



## **FOR RESPONDING TO, INVESTIGATING AND MANAGING ALLEGATIONS OF SEXUAL ABUSE AND MISCONDUCT BY CHURCH WORKERS AND CHURCH VOLUNTEERS**

Approved by: Diocesan Council

23 November 2016

### **1 INTRODUCTION**

The Professional Standards Statute 2015 (**the Statute**) was adopted at the Perth Diocesan Synod in October 2015. A requirement of Part 2 of the Statute was that Diocesan Council establishes a policy or protocol for the process of receiving information, complaints and allegations about sexual abuse, sexual assault, harassment or sexually inappropriate behaviour on the part of Church workers (clergy, ordination candidates, lay church officers and employees and those holding a position or performing a function with the actual or apparent authority of a Church authority or Church entity) or Church volunteers.

The Professional Standards Director (**the Director**), the Professional Standards Committee (**PSC**), and the Diocese will be guided by the process set out in this policy for the management of complaints that involve misconduct, including abuse or inappropriate behaviour of a sexual nature. This policy should be read in conjunction with Diocesan Policy 40 – ‘Policy Guidelines for Child Protection’, and is at all times in any event subject to the provisions of the Statute.

### **2 PROFESSIONAL STANDARDS COMMITTEE**

The PSC is an independent entity that provides recommendations and assistance to those who make complaints against Church workers or Church volunteers. This policy and procedures contained herein will focus the work of the Committee including the Committee’s time frames and the timing of the work of the Director of Professional Standards. It will also help to provide additional information to guide and Church workers and Church volunteers in their conduct and responsibilities and to assist the Committee’s decision making about Church workers and Church volunteers who are subject to allegations pertaining to misconduct, including sexual or other abuse towards a child or vulnerable person.

### **3 COMMITMENT**

The Diocese is committed to a safe, supportive and ethical worshipping environment and regards any sexual abuse or misconduct by a Church worker or Church volunteer as very serious. This policy reflects that commitment by providing a clear, consistent and obligatory process for responding to, managing and, where possible, a resolution to all complaints and allegations.

The utilisation of this policy makes certain that we will;

- 1 Ensure that complaints are responded to, investigated and managed with dignity, sensitivity, respect and confidentiality;
- 2 Respond promptly and make every endeavour to bring matters to a timely conclusion (see below);
- 3 Provide support to survivors, complainants, informants, their families and the parish;
- 4 Document the allegation, complaint or information and maintain accurate records;
- 5 Thoroughly review and investigate the circumstances;
- 6 Determine where possible the integrity of the matter;
- 7 Evaluate the most effective action that should be taken to resolve the matter to prevent further harm and mitigate risk;
- 8 Remain objective and facilitate support for the respondent Church worker or Church volunteer and their family;
- 9 Provide pastoral support and recovery strategies to Parishes affected by sexual abuse and misconduct;
- 10 Hold ourselves accountable for the conduct for which this policy relates.



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- 11 While information is being investigated, the Church worker or Church volunteer is presumed innocent until proven otherwise by either a criminal court or appropriate authority and shall be afforded fairness and an opportunity to be heard (“natural justice / procedural fairness”). Subject to natural justice, a recommendation may be made by the PSC pursuant to Part 5 of the Statute to the relevant Church authority in respect of one or more of the following:
  - a That the respondent should be suspended;
  - b That a prohibition order be made against the respondent;
  - c that the respondent be required to enter into a Safety Agreement with the Church authority; or
  - d such other action be taken as may be thought fit.
- 12 The Diocese will be open and accountable to all stakeholders throughout any investigations, subject however to the dictates of necessary and appropriate confidentiality and privacy.
- 13 The Diocese will respond to the subject matter of a complaint which constitutes examinable conduct in a timely, practical and pastoral manner.

Newly licensed Church workers and Church volunteers will be informed of this policy.

### Delays in Complaint Resolution

Investigation of historical sexual abuse (including child sexual abuse) can be a lengthy process for a number of reasons including:

- 1 Denial and non-compliance by the perpetrator
- 2 Impaired memories / Dementia
- 3 Death
- 4 Relocation (unable to be traced)
- 5 Marriage (married name is not known)
- 6 Insufficient or no records maintained

While the Director will make every attempt to investigate the matter in a timely manner, delays do occur.

## 4 DISCLOSURES AND ALLEGATIONS OF SEXUAL ABUSE OR MISCONDUCT

### Current:

All disclosures of current child sexual abuse **must** be reported to the Police.

