



DIOCESAN COUNCIL POLICY 40.2

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

Approved by: Diocesan Council
Review Due

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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 for the process of receiving information, complaints and allegations about sexual abuse, sexual assault, harassment, sexually inappropriate behaviour or other forms of misconduct on the part of Church workers (ordained 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**), the Professional Standards Board (**PSB**) 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 always 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:

- a. Ensure that complaints are responded to, investigated and managed with dignity, sensitivity, respect and confidentiality;
- b. Respond promptly and make every endeavour to bring matters to a timely conclusion (see below);
- c. Provide support to survivors, Complainants, informants, their families and the parish;
- d. Document the allegation, complaint or information and maintain accurate records;
- e. Thoroughly review and investigate the circumstances;
- f. Determine where possible the integrity of the matter;
- g. Evaluate the most effective action that should be taken to resolve the matter to prevent further harm and mitigate risk;



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- h. Remain objective and facilitate support for the Accused Church worker or Church volunteer and their family;
- i. Provide pastoral support and recovery strategies to Parishes affected by sexual abuse and misconduct;
- j. Hold ourselves accountable for the conduct for which this policy relates;
- k. 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:
 - I. that the Accused should be suspended;
 - II. that a prohibition order be made against the Accused;
 - III. that the Accused be required to enter into an interim Safety Agreement with the Church authority; or
 - IV. such other action be taken as may be thought fit.
- l. The Diocese will be open and accountable to all stakeholders throughout any investigations but will always observe the appropriate confidentiality and privacy.

All Church workers and Church volunteers will be informed of this policy which is accessible on the Diocesan Website.

Delays in Complaint Resolution

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

- a. Denial and non-compliance by the perpetrator
- b. Impaired memories / Dementia
- c. Death
- d. Relocation (unable to be traced)
- e. Marriage (married name is not known)
- f. Insufficient or no records maintained

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

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.

4 SAFETY OF THE DIRECTOR / INVESTIGATOR

When allegations are received, where possible, the Director will 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.

While it is acknowledged that such meetings can be very emotive and difficult for those making allegations, verbal abuse of the Director is unacceptable and any such meeting will be terminated until such times that the Complainant agrees to be civil and respectful.



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5 DISCLOSURES AND ALLEGATIONS OF SEXUAL ABUSE OR MISCONDUCT

Current:

In relation to any new/current disclosures and allegations:

- a. All disclosures of current child sexual abuse **must** be reported to WA Police.
- b. 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.
- c. The Director or Diocesan Secretary will notify the Diocesan Insurer.
- d. Further information involving disclosures of abuse are outlined in the Child Protection Policy (40.1).
- e. The Director and the PSC will co-operate with and assist WA Police with their investigation;
- f. The Director and PSC must ensure that their actions do not interfere with, influence or hinder an investigation undertaken by WA Police;
- g. The Director will provide support to the child and their family/ guardian which includes counselling and a Pastoral Support person (if requested);
- h. When the investigation by WA 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 Redress (PC&R) process (Policy 40.3).

Historical:

In relation to any past/historical disclosures and allegations:

- a. 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 WA Police;
- b. 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 WA Police;
- c. If the adult Complainant indicates that they wish to report alleged child sexual abuse to WA Police, the Director will provide support and accompany the person to the Police Station or Child Abuse Unit if requested to do so;
- d. The Director and the PSC will co-operate with and assist WA Police with their investigation;
- e. The Director and PSC must ensure that their actions do not interfere with, influence or hinder an investigation undertaken by WA Police;
- f. Until such time that any investigation by WA 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 Support person (if requested);
- g. When the investigation by WA Police and / or the judicial process is complete, the Complainant may indicate that they wish to apply for redress and the following options are available.
 - I. The Anglican Diocese of Perth Pastoral Care and Redress process as outlined in Policy (40.3);
 - II. The National Redress Scheme;
 - III. Exploring options available through Common Law by consulting an independent legal provider.
- h. At this point the Complainant will then be known as the Applicant.

