligible and legitimate, the remedy package that should be provided to the Claimant;
3. review reports and recommendations of the Independent Expert that have otherwise been appealed to the Expert Review Panel.

**SAMPLE****Individual Reparations Program
Attachment 1: Letter to PJV Contractors**

[TO BE INSERTED ON PJV LETTERHEAD]

[Date]

[Address of Contractor]

Dear [Name]

Response to Violence against Women in the Porgera Valley: Individual Reparations Program

The Porgera Joint Venture (the **PJV**) is launching a framework of remediation initiatives in response to violence against women in the Porgera Valley. One component of this framework is an Individual Reparations Program (the **Program**), designed to assist women who have been subject to sexual assault attributable to employees of the PJV. The Program will be launched on October 24th, and Claims will be accepted for consideration from that point until January 19th 2012. The Program will be run by an association incorporated for that specific purpose, PRFA, and which will be independent of the PJV and Barrick (Niugini) Limited. The PJV will not be involved in the running of the Program. Additional information about the Program is enclosed.

Under the Program, women who fulfil certain eligibility and legitimacy requirements will receive access to individualised support programs to assist them to recover from the effects of the violence perpetrated against them.

In summary, women will be eligible for support under the Program if their Claim involves all of the following:

- an allegation that a PJV employee sexually assaulted the Claimant in the course of performing his duties for the Porgera mine, regardless of where the assault occurred;
- the incident of alleged assault occurred after 1 January 1990 or on or before 31 December 2010; and
- the Claimant coming forward personally to make a Claim.

If a Claim implicates a PJV employee who can be identified, the Claim documents will be redacted and edited to protect the identity of the Claimant, and forwarded to the PJV. This will enable the PJV to take appropriate action against its employee. All employees who have committed violent acts against women will be terminated.

Pursuant to the eligibility criteria outlined above, the Program will not automatically extend to providing direct support or assistance to women who have been the subject of sexual assault attributable to the employee of a PJV contractor. However, where appropriate, the Program may result in the referral of these women to non-government organisations, the Royal Papua New Guinea Constabulary or Papua New Guinea public services which will be able to assist them.

The PJV anticipates that as a result of interviews conducted for the purposes of the Program, some women will come forward who have been the subject of sexual violence attributable to person(s) who can be identified as the employee of a PJV contractor. It is possible that PRFA may obtain information which implicates a person who could be identified as an employee of [Name of Contractor Entity].



We are now seeking your assurance that, if PRFA were to receive a Claim implicating an employee of [Name of Contractor Entity], on receipt of the redacted and edited Claim from PRFA, you would take appropriate action in investigating and dealing with that employee, and in providing reparations to the claimant as determined through this Program. This may include terminating that employee where it is clear that the employee has engaged in violence against women.

Please acknowledge your understanding and acceptance of the terms of this letter by signing the enclosed copy and returning it to me. PRFA will not forward you any redacted Claims which implicate an employee of [Name of Contractor Entity] unless we receive this assurance from you. It is of utmost importance that the privacy and personal information of Claimants under the Program be protected to the greatest extent possible.

Please contact me with any questions.

[Insert signature block]

[Contractor Name] understands and agrees with the above:

Signed, for and on behalf of [Contractor Name]

Print name

Position held

Dated



SAMPLE

Individual Reparations Program

Attachment 2: Information for Potential Claimants

1. What is the Individual Reparations Program?

The Individual Reparations Program is a Program to assist women in the Porgera Valley who have been subjected to sexual violence by an employee of the Porgera Joint Venture in the course of performing his duties at the Porgera mine site. These women may make a Claim under the Program. Each Claim will be considered, and successful Claimants will be given access to support services and programs.

2. Who runs this Program?

This Program is run by PRFA, independently of the Porgera Joint Venture.