- 1 The Director will notify the Archbishop (or the Administrator) and Diocesan Secretary of all complaints of misconduct, including sexual abuse, by a Church worker or Church volunteer.
- 2 The Director will notify the Diocesan Insurer.
- 3 Child Protection Policy (40.1) provides further information involving disclosures of abuse.
- 4 The Director and the PSC will co-operate with and assist the Police with their investigation;
- 5 The Director and PSC must ensure that their actions do not interfere with, influence or hinder a Police investigation;
- 6 The Director will provide support to the child and their family/ guardian which includes counselling and a Pastoral Support person (if requested).
- 7 When the investigation by the Police is complete, the family or guardian of the child may indicate that they wish to participate in the internal review process of the Professional Standards Unit or the Pastoral Care and Assistance (PC&A) process (Policy 40.3).

### Historical:

- 1 If a disclosure is made that identifies historical child sexual abuse, the complainant should be encouraged to report the matter to the Child Abuse Unit of the WA Police;
- 2 Third party disclosures of historical sexual abuse to the Police require the written authority of the complainant. Without this authority, no action or investigation will be undertaken by the Police;



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- 3 If the adult complainant indicates that they wish to report alleged child sexual abuse to Police, the Director will provide support and accompany the person to the Police Station or Child Abuse Unit if requested to do so;
- 4 The Director and the PSC will co-operate with and assist the Police with their investigation;
- 5 The Director and PSC must ensure that their actions do not interfere with, influence or hinder a Police investigation;
- 6 Until such time that any investigation by Police is complete, the role of the Director and the PSU is to provide support to the complainant and their family which includes counselling and a Pastoral Support person (if requested);
- 7 When the investigation by the Police investigation and / or judicial process is complete, the complainant may indicate that they wish to participate in the internal review process of the Professional Standards Unit or the Pastoral Care and Assistance (PC&A) process (Policy 40.3)
- 8 It is not the role of the Director to provide counselling to any complainant.

### Schools and Entities of the Diocese

#### Current:

If allegations are received of current child abuse at any Church school or Church entity:

- 1 The Director will refer to the individual Church school or Church entity's Protocol (established 2014) regarding the actions to take.
- 2 The Director will notify the Archbishop (or the Administrator) and the Diocesan Secretary;
- 3 The matter will be documented.

#### Historical:

If allegations received involve a Church school or Church entity of the Diocese, the Director will refer to the individual Protocol (established 2014) of the School or Entity.

#### Media Interest:

The Director will advise the Archbishop (or the Administrator) and the Diocesan Secretary of any allegations or complaints received that may be of interest to the media so that appropriate statements and responses can be provided.

### 5 SAFETY OF THE DIRECTOR / INVESTIGATOR

When allegations are received, it is appropriate for the Director to meet with the complainant.

The Diocese acknowledges that for any complainant to meet with the Director in a 'church' property could be a traumatic experience.

However, the safety of the Director or Investigator is paramount and a suitable and safe place will be sourced for any such meeting.

At all times, the Director is discouraged from meeting in the private home of a Complainant.

### 6 RECEIVING INFORMATION COMPLAINTS OF ALLEGED CHILD ABUSE OR MISCONDUCT

- 1 Allegations, complaints and information can be made to the Director in any form – verbal, written, email, via the Diocesan website ('contact us'). A complaint or information may be received from outside the Diocese or from another faith based organisation.
- 2 If the complaint is verbal, the Director should assist the complainant with a written record of events to ensure that process failure is not alleged.



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- 3 If the complainant has written documentation that was prepared for Redress WA (2009), that information is acceptable to make certain that the complainant is not re-traumatized in re-telling / re-writing their account of events.
- 4 If an anonymous report is received, it will be investigated to the extent practicable. However, the value of the information may be lessened due to the anonymity.
- 5 Third party and anonymous disclosures will be received by the Director and investigated to the extent practically and reasonably possible;
- 6 The Director will respond to all allegations promptly, allocate a Case Number and commence a Case File Summary.
- 7 Only de-identified complaints or information will be reported outside the PSC;
- 8 All case files will be kept secured in the office of the Director;
- 9 All complaints or information received and action taken will be tabled as an Agenda item at the next meeting of the PSC for action;
- 10 All information provided to the PSC in electronic form will be password protected to maintain confidentiality;
- 11 If, in the opinion of the Director, the complaint or information received identifies risk to children or young people, the following may need to be actioned:
  - a Arrange an extra-ordinary PSC meeting to seek guidance on the information provided;
  - b Make recommendations to the Archbishop or the Administrator that the respondent is removed from active ministry;
  - c Seek direction from the Police.

