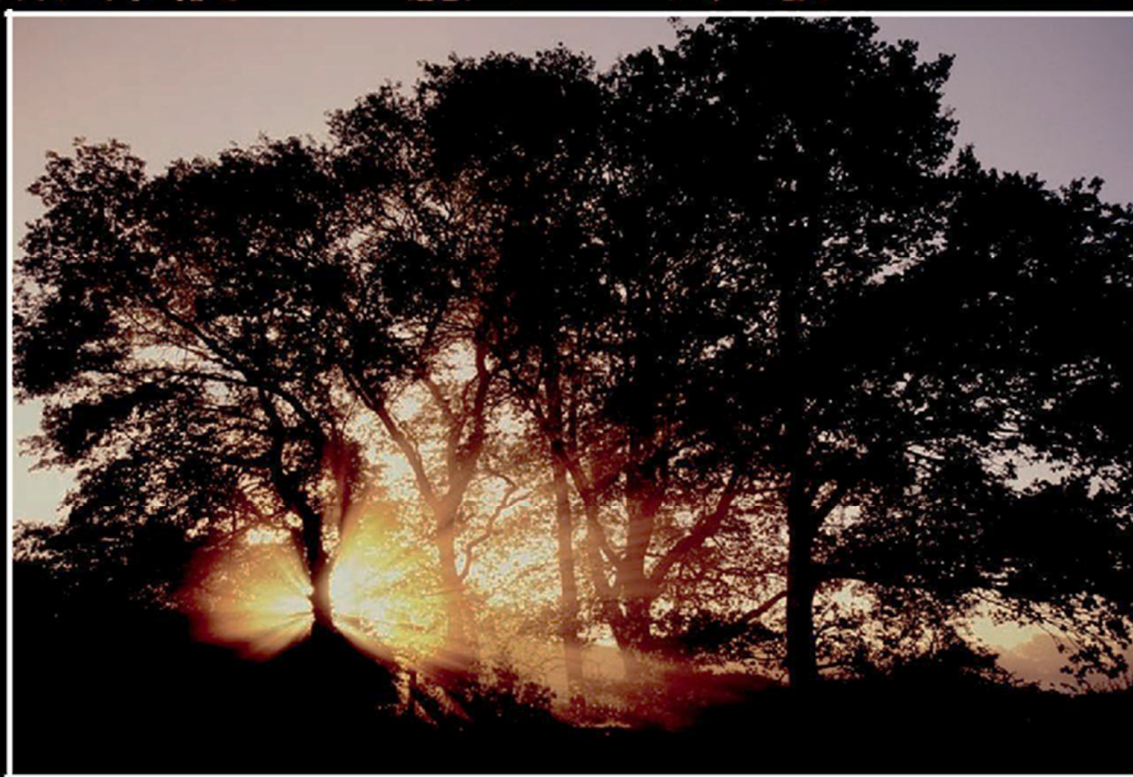


Protocol
for Dealing with
Sexual Misconduct



OFFICE
OF THE

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The Protocol has been prepared to assist understanding of the procedures to be followed when enacting the *Professional Standards Canon*.

Where there is inconsistency between the Canon and the Protocol, the Canon prevails.

Similarly, a number of terms are briefly defined within the Protocol, while the Canon contains the full definition. Where inconsistencies occur, the definition within the Canon is full and correct.



**The Anglican Church of Australia
– Anglican Church Southern
Queensland**

(The Corporation of the Synod
of the Diocese of Brisbane)

ABN 32 025 287 736

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Protocol



1. Who must report information?

1.1 Reporting information

If a **Church worker** experiences or witnesses sexual misconduct, or receives **information** about alleged conduct of a Church worker involving sexual misconduct, he/she must report it immediately to any **responsible person** in the parish, agency, school or other Church body where the behaviour has occurred. The responsible person is then obliged to inform the **Director of Professional Standards** or a member of the **Professional Standards Committee**.

The person making the complaint may also report the matter directly to either the Director or a member of the Committee.

If the person is unsure whether to report the information or not, then he/she must report the information.

Information about alleged inappropriate or unreasonable conduct or omission of a Church worker who had knowledge of the conduct of another worker which may involve sexual misconduct and has not informed the Director must also be reported.

Information mentioned above will be referred to in the Protocol as a **'complaint'**.

In accordance with section 6 (2) of the Canon, the **Contact Person** in the Diocese of Brisbane is the Director of Professional Standards – please refer to **Appendix A**.

1.2 Liability for defamation

A person providing information to a person who needs to know the information is generally excused from liability for defamation if the information is not provided maliciously.

1.3 Anonymous reports

Anonymous reports may be made and will be investigated to the extent practicable, but it must be understood that the value of the information may be lessened because of its anonymity.