3. Am I eligible to make a Claim?

You can make a Claim if you answer 'yes' to each of the following questions:

- 3.1 Were you sexually assaulted by a current or former employee of the Porgera Joint Venture, during the course of their work?
- 3.2 Did the incident of sexual violence occur after 1 January 1990 or on or before December 31, 2010?
- 3.3 Do you have a person to support you when you come forward in person to make a Claim? This person may participate in purely administrative matters on your behalf (such as receiving notification of outcomes of assessments), but you must still come to all meetings in person.

If you have been assaulted at the Porgera mine site and are unsure about whether the perpetrator was an employee of the Porgera Joint Venture, we can talk about this with you.

4. What support programs are available?

The types of support programs which will be available to successful Claimants include (but are not limited to):

- counselling;
- health care for the Claimant;
- education and training for the Claimant;
- appropriate financial reparations for personal harm or economic damage suffered;
- livelihood assistance (such as livestock, cooking utensils, clothing);
- micro-credit or economic development grants;
- assistance with the payment of school fees for the Claimant's children;
- assistance with returning to the Claimant's home village or province; and
- support for making a complaint with the RPNGC.

Other types of reparation and support services may also be considered during discussions depending on the circumstances of your individual claim

5. Where can I make a Claim?



You can lodge a Claim with the Claims Assessment Team (the **CAT**) who are located in the Porgera Women's Welfare Office. If the incident of sexual violence has already been reported to the Royal Papua New Guinea Constabulary or Human Rights Watch or the Harvard Law School or others engaging with the Framework process, or previously investigated by Ila Geno, it can be referred to the Program with your permission.

6. When can I make a Claim?

You must make your Claim between October 24 2012 and April 2013. Claims lodged after April 2013 will only be considered in certain circumstances, such as a reference to the program from a recognised organisation engaging with the Framework process, including Harvard University and New York University legal clinics, Human Rights Watch and some others.

7. What is involved in making a Claim?

When you visit the CAT, you will meet with a Project Officer. The Project Officers are women who have experience in working with women who have been the subject of sexual violence. The meeting will be private. The Project Officer will give you more information about the Program and your rights. If you do not have a lawyer of your own, you will be referred to an Independent Legal Advisor who can also give you advice about making a Claim. You will also be offered translation services.

- 7.1 You can bring a support person with you to this meeting. Your support person could be a family member or friend. If you do not have a support person, the Project Officer can help arrange a support person for you.
- 7.2 The Project Officer will ask you to complete a Statement of Claim. This is a document which will give details about the incident of sexual violence committed against you. You will need to give as much information as you can remember about what happened, when and where it happened, and who was involved. As a legal document, you must complete the Statement of Claim honestly and truthfully – there may be legal consequences for you if you make a false or untruthful statement. You will be able to obtain a copy of this statement if you desire it.
- 7.3 You must have independent legal advice to participate in this program. Your Independent Legal Advisor will advise you about this Program and any other options available to you.

8. How will my Claim be assessed?

When you have made your Statement of Claim, the CAT will review your Claim. They will decide whether your Claim is eligible, and they will also consider whether your Claim is legitimate. The CAT must apply specific criteria to make this assessment.

- 8.1 If the CAT assesses that your Claim is both eligible and legitimate, they will meet with you to talk about the programs which would best assist you to recover from the effects of the violence. These programs will be chosen from a list of services which are available under the Program.
- 8.2 If the CAT considers that your Claim is not eligible, or not legitimate, a Project Officer will meet with you to explain why. If you disagree with the assessment of the CAT, you can lodge an Appeal with the Independent Expert. Your Independent Legal Advisor will give you advice about preparing your Appeal. You will need to give written reasons why you disagree with the CAT.

9. Role of the Independent Expert

The role of the Independent Expert is to review assessments of the CAT, and Appeals from those assessments. If the CAT has assessed a Claim that is appealed to the Independent Expert to be either



illegitimate or ineligible, the Independent Expert will assess (a) if it is legitimate and eligible and (b) if it is both, the remedy program that should be offered to the Claimant. The Independent Expert must apply specific criteria to make this assessment.