### **7 EXAMINABLE CONDUCT:**

Should the PSC consider that the complaint or information presented constitutes examinable conduct, a case investigator will be appointed at the first meeting following the receipt of complaint or information (subject to clause 6 below);

- 1 The Director may be appointed as the investigator;
- 2 The Complainant will be asked to consider and record with the PSC through the Director what might be their desired outcome if the misconduct is established as detailed in the Statute.
- 3 This may include, but is not limited to:
  - a Consequences for the respondent in terms of ongoing ministry, counselling or employment;
  - b Professional counselling for themselves;
  - c An apology or other acknowledgement from the Archbishop, either written or in person;
  - d An apology or other acknowledgement from the respondent Church worker or Church volunteer, either written or in person;
- 4 If the complainant requests mediation and conciliation with the respondent, the Director shall facilitate with an appropriate or agreed Mediator.
- 5 The respondent will by notice from the PSC, be required to provide a detailed written report in response to an, or any, allegation.
- 6 All Church workers and Church volunteers- including the respondent- involved in situations where abuse is disclosed or suspected must be treated in accordance with the principles of natural justice, and with dignity, sensitivity and respect.

### **8 APPOINTMENT, ROLE AND FUNCTION OF A SUPPORT PERSON (COMPLAINANT)**

When allegations have been received, the complainant will be offered a Support Person and appropriate support, which may include access to professional counselling.

If requested by the complainant, the Support Person may be a suitable member of the clergy.  
The Support Person will:



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- 1 Assist with the care of the complainant;
- 2 Assist with communication between the complainant and the PSC;
- 3 Make recommendations to the PSC through the Director as to the provision of counselling or other care for the complainant and the immediate family who have been affected by the alleged misconduct; and
- 4 Explain the complainant's rights and relevant procedures available to them.
  - a The Support Person must not provide counselling services to the complainant.
  - b The respondent will **not** be provided with identifiable information of the complainant until their safety and welfare has been assured.
  - c When the identity of the complainant is known, the respondent will be advised not to make contact with the Complainant.

### 9 APPOINTMENT, ROLE AND FUNCTION OF A SUPPORT PERSON (RESPONDENT)

When allegations have been received the respondent will be offered a Support Person and appropriate support, which may include access to professional counselling.

- 1 If requested by the respondent, the Support Person may be a suitable Member of the Clergy.
- 2 The Support Person will:
  - a Assist with the care of the respondent;
  - b Assist with communication between the respondent, the Director / investigator and the PSC;
  - c Make recommendations to the PSC as to the provision of counselling or other care both to the respondent and to other persons who have been affected by the alleged misconduct; and
  - d Explain the relevant procedures available to the respondent.
- 3 The Support Person must not provide counselling services to the respondent.

### 10 APPOINTMENT OF AN INVESTIGATOR

The PSC can appoint an independent case investigator following the receipt of a complaint or information on such terms, as the PSC deems necessary and appropriate.

- 1 The investigator cannot be the Support Person for either the complainant or the respondent.
- 2 Once appointed, the investigator will be provided with:
  - a A copy of the complaint or information;
  - b Any response from the respondent, where applicable; and
  - c Any other details relevant to the complaint or information.
- 3 The Complainant will be notified of the appointment of an investigator.
- 4 The respondent will be notified of the appointment of an investigator.
- 5 The PSC is not obliged to appoint an Investigator and may suspend an investigation of the complaint or information (or part of the complaint or information):
  - a While the conduct, the subject of the complaint or information or part of the complaint or information is under investigation by the Police or is the subject of legal proceedings;
  - b Where the complaint or information or part of the complaint or information is being dealt with by an equivalent body to the PSC in another Diocese;
  - c Where the PSC forms the opinion that the Complainant is not co-operating with the investigation;
  - d Where the PSC forms the opinion that, the allegations are false, vexatious or misconceived, or their subject matter is trivial; or
  - e Where there is insufficient evidence to proceed.