6 RECEIVING A COMPLAINT

- a. Allegations, complaints and information can be made to the Director in any form – verbal, written, email, via the Diocesan website ('contact us').
- b. A complaint or information may be received from outside the Diocese or from another faith based organisation.
- c. If the Complainant has written documentation that was prepared for Redress WA (2009), the Royal Commission into Institutional Responses to Child Sexual Abuse or the National Redress Scheme that information is acceptable to make certain that the Complainant is not re-traumatised in re-telling / re-writing their account of events.



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- d. 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.
- e. Third party and anonymous disclosures will be received by the Director and investigated to the extent practically and reasonably possible;

7 MEETING WITH AND SUPPORTING THE COMPLAINANT

When allegations have been received, the Director will respond promptly and arrange to meet with the Complainant to hear their story and, if required, assist them to write a statement if they have not done so.

The Complainant will be offered:

- a. Access to professional counselling and a Support Person;
- b. A meeting with the Archbishop or Administrator for a direct personal response and apology; and
- c. A monetary payment in keeping with the guidelines of the financial schedule as outlined in Policy 40.3.

The Director may be the support person for the Complainant.

If requested, a suitable member of the clergy will provide pastoral care to the Complainant.

The Support Person will:

- a. Assist with the care of the Complainant;
- b. Assist with communication between the Complainant and the PSC;
- c. Make recommendations to the PSC through the Director (if not the Support Person) 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
- d. The Director or Support Person must not provide counselling services to the Complainant.

The Director will:

- a. Allocate a Case Number and commence a Case File Summary;
- b. Arrange an appropriate treatment provider for the Complainant;
- c. Only report de-identified information outside of the PSC;
- d. Keep all documentation and case files in a secure environment;
- e. Table complaints, information received and action taken as Agenda items at the next meeting of the PSC;
- f. Provide all electronic documentation to the PSC in a protected format to maintain confidentiality;
- g. Arrange an extra-ordinary PSC meeting to seek guidance on the information provided should it identify a risk to children and the alleged Accused is in active ministry;
- h. With the guidance and direction of the PSC make recommendations to the Archbishop or the Administrator that the Accused is removed from active ministry;
- i. Report the matter to WA Police; and
- j. Ensure that accurate records are maintained.

8 MEETING WITH AND SUPPORTING THE ACCUSED

When allegations have been received the Director will:

- a. Advise the Accused via telephone or email that a complaint has been received;
- b. Arrange to meet with the Accused and outline the allegations that have been made;
- c. Offer the Accused the option of Pastoral Support;
- d. Offer the Accused access to counselling;
- e. Advise the Accused that, given the gravity of the matter, they cannot be in active ministry and that a recommendation will be made to the Church Authority that their License or PTO will be withdrawn (as outlined in Part 5.3 of the Professional Standards Statute 2015);
- f. Advise the Accused that the matter will be referred to the PSC at their next meeting;



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- g. Advise the Accused of their compliance obligations as outlined in Sections 12, 13 and 14 of the Professional Standards Statute (2015); and,
- h. Advise the Accused that if they wish to continue worshipping, they will be subject to an interim Safety Agreement outlining boundaries and restrictions for the Accused (refer Policy 40.6).

If the Accused, agrees to a Support Person, they will be referred to the Archdeacon of Perth who will source an appropriate person to:

- a. Assist with the care of the Accused;
- b. Assist with communication between the Accused, the Director / investigator and the PSC;
- c. Make recommendations to the PSC as to the provision of counselling or other care both to the Accused and to other persons who have been affected by the alleged misconduct; and
- d. Explain the relevant procedures available to the Accused.

The Support Person must not provide counselling services to the Accused.

- a. The Accused will **not** be provided with identifiable information of the Complainant until their safety and welfare has been assured.
- b. When the identity of the Complainant is known, the Accused will be advised not to contact the Complainant.