- 9.1 If you have met with the CAT to discuss programs which would assist you to recover from the violent incident, the Independent Expert will review these recommendations. If the Independent Expert agrees with the CAT, they will write a Claim Assessment confirming the recommended programs and services.
- (a) If you agree with the Claim Assessment of the Independent Expert, you will enter into an Agreement with PRFA and Barrick (Niugini) Limited. Your Independent Legal Advisor will advise you on the consequences of signing this Agreement.
 - (b) If you disagree with the Claim Assessment, you may leave the Program or you can lodge an Appeal with the Review Panel. Your Independent Legal Advisor will be able to give you advice about preparing your Appeal to the Review Panel. You will need to give written reasons why you disagree with the Independent Expert.
- 9.2 If you have lodged an Appeal with the Independent Expert to review the CAT's assessment that your Claim was not eligible or not legitimate, the Independent Expert will prepare an Appeal Assessment.
- (a) If the Independent Expert agrees with your Arguments for Appeal, the Independent Expert will meet with you to discuss the support programs or services which would best assist you to recover from the effects of the violence. These programs will be chosen from a list of services which are available under the Program. If you agree with the Independent Expert's recommendations, you will enter into an Agreement. Your Independent Legal Advisor will advise you on the consequences of signing this Agreement.
 - (b) If the Independent Expert does not agree with your Arguments for Appeal, you may leave the Claims process. If you do not agree with the Appeal Assessment of the Independent Expert, you may lodge an Appeal with the Review Panel. Your Independent Legal Advisor will be able to give you advice about preparing your Appeal to the Review Panel. You will need to give written reasons why you disagree with the Independent Expert.

10. Appeals to the Review Panel

The Review Panel considers Appeals from Claim Assessments and Appeal Assessments made by the Independent Expert. The Review Panel must apply specific criteria to each Appeal. If you have lodged your Arguments for Appeal with the Review Panel, there are two possible outcomes:

- 10.1 If the Review Panel agrees with your Arguments for Appeal, the Review Panel will meet with you to discuss the support programs or services which would best assist you to recover from the effects of the violence. These programs will be chosen from a list of services which are available under the Program. If you agree with the Appeal Assessment of the Review Panel, you will enter into an Agreement. Your Independent Legal Advisor will advise you on the consequences of signing this Agreement.
- 10.2 If the Review Panel disagrees with your Arguments for Appeal, your Claim will not receive any further consideration and you will leave the Program.

11. How will my information be used?



We will not share your information with anyone outside the Program except with your authority or as required by law. However, if your Claim implicates a Porgera Joint Venture employee, we may pass on information about the violent incident to the Porgera Joint Venture so that appropriate action can be taken. If we do this, we will take steps to protect your identity and personal information. We might also pass on similar information if your Claim implicates an employee of a company which is contracted by the Porgera Joint Venture, and the allegations concern activity on the Project lease area.

12. Will I have to go to the Police?

You will not have to make a report to the Police in order to make a Claim in this Program. However, we may encourage you to tell the Police what has happened to you.

13. Can I leave the Program at any time?

Yes, you can decide not to participate in the Program at the outset, or leave the Program at any time after you have lodged a claim. You may choose not to participate in or to leave the Program because you would like to pursue your claim against the individual perpetrator or against the company through formal legal processes, or for any other reason. We strongly recommend that you discuss the legal options available to you with your independent legal advisor.



Attachment 3: Olgeta Meri Igat Raitis

See attached document.



Attachment 4 – Protocols for Independent Advisers and Support Persons

These protocols relate to the involvement of the independent legal representatives and personal supporters in the lodgment and resolution of claims made under the Porgera Olgeta Meri Remediation Framework operating in Papua New Guinea.

The aim of these protocols is to ensure that the Claimant is provided with effective, appropriate and independent legal advice and personal support throughout their involvement in the Remediation Framework.

The protocols are to be provided to the Claimant, their legal advisor and support person prior to any formal claims processes taking place involving those persons.

A person to whom these protocols are provided must, in the presence of the Claimant whom they are representing or accompanying, formally acknowledge that they have received, read and understood the protocols.

A record of that acknowledgement will be kept on file by the Complaint Assessment Team (or "CAT").