### 11 DUTIES OF THE INVESTIGATOR

- 1 Investigate the complaint or information, or part of the complaint or information that is not admitted promptly;
- 2 Interview the complainant if the complainant is available and willing to speak to the investigator;



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- 3 Interview any other persons who may be of assistance in determining the facts of the alleged sexual misconduct, harassment or abuse;
- 4 Invite the complainant to have the Support Person or another person present during the interview;
- 5 Interview the respondent;
- 6 Invite the respondent to have their Support Person or another person present during the interview;
- 7 If the respondent declines to answer a question on the ground that the answer might tend to incriminate the person a written record shall be made of the question and of the ground of refusal.
- 8 The investigator will not make any threat, intimidation or inducement to any person intended to persuade the complainant to withdraw the complaint or information or to persuade the respondent to admit the complaint or information;
- 9 No person will be interviewed more than is necessary to complete the investigation;
- 10 The investigator will not interview a child without prior written authority. All interviews involving a child will be done in the presence of the parent or guardian and in consultation with DCPFS – **this would only occur once the Police have completed all their investigations;**
- 11 The investigator will not interview a person with an intellectual or psychiatric disability without the prior written authority and in the presence of a family member or guardian, nor without consultation with their treatment provider or any welfare agency engaged with the person or their family;
- 12 The investigator will promptly advise the PSC where the complainant has failed to co-operate with the investigation and the facts and circumstances of that failure;
- 13 At the conclusion of the investigation the Investigator will provide a written report to the Director.
- 14 The report will contain all information relevant to the allegations;

The report will contain the findings of the investigator. These findings will be based on the ‘balance of probabilities’ i.e. based on all information provided, and taking into consideration the significance of the allegations, would a reasonable person believe that the alleged misconduct did or did not occur.

### **12 ACTIONS UPON RECEIPT OF INVESTIGATOR’S REPORT - No case to answer**

- 1 The Director will present the investigator’s report to the PSC;
- 2 If the PSC declines to investigate or further investigate a complaint, or if the PSC has determined that the complaint should be dismissed, the Director will advise the Archbishop of the PCS’s determination forthwith;
- 3 The Archbishop may accept the decision of the PSC and must notify the Director accordingly. The case will be considered closed and the Director will inform both the complainant and the church worker or church volunteer of the outcome. The matter will be considered resolved and the file closed.
- 4 If the Archbishop is not satisfied with the outcome, the Archbishop may require further investigation be undertaken, and the above process may be repeated until the matter is considered resolved and the file closed.

### **13 ACTIONS UPON RECEIPT OF INVESTIGATOR’S REPORT – Case to answer**

- 1 The Director will present the investigators report to the PSC;
- 2 If the PSC has determined that the respondent does have a case to answer, the Director will inform both the complainant and the respondent of the outcome;
- 3 The PSC may recommend that the case be referred to the Professional Standards Board (PSB)
- 4 to answer one or more of the following questions (as per Section 60.1 of the Statute):
  - a The fitness of a Church worker, whether temporarily or permanently to hold a particular office, licence or position of responsibility in the Church or to be or remain in Holy Orders;
  - b Whether in the exercise of a Church worker’s ministry or employment or in the performance of any function the Church worker should be subject to certain conditions or restrictions.



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- 5 The PSC or the Director may form the view that there is an unacceptable risk of harm to any person if the respondent remains in their present office or position of responsibility pending the outcome of further investigation of the complaint or determination of the PSB. In such circumstances, the PSC or the Director may make recommendation direct to the Archbishop or other relevant Church authority as to:
  - a the suspension of the respondent;
  - b the requirement for the respondent to enter into a Safety Agreement; or
  - c such other action be taken as may be thought fit, including the temporary relocation of the respondent from a rectory adjacent to a Church building.
- 6 Where the PSC determines that a recommendation is to be made against the respondent, the Director will prepare a report outlining the complaint and questioning whether the respondent is fit to hold any Church Office to the PSB. The Convenor of the PSC will endorse the report.
- 7 The PSC, via the Director, will inform the complainant and the respondent of the process.
- 8 The PSB, bound by Part 8 of the Statute, shall deal with any reference to it from the PSC as timely as possible.
- 9 After considering all the relevant material, the PSB will determine whether the respondent is fit to hold office and whether the respondent should be subject to restrictions and conditions.
- 10 The respondent will have an opportunity to provide written submissions to the PSB.
- 11 If the PSB determines that the respondent is unfit, it may make recommendations to the Archbishop or Church authority who is required to action those recommendations.
- 12 The PSB will provide a copy of those recommendations to:
  - a the Archbishop (or the Administrator in the absence of the Archbishop);
  - b the Director / PSC;
  - c the respondent; and
  - d The complainant.
- 13 An investigation by the PSC is deemed to continue until:
  - a The matter is dismissed;
  - b The PSC makes a recommendation;
  - c The matter has been referred to the PSB for implementation of Part 8 of the Statute;
  - d Criminal proceedings are initiated.