If the Accused chooses to be legally represented, the Director will direct all communication to the Legal Provider.

9 MISCONDUCT

Should the PSC consider that the complaint or information presented constitutes misconduct, a case investigator will be appointed at the first meeting following the receipt of any such complaint:

- a. The Director may be appointed as the investigator;
- b. 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.
- c. This may include, but is not limited to:
 - I. Consequences for the Accused in terms of ongoing ministry, counselling or employment;
 - II. Professional counselling for themselves;
 - III. An apology or other acknowledgement from the Archbishop, either written or in person;
 - IV. An apology or other acknowledgement from the Accused Church worker or Church volunteer, either written or in person;
- d. Complainant the Accused will by notice from the PSC, be required to provide a detailed written report in response to an, or any, allegation as outlined in Sections 12, 13 and 14 of the Professional Standards Statute (2015).
- e. All Church workers and Church volunteers - including the Accused- 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.
- f. If the Accused is dead or too frail to be questioned, any such complaint may not be subject to a full investigation.

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:

- a. The investigator cannot be the Support Person for either the Complainant or the Accused.
- b. Once appointed, the investigator will be provided with:
 - I. A copy of the complaint or information;
 - II. Any response from the Accused, where applicable; and
 - III. Any other details relevant to the complaint or information.



- c. The Complainant will be notified of the appointment of an investigator.
- d. The Accused will be notified of the appointment of an investigator.
- e. 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):
 - I. 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;
 - II. 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;
 - III. Where the PSC forms the opinion that the Complainant is not co-operating with the investigation;
 - IV. As outlined in Section 42 of The Professional Standards Statute (2015) the PSC forms the opinion that, the allegations are false, vexatious or misconceived, or their subject matter is trivial; or
 - V. Where there is insufficient evidence to proceed.

Duties of the Investigator – COMPLAINANT:

- a. Investigate the complaint or information, or part of the complaint or information that is not admitted promptly;
- b. Interview the Complainant if the Complainant is available and willing to speak to the investigator;
- c. Interview any other persons who may be of assistance in determining the facts of the alleged sexual misconduct, harassment or abuse; and
- d. Invite the Complainant to have the Support Person or another person present during the interview.

Duties of the Investigator – THE ACCUSED:

- a. Interview the Accused;
- b. Invite the Accused to have their Support Person or another person present during the interview;
- c. If the Accused declines to answer a question because the answer might tend to incriminate the person a written record shall be made of the question and of the ground of refusal.
- d. Request that the Accused provide a detailed report to the PSC within 21 days or such further period as the Director may allow in relation to any matter relevant to the investigation;
- e. 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 Accused to admit the complaint or information;
- f. No person will be interviewed more than is necessary to complete the investigation;
- g. If there is a requirement for a child to be interviewed, this will be undertaken by WA Police and or DCPFS (refer Current Abuse – Section 4).
- h. 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;
- i. 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;
- j. After the investigation, the Investigator will provide a written report to the Director; and
- k. 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.

11 ACTIONS UPON RECEIPT OF INVESTIGATOR’S REPORT - No case to answer

- a. The Director will present the investigator’s report to the PSC;



- b. 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;
- c. 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.
- d. 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.
- e. If the PSC is unable to decide and dismisses the matter, the complaint remains on the file of the Accused. In such a situation, the Accused will be invited to provide an appropriate statement to be placed on the file which is to be provided to anyone who may request a safe ministry check.
- f. If a safe ministry check is requested regarding the Accused, the Director will advise the person undertaking the check that the matter could not be determined and the case was dismissed. If the Accused has provided a statement under 11e above, the Director will also provide a copy of it to the person undertaking the check.