Procedural Protocols

Independent Legal Representative

The Claimant must have independent legal representation to participate in the Remediation Framework. Only one person may be nominated as a legal representative of an individual Claimant, though the Claimant can change their legal representation at any time.

An independent legal representative must be legally qualified, and must provide evidence of those qualifications if asked to do so by the Complaints Assessment Team (CAT). Making a false claim regarding your authority to represent a Claimant may be an offence under Papua New Guinean law.

Before you can legally represent a Claimant under the Framework claims process, you must provide a Record of Authority to Represent Claimant to the CAT. A form will be provided to you by a claims assessment officer that you must - in the presence of the Claimant that you will represent - sign and have witnessed by a Commissioner for Oaths. An independent legal officer who is duly authorized to act as a Commissioner for Oaths will be made available to witness you signing that form if required.

As the formal legal representative of a Claimant, you have a duty to represent the interests of the Claimant that you represent in an independent and professional manner. You should not have any conflict of interest in relation to the claims made by the Claimant.

To assist in ensuring effective legal representation for the Claimant, the Framework provides you with a number of rights and obligations under the remediation claims process that you must fully understand and follow.

You will have the right to accompany the Claimant to any meetings or discussions with representatives of the claims assessment team, and you will be provided with copies of any reports, assessments or other documents relating to the claims process that will be given to the Claimant.

You will not be given access to any internal documents or reports, such as file notes or other records maintained by the claims assessment team for internal administrative purposes.



You will be provided with written information by the CAT regarding the claims process, so that you can provide advice to the Claimant about the Framework process effectively.

As an authorized independent legal representative, you have a responsibility to ensure that you have explained several things to the Claimant. These include advising the Claimant on:

- the merits of her claim
- the process for pursuing a claim through the Framework, including each step in the Framework, and who the relevant participants and decision-makers are at each of those steps;
- the availability of translators during her participation in the Framework. This includes an obligation to check that the Claimant understands what has been said during the Framework process;
- the remedies that may be available to the Claimant if her claim is found to be eligible and legitimate;
- the legal consequences of accepting any offer made by Barrick, and the consequences of signing the proposed agreement with Barrick, in particular the scope and effect of the release from making further civil claims based on the facts of the claim being resolved against Barrick in or outside of PNG, and;
- the legal options available to the Claimant, including:
 - her right to opt out of the Framework process and pursue her claim through formal legal processes at any time;
 - if this choice is taken, how to take legal action against the individual perpetrator(s) and/or Barrick, the merits, potential outcomes and likely timeframes of such actions; and
- her possible exposure under PNG law should any false claim be made.

You must sign a witnessed statement in the presence of the Claimant declaring that you have provided that advice to the Claimant. A form will be provided to you by the claims assessment officer so that you can make that declaration.

A record of that declaration will be retained by the CAT.

You may provide any other legal advice to the Claimant as you consider necessary or appropriate.

Support person

Claimants may bring one support person with them to any meetings or discussions with representatives of the CAT.

The role of this support person is to assist the Claimant through the Framework process. It is not to speak on behalf of/instead of the Claimant, unless the Claimant expressly requests the support person to do so during her participation in the Framework process. It is expected that the independent legal representative will act as the advocate of the Claimant, if an advocate is required.

At the direction of the Claimant, the support person may be shown copies of any reports, assessments or other documents relating to the claims process that may be given to the Claimant during meetings between the CAT and the Claimant to assist in providing support during those meetings, but the person will not be given copies of those documents to take away from the meeting.



Behavioral Protocols

Legal Representative and/or Support Person

The Complaints Assessment Team (or "CAT") expects to be able to conduct meetings with Claimants and their representatives in a calm, safe and sensitive manner.

You have a right to be treated courteously and professionally in all your meetings with representatives of the CAT.

You must not behave or engage with representatives of the CAT in a manner that is threatening, abusive, aggressive, intimidating or likely to cause offence in any way.

You must respect the private and confidential nature of the claims assessment process, and you must not disclose or discuss private or confidential information about the claim, or the claims process, with any other person unless you have the clear consent of the Claimant to do so.