### **14 PASTORAL STRATEGY / PARISH RECOVERY**

The Director will ensure that a pastoral strategy is developed as soon as practicable after receipt of the complaint;

The pastoral strategy shall address, but is not limited to:

- 1 Consultation with the clergy in the parish who may be affected by the complaint;
- 2 What members of the parish are told and when;
- 3 Appointment of a support group to assist with the implementation of the strategy.
- 4 Issues of confidentiality, privacy and natural justice;
- 5 Preparation of a Safety Agreement outlining boundaries and restrictions for the respondent (refer Policy 40.6);
- 6 Issues of safety for the complainant, respondent, and members of the parish;
- 7 Education required relating to the matter within the parish;
- 8 Strategy for pastoral care, healing, and counselling within the parish;
- 9 Strategy for pastoral care of the individuals affected, i.e. complainant, respondent, their family members and friends;
- 10 Critical incident response if a number of people are involved;
- 11 Legal advice;
- 12 Consultation where appropriate (including the parish council for any parish in which the respondent and complainant are members or adherent (it is not appropriate for the respondent and complainant to attend the same parish and the Director will assist an alternate parish or home worship for the respondent);



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- 13 Overall management strategy;
- 14 Management and care of the congregation during the investigation and in recovery for up to five years if required;
- 15 Provision of professional, pastoral and spiritual support for subsequent clergy in their role of healing the parish;
- 16 The keeping of appropriate records;

The Director will monitor and facilitate implementation of the pastoral strategy as required by the Support Group.

### 15 COMPLAINTS FROM OUTSIDE THE DIOCESE

- 1 PSC may receive a complaint from outside the Diocese in the following circumstances:
  - a Alleged abuse or misconduct occurred outside the Diocese and the respondent is resident, working or licensed (“resident”) in this Diocese, or
  - b Alleged abuse or misconduct occurred within this Diocese and the complainant is no longer resident in this Diocese.
- 2 Complaints received where the respondent resides outside the Diocese will be referred to the appropriate PSC in the Diocese in which the respondent resides.
- 3 Complaints received where both the complainant and respondent reside outside this Diocese will be conveyed to the appropriate PSC in the Diocese in which the respondent resides.
- 4 Where the complainant resides outside the Diocese and allegations of abuse or misconduct occurred in this Diocese, the PSC will ensure via an equivalent body that appropriate support people are assigned and counselling is available;
- 5 Receipt of complaint will be immediately acknowledged by the Director and a case number allocated;
- 6 If not currently a Church worker in the Diocese, the Director will notify the respondent directly of the complaint; and
- 7 Respondent will be allocated a Support Person.

The Director will communicate the PSC’s recommendation(s) to the Diocese concerned.

### 16 PROCESSES FOR DEALING WITH ALLEGED PROCESS FAILURE

The Director will report any alleged process failures to the PSC at its next meeting. ‘Process Failure’ means the failure by a Church authority or Church entity to deal with or to investigate matters involving abuse or alleged inappropriate or unreasonable conduct of the Church worker who had knowledge of conduct of another Church worker or Church volunteer constituting sexual abuse or child abuse.

- 1 Upon the recommendation of the Director, the PSC will consider replacing the Support Person if that person appears to be contravening this policy or breaching confidentiality;
- 2 Upon the recommendation of the Director, the PSC will consider replacing the investigator if that person appears to be contravening this policy or breaching confidentiality;
- 3 The Director must promptly report any confirmed instances of process failures to Diocesan Council.

Amendments to this policy may be made from time to time by Diocesan Council, including upon recommendation by the PSC.

### 17 NATIONAL REGISTER

It is a requirement in accordance with the National Register Canon (2007) (as amended), that information specific to sexual abuse, sexual harassment, sexually inappropriate behaviour or child abuse is provided to the National Register.

It is a requirement of the National Register that all those who are named on the National Register are notified in writing in accordance with the provisions of the Canon.