2. When a complaint is made

2.1 Making a complaint

A complaint may be made to the Director of Professional Standards or another person. The complaint may be in any form – verbal, written, email or facsimile. If it is verbal, the Director or other person may assist the person making the complaint – referred to as the **complainant** – in writing it down.

A complaint may allege process failure – please refer to **Appendix B**.

For further information about rights and procedures – please refer to **Appendix C**.

2.2 Confidentiality of the complaint

Only persons who have a specific role in relation to the Canon will be informed of the details of a complaint. These include members of the Professional Standards Committee and, in certain cases, the Diocesan insurers.

After any investigation is completed, information will be provided to the National Register in accordance with the *National Register Canon*. For guidelines in relation to the provision of advice to other persons – please refer to **Appendix D**.

If the complaint contains allegations of **child sexual abuse** (whenever it is alleged to have occurred), the Director is obliged to refer the allegations to the police in accordance with **Appendix E**. The complainant will be informed if the allegations are to be reported to the police.

A complainant has the right to refer allegations of this type to the police at any time.

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2.3 Informing the respondent

Under general circumstances, when a complaint is received about a Church worker (the **respondent**), he/she will be informed as soon as practicable.

The respondent will be advised of the nature of the complaint and the name of the complainant except when it is considered that providing his/her name may create an undue risk for the complainant – see 2.4 below. For further information – please refer to **Appendix C**.

If the complaint is one (see paragraphs 2.2 above and 3.2 below) which must be reported to the police, the respondent may not be advised of the complaint or that the police have been informed. Each complaint of this type will be considered individually as to whether the respondent will be informed.

2.4 Disclosure of complainant's name

If, on consideration of a request for confidentiality, the Committee considers that providing the complainant's name or details may –

- cause undue risk to the complainant or
- adversely affect an investigation of a complaint

the Committee may not inform the respondent about the complaint or may not disclose full details of the complaint to the respondent.

However, at the commencement of the investigation, the respondent will be advised of full details of the complaint and the name/s of the complainant/s.

2.5 Disclosure of the respondent's name

It may be appropriate to publicly name the alleged respondent in certain circumstances – where allegations have been made about a specific person who may continue to have access to children *and* where it is considered necessary to protect them from that person. Information about the named person must be limited to only those who need to know. This would include children who potentially are at risk and their parents.

2.6 Pastoral support or assistance

Pastoral support or assistance will be offered to a complainant at the time the complaint is made. The complainant may nominate a person of his/ her own choosing; or the Director, in consultation with the complainant, may nominate a person. The support will be provided for as long as is necessary.

Pastoral support will also be offered to the respondent when the respondent is notified of the complaint. In certain cases, this may be after the police have commenced their investigation.

For further information, please refer to **Appendix F**.

Professional counselling will also be offered to the complainant and the respondent. The person may nominate a counsellor, or the Director may nominate a suitable counsellor. The selected counsellor will be professionally qualified and accredited with expertise in a field of work relevant to the specific circumstances.

Costs will be borne by the Diocese.

2.7 Mediation and Conciliation

In matters where no obligation exists for the complaint to be referred to the police for investigation, mediation or conciliation may be offered to both the complainant and the respondent as an option for resolution of the complaint.

If mediation or conciliation is considered an appropriate option by the Director, each party to the complaint will be consulted and agreement of both is required to proceed. Costs related to any mediation or conciliation process will be borne by the Diocese. For further information, please refer to **Appendix G**.

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2.8 Regular advice to complainant and respondent

Complainants and respondents may be concerned about aspects of the process and the length of time certain actions may take.

Both parties will be kept informed of the progress of the investigation. The Director will contact the complainant and respondent regularly, and at least monthly, to inform them of progress. When the process is completed, final letters will be sent to the complainant and respondent advising of the outcome.

If, at any time, the complainant or respondent wishes to ask a question, seek clarification about a matter, or simply to speak to the Director, contact may be made by any means. Contact details are listed on the inside front cover of this document.

3. Referral of complaint to another body or Diocese

3.1 Referral to another Diocese

If the information relates to –

- alleged conduct which had occurred in another Diocese; or
- a complainant who resides in another Diocese; or
- allegations about a person who resides in another Diocese;

the matter may be referred to the Professional Standards Committee of that Diocese for investigation.

3.2 Referral to Police

If the information relates to **child sexual abuse**, the Director will report the matter to the police in accordance with **Appendix E**.

Protocol

4. Before an Investigation

4.1 Before the investigation

Before appointing an investigator to investigate a complaint, the Professional Standards Committee shall:

- determine whether the complaint is ‘information’ as defined in the Canon;
- inform the Church worker about whom the complaint has been received of the complaint and the name of the complainant (but see 2.3 and 3.2); and
- determine whether the complaint could lead to a finding of **examinable conduct**.