You must not contact representatives of the CAT, or make requests of CAT representatives unless you have the clear consent of the Claimant to do so.

The CAT may verify with the Claimant that such consent has been provided, if considered necessary at any stage.

Except where expressly provided in the claims process, you may not request any payment or other form of material benefit for yourself from representatives of the CAT.

Acknowledgement

I, _____ (Name of independent legal representative) acknowledge that I have received a copy of the above protocols, and that I have read and understood them.

I agree to follow these protocols.

Signed: _____

Date: _____

I, _____ (Name of support person) acknowledge that I have received a copy of the above protocols, and that I have read and understood them.

I agree to follow these protocols.

Signed: _____

Date: _____



OUTLINE OF STEPS FOLLOWING A BREACH OF PROTOCOLS GOVERNING PERSONAL SUPPORTERS AND INDEPENDENT LEGAL ADVISORS OF CLAIMANTS

Step 1: Breach of protocol triggers immediate halt to meeting or discussion. Claimant and supporter / legal representative will be asked to leave. Time, date and reason for suspension recorded in Claimant File Note.



Step 2: Letter is drafted and provided to claimant and their legal advisor advising of suspension of claims process, and giving reason(s) for suspension, with specific reference to breached protocols. Letter will note suspension does not prejudice claim, but will indicate that a meeting must be held to resolve the breach before the claim process can continue.



Step 3: Meeting held to discuss and resolve breach of protocols. Supporter or legal representative must re-sign a formal acknowledgment of the protocols, and must agree to follow them. Copy of acknowledgement to be retained on file.



Step 4: Claims process resumes. If a subsequent breach of protocols occurs, the claims process will again be immediately suspended. Claimant and supporter / legal representative will be asked to leave. Time, date and reason for suspension recorded in Claimant File Note.



Step 5: Letter is drafted and provided to claimant advising of a second suspension of claims process, and giving reason(s) for the second suspension, with specific reference to breached protocols. Letter will note suspension does not prejudice claim, but will indicate that the claimant can not attend further meetings accompanied by the offending supporter / legal representative. The claimant will be advised to elect a new supporter / legal representative so that the claim process can continue. Copy of letter to be retained on file.



Step 6: Claim process resumes.



Individual Reparations Program

SAMPLE

Form 1: File Note

Date of meeting / conversation:	/ / 2012
Name of Claimant:	
Name of Project Officer:	
Other attendees:	Name: _____ Name: _____ Name: _____ Name: _____
Details of meeting / conversation:	_____ _____ _____ _____ _____ _____ _____ _____ _____ _____ _____



Details of meeting / conversation (cont):	

Signature

Date:



SAMPLE

Individual Reparations Program

Form 2: Statement of Claim

Date:	/ / 2012
Name of Claimant:	
Name of Project Officer:	

Give the details of the incident below. Complete separate statements for additional incidents.

I, [name] of [address],

do solemnly and sincerely declare that:

1. What type of violence did the incident involve?

2. When did the incident occur?

3. Where did the incident occur?

4. Who was involved, either directly or indirectly (for instance by providing assistance)?

5. Were there any witnesses to the incident?



6. Were any reports made to an authority?

7. Did you undertake a medical examination in response to the incident and if so, do you have a copy of the medical report?

8. Do any other persons know all or part of your story?

I have entered into the Olgeta Meri Raits individual Reparations Program voluntarily and of my own accord, and I have had explained to me the 'Information for Potential Claimants' that is attached to this Statement of Claim.

AND I MAKE this solemn declaration by virtue of the provisions of the *Oaths, Affirmations and Statutory Declarations Act, 1962*, conscientiously believing the statements contained therein to be true in every particular.

Declared at _____)
 theday of)
 2012)

.....
 Proponent:
 Before me:

Commissioner for Oaths

Note: Any person who wilfully makes a false statement in a Statement of Claim is guilty of an indictable offence, and may be liable to penalties under the law, including imprisonment.