12 ACTIONS UPON RECEIPT OF INVESTIGATOR'S REPORT – Case to answer

- a. The Director will present the investigators report to the PSC;
- b. If the PSC has determined that the Accused does have a case to answer, the Director will inform both the Complainant and the Accused of the outcome;
- c. The PSC may recommend that the case be referred to the Professional Standards Board (PSB)
- d. to answer one or more of the following questions (as per Section 60.1 of the Statute):
 - I. 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;
 - II. 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.
- e. The PSC or the Director may form the view that there is an unacceptable risk of harm to any person if the Accused 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:
 - I. the suspension of the Accused;
 - II. the requirement for the Accused to enter into an interim Safety Agreement; or
 - III. such other action be taken as may be thought fit, including the temporary relocation of the Accused from a rectory adjacent to a Church building.
- f. Where the PSC determines that a recommendation is to be made against the Accused, the Director will prepare a report outlining the complaint and questioning whether the Accused is fit to hold any Church Office to the PSB. The Convenor of the PSC will endorse the report.
- g. The PSC, via the Director, will inform the Complainant and the Accused of the process.
- h. The PSB, bound by Part 8 of the Statute, shall deal with any reference to it from the PSC as timely as possible.
- i. After considering all the relevant material, the PSB will determine whether the Accused is fit to hold office and whether the Accused should be subject to restrictions and conditions.
- j. The Accused will have an opportunity to provide written submissions to the PSB.
- k. If the PSB determines that the Accused is unfit, it may make recommendations to the Archbishop or Church authority who is required to action those recommendations.
- l. The PSB will provide a copy of those recommendations to:
 - I. the Archbishop (or the Administrator in the absence of the Archbishop);



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- II. the Director / PSC;
 - III. the Accused; and
 - IV. The Complainant.
- m. An investigation by the PSC is deemed to continue until:
- I. The matter is dismissed;
 - II. The PSC makes a recommendation;
 - III. The matter has been referred to the PSB for implementation of Part 8 of the Statute;
 - IV. Criminal proceedings are initiated.

13 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:

- a. Consultation with the clergy in the parish who may be affected by the complaint;
- b. Appointment of a support group to assist with the implementation of the strategy.
- c. What information will be shared with the Parish in keeping with the requirements of confidentiality and respect;
- d. Strategy for pastoral care, healing, and counselling within the parish, the individuals affected - i.e. Complainant, the Accused, their family members and friends;
- e. Consultation where appropriate where the Accused and Complainant are members of the same parish;
- f. Management and care of the congregation during the investigation and ongoing recovery as required;
- g. Provision of professional, pastoral and spiritual support for subsequent clergy in their role of healing the parish;

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

14 COMPLAINTS FROM OUTSIDE THE DIOCESE

- a. PSC may receive a complaint from outside the Diocese in the following circumstances:
 - I. Alleged abuse or misconduct occurred outside the Diocese and the Accused is resident, working or licensed ("resident") in this Diocese, or
 - II. Alleged abuse or misconduct occurred within this Diocese and the Complainant is no longer resident in this Diocese.
- b. Complaints received where the Accused resides outside the Diocese will be referred to the appropriate PSC in the Diocese in which the Accused resides.
- c. Complaints received where both the Complainant and the Accused reside outside this Diocese will be conveyed to the appropriate PSC in the Diocese in which the Accused resides.
- d. 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;
- e. Receipt of complaint will be immediately acknowledged by the Director and a case number allocated;
- f. If not currently a Church worker in the Diocese, the Director will notify the Accused directly of the complaint; and
- g. The Accused will be allocated a Support Person.

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

15 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



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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.

- a. 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;
- b. 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;
- c. The Director must promptly report any confirmed instances of process failures to Diocesan Council.

16 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.

17 SCHOOLS AND ENTITIES OF THE DIOCESE

Current:

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

- a. The school / college must make a report to the WA Police or Department of Communities (Child Protection) in keeping with mandatory reporting legislation;
- b. The Director will notify the Archbishop (or the Administrator) and the Diocesan Secretary; and
- c. 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.