SAMPLE

Individual Reparations Program

Form 3: Preliminary Report by Claims Assessment Team

Date:	
Name of Claimant:	
Name of Project Officer:	

Eligibility

<p>Does the Claimant allege that a PJV employee, or PJV contractor employee, was directly or indirectly involved in sexually assaulting her in the course of performing his duties at the Porgera mine site?</p> <p>Comments: _____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p>	<p><i>Please mark</i></p> <p>Y / N</p>
--	--

<p>Did the incident of alleged assault occur after 1 January 1990 and on or before 31 December 2010?</p> <p>Comments: _____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p>	<p><i>Please mark</i></p> <p>Y / N</p>
--	--

<p>Has the Claimant come forward personally to make a claim? If not, has the Claimant nominated an authorised Representative?</p> <p>Comments: _____</p> <p>_____</p> <p>_____</p> <p>_____</p>	<p><i>Please mark</i></p> <p>Y / N</p>
--	--



-------	--

Comments on eligibility requirements:

Legitimacy (do not complete if the claim is not eligible)

Comment on each of the following:

Has the incident previously been reported? If so, in what manner?

Comments: _____

Assess the truthfulness of the story told, drawing on your experience in gender-based violence.

Comments: _____



Have any incident reports been filed with any relevant authority?

Comments: _____

Is the information provided consistent?

Comments: _____

Is there any supporting information available, such as statements by witnesses or persons to whom the Claimant told her story, or medical or incident reports?

Comments: _____



In your overall view, does the claim meet the legitimacy requirements?

Signature of Project Officer

Date:



SAMPLE

Individual Reparations Program

Form 4: Full Report by Claims Assessment Team

Date:	
Name of Claimant:	
Name of Project Officer:	

Provide detailed information about the incident of sexual violence:

CAT's assessment of whether claim meets eligibility and legitimacy requirements:

Details of support programs recommended in consultation with Claimant:



If a cash award is recommended, comment on how any risk to Claimant will be minimised:

Signature of Project Officer

Date:



SAMPLE Individual Reparations Program

Form 5: Report of Appeal to Independent Expert: Assessment of Ineligibility or Illegitimacy by Complaints Assessment Team

Date:	
Name of Claimant:	

List of any documents and other references relied upon for the purposes of this Assessment, including any interviews:

Outline of Assessment, and explanation of how the criteria set out in the Procedures Manual were addressed:



If Appeal is allowed, list support programs recommended in consultation with the Claimant:

Signature of Independent Expert

Date:



SAMPLE

Individual Reparations Program

Form 6: Report of Appeal to Review Panel

Date:	
Name of Claimant:	

List of any documents and other references relied upon for the purposes of this Appeal, including any interviews:

Outline of assessment, and explanation of how the criteria set out in the Procedures Manual were addressed:

If appeal is allowed, list support programs recommended in consultation with the Claimant:

Signature of Review Panel Member

Date:



Details of assessment of support programs recommended by CAT, and recommendations of Independent Expert:

Signature of Independent Expert

Date:



SAMPLE

Individual Reparations Program

Form 8: Statement of Arguments for Appeal

Name of Claimant:	
--------------------------	--

I am lodging an Appeal against an Assessment of the [Complaints Assessment Team / Independent Expert]

Date of assessment I am appealing against:	
---	--

My arguments against the Assessment (please give full details):

Signature of Claimant

Date:



SAMPLE

Individual Reparations Program

Form 9: Agreement

Date		<u>Year</u>
Parties		
1.	[Name of Claimant] (the Claimant)	
2.	Barrick (Niugini) Limited (Barrick)	
3.	Porgera Remediation Framework Association Inc. (PRFA)	
Recitals		
A.	The Claimant was the subject of sexual violence attributable to one or more current or former employees of the Porgera Joint Venture (the Conduct).	
B.	While not admitting any liability, Barrick acknowledges the Conduct, expresses its regret for the harm suffered by the Claimant and encourages the Claimant to pursue criminal and any other civil legal action against the alleged individual perpetrator(s) of the Conduct.	

Interpretation

1. In this Agreement:

- "Barrick" includes the directors, officers and employees of Barrick (Niugini) Limited and Barrick Gold Corporation, but not a Perpetrator ;
- "Framework" means the Framework for Remediation Initiatives in Response to Violence Against Women in the Porgera Valley;
- "Porgera Joint Venture" means Barrick and Mineral Resources Enga Limited;
- "Reparations" means the individual remedy assessed for the Claimant by the Independent Expert or the Review Panel under the Framework.

Reparations

2. PRFA agrees to provide the reparations set out in [the attached Claim Assessment / Appeal Assessment] dated [date] and the recommendations of the [Independent Expert / Review Panel] , to the Claimant in order to provide remedy for the harm(s) suffered as a result of the Conduct
3. PRFA agrees to give the Claimant [the sum of # kina and] access to each of the programs listed in the attached [Claim Assessment / Appeal Assessment] dated [date], subject to availability.

Release of claims

4. The Claimant accepts the Reparations, and acknowledges that they and this release (together, this **Agreement**) have been provided or explained to her in a language with which she is familiar by a qualified lawyer, and that she is entering into this Agreement voluntarily and without coercion or duress.
5. The Claimant agrees that, in consideration for the Reparations, on and from the date of signing this Agreement, she will not pursue any claim for compensation, or any civil legal action, that relates in any way to the Conduct, against the Porgera Joint Venture, PRFA or Barrick in Papua New Guinea or in any



other jurisdiction. This expressly excludes any criminal action that may be brought by any state, governmental or international entity.

- 6. This Agreement may be pleaded and tendered by Barrick, the Porgera Joint Venture and PRFA as an absolute bar and defence to any civil legal action relying on any acts related to the Conduct which the Claimant may bring or participate in against Barrick, the Porgera Joint Venture or PRFA. The Agreement may be relied on Barrick, the Porgera Joint Venture or PRFA in any form of dispute resolution process connected to such a legal proceeding.
- 7. A Party cannot change or transfer any of its rights or obligations under this Agreement, or attempt or claim to do so, without the prior written consent of each other Party.

Disputes

- 8. In the event of any dispute arising out of or in connection with this Agreement, including any question regarding its formation, existence, validity, enforceability, performance, interpretation, breach or termination (a **Dispute**), the Parties shall use reasonable efforts to resolve such Dispute through amicable negotiations.
- 9. This Agreement, and any Disputes, shall be governed by the laws of Papua New Guinea.
- 10. Any and all Disputes relating to this Agreement shall be resolved exclusively by the courts of Papua New Guinea. Each Party submits to the jurisdiction of the courts of Papua New Guinea.

Executed in [Location]

Signed by [name of Claimant] in the presence of:

Witness Signature

Signature

Print Name

Signed by [name of Barrick Representative] on behalf of Barrick in the presence of:

Witness Signature

Signature

Print Name



**Signed by [name of PRFA
Representative]** on behalf of PRFA in the
presence of:

Witness Signature

Signature

Print Name

Translation

I, [name] certify that I am a lawyer admitted to practice in Papua New Guinea and that the content of this Agreement has been interpreted and explained to the Claimant in the [##] language.

Lawyers signature



SAMPLE Individual Reparations Program

Form 10: Signed Statement of Independent Legal Advisor

Date:	/ / 2012
Name of Claimant:	
Name of Independent Legal Advisor:	

I, [name] of [address], do solemnly and sincerely swear that I have:

1. met with the Claimant in person; and
2. advised the Claimant on:
 - a) the merits of her claim;
 - b) the process for pursuing a claim through the Framework, including each step in the Framework, and who the relevant participants and decision-makers are at each of those steps;
 - c) the availability of translators during her participation in the Framework. This includes an obligation to check that the Claimant understands what has been said during the Framework process;
 - d) the remedies that may be available to the Claimant if her claim is found to be eligible and legitimate;
 - e) the legal consequences of accepting any offer made by Barrick, and the consequences of signing the proposed agreement with Barrick, in particular the scope and effect of the release from making further civil claims against Barrick in or outside of PNG, and;
 - f) the legal options available to the claimant, including:
 - her right to opt out of the Framework process and pursue her claim through formal legal processes at any time;
 - if this choice is taken, how to take legal action against the individual perpetrator(s) and/or Barrick if the Claimant wishes to do so, and the potential outcomes and likely timeframes of such actions; and
 - g) her possible exposure under PNG law should any false claim be made during her participation in the Framework process.

Signed at _____)
 theday of)
 2012)
)

.....
 Before me:

Name of witness



SAMPLE

Individual Reparations Program

Form 11: Record of Authority to Represent Claimant

Date:	
Name of Claimant:	

Type of authority to represent claimant:

- Representative nominated by claimant
- Parent or legal guardian of a claimant who is a minor (under 18 years old)

Description of relationship to claimant:

List of proof of identity documents provided:

I declare that I am duly authorised to represent the claimant namedin lodging a claim under the Olgeta Meri Raits individual Reparations Program. I understand and acknowledge that any reparations provided under this Program are for the sole benefit of the claimant.

I MAKE this solemn declaration by virtue of the provisions of the *Oaths, Affirmations and Statutory Declarations Act, 1962*, conscientiously believing the statements contained therein to be true in every particular.

Declared at _____)
 theday of)
 2012)

.....
 Proponent:
 Before me:

Commissioner for Oaths

Note: Any person who wilfully makes a false statement in a Statement of Claim is guilty of an indictable offence, and may be liable to penalties under the law, including imprisonment.



SAMPLE

Individual Reparations Program

Form 12: Letter Advising of First Breach of External Persons Protocols

[Date]

Dear **[Name]**

In accordance with the protocols governing the conduct of your independent legal representative and any support person your claim for remediation has been temporarily suspended.

Suspension occurred on **[Time & Date]** during your interview with a Claims Assessment Officer in the presence of your independent legal representative and/or support person **[Name of that person & role]** for the following reasons:

[State Reason / Give Details of Incident]

The conduct of your chosen independent legal representative and/or support person does not prejudice your claim. However, to continue with your claim in the presence of your nominated legal representative and/or support person, **[Name of legal representative and/or support person]**, they must agree to adhere to the protocols governing the conduct of legal representatives and support persons.

We would therefore like to invite you and your nominated independent legal representative and/or support person to meet with a remedy team member so that the protocols can be explained and your nominated legal representative and/or support person can sign an acknowledgment that they understand and will adhere to the protocols. This is a condition for the continued involvement of **[Name of legal representative and/or support person]**. Should that person breach these protocols again they will not be permitted to assist you progress your claim.

Please contact the Claims Assessment Team to make this arrangement. Alternatively, you may nominate another independent legal representative and/or support person or seek assistance from the remedy program to provide a legal representative and/or support person.

If you do not respond to this request we will not progress your claim.

The safety of staff and the integrity of the claims assessment process is paramount at all times.

Signed: _____

Date: _____



SAMPLE Individual Reparations Program

Form 13: Letter Advising of Second Breach of External Persons Protocols

[Date]

Dear **[Name]**

In accordance with the protocols governing the conduct of your independent legal representative and support person your claim for remediation has been temporarily suspended.

Suspension occurred on **[Time & Date]** during your interview with a Claims Assessment Officer in the presence of your independent legal representatives and/or support person **[Name of that person & role]** for the following reasons:

[State Reason / Give Details of Incident]

The conduct of your chosen independent legal representatives and/or support person does not prejudice your claim. However, given the threat to the safety of our staff you will not be able to continue with your claim in the presence of your nominated legal representative and/or support person, **[Name of legal representative and/or support person]**. They will not be permitted to enter the Claims Assessment Team's office.

You may nominate another independent legal representative and/or support person or seek assistance from the remedy program to provide a legal representative and/or support person.

If you do not respond to this request we will not progress your claim.

The safety of staff and the integrity of the claims assessment process is paramount at all times.

Signed: _____

Date: _____