4.2 Examinable conduct

If the Professional Standards Committee considers that the subject matter of the information constitutes examinable conduct, then the Committee will arrange for the matter to be investigated.

4.3 Allegations of ‘harm’

If a person making a complaint alleges that harm of a significant nature to his/her psychological or emotional wellbeing has been caused, the Professional Standards Committee may request the complainant to undergo a psychological assessment as part of the investigation process. For further information – please refer to

Appendix H.

4.4 Complaints not proceeded with

If the complaint is –

- Considered to be false, vexatious, misconceived or trivial;
- under investigation by another competent person or body;
- the subject of legal proceedings;

or the complainant –

- does not provide further particulars when requested;
- does not verify the allegations by signing a statutory declaration;

or there is insufficient reliable information, then the allegations *may not* be investigated further.

4.5 Referral to an Investigator

If the allegations are to be investigated by the Committee, they will be referred to an **investigator**.

Investigators are appointed by the Professional Standards Committee to investigate information which may constitute examinable conduct.

Investigators have experience in legal, investigative and administrative matters, and will have high level skills in investigating complex human issues. Investigators to whom these matters are referred are not employed by the Church – they are independent persons whose role is to investigate the allegations objectively and transparently.

Protocol



5. Process of Investigation

5.1 Authority for Investigations

The authority for investigations under the *Protocol* arises from sections 19(1), 20(1) (f) and 25 of the *Professional Standards Canon*.

5.2 Details given to Investigator

The investigator will be given full details of the complaint by the Director of Professional Standards; and the names and contact details of the complainant and the respondent, and any other relevant people. The investigator will carry out the investigation in accordance with the Canon and Protocol. The process will usually be to investigate the information and provide a report to the Director.

5.3 Interviews – general

The investigator may wish to speak with all parties to the allegations including the respondent; may request statements, reports, documents, and other material relevant to the allegations; and may wish to record conversations between him/herself and the other parties. The provision of this information is necessary to enable the investigator to make a full assessment of the allegations and to provide a report to the Director at the conclusion of the investigation.

The investigator may request the Director to arrange interviews for the investigator with the complainant, the respondent and any other people who the investigator believes are relevant. Alternatively, the investigator may prefer to contact relevant persons directly to arrange for the conduct of interviews.

Interviewing the complainant is always critical to the process to obtain complete particulars of the allegations. The investigator will also interview the respondent. As far as possible, these interviews will be conducted face-to-face.

Complainants and respondents will be invited to have another person present during interviews; and it is recommended that all interviews are taped [recorded] by the investigator. It is preferable that statements be in the form of statutory declarations.

5.3.1 Interviewing the complainant

When interviewing the *complainant*, the investigator will advise him/her that:

- the purpose of the interview is to obtain particulars of the allegations;
- the particulars will be put to the respondent who will have an opportunity to answer them;
- the interview will be recorded to ensure the details are correct;
- recordings, statements and other material provided during the investigation may have to be produced to a court if legal action is commenced or the material is subpoenaed;
- confidentiality of the complaint is to be maintained;
- he/she may obtain independent legal advice;
- at the end of the investigation, the investigator will provide a report to the Director for presentation to the Committee.

Protocol

5.3.2 Interviewing the respondent

When interviewing the *respondent*, the investigator will provide full particulars of the allegations and advise him/her that:

- he/she does not have to say anything;
- if he/she chooses not to say anything, adverse findings may still be made against him/her;
- whatever he/she does say will be recorded and may have to be produced in a court if summonsed or subpoenaed;
- for the purposes of the investigation, he/she is presumed innocent until another conclusion is drawn on the balance of probabilities;
- confidentiality of the complaint is to be maintained;
- he/she may obtain independent legal advice;
- at the end of the investigation, the investigator will provide a report to the Director for presentation to the Committee.

If the respondent chooses not to participate in any part of the investigation process, the investigation will continue and adverse findings may still be made against the respondent.

5.3.3 Interviewing children

It is required that children are interviewed with a parent or guardian or other suitable adult (with the prior approval of the parent or guardian) being present; and care should be taken when interviewing persons with a disability.

The Director may appoint a second investigator – with appropriate qualifications – to assist in such interviews.

6. Outcome of investigation

6.1 Report and findings of the investigation

At the conclusion of the investigation, the investigator will provide a report to the Director. The report will contain all information relevant to the allegations; and will contain the **findings** of the investigator. These findings are based on the ‘balance of probabilities’, that is, based on all the available information and taking into account the seriousness of the allegations, would a reasonable person consider that the alleged behaviour did occur or did not occur.

The *Briginshaw* principle is – ‘the seriousness of an allegation made, the inherent unlikelihood of an occurrence of a given description, or the gravity of the consequences flowing from a particular finding are considerations which must affect the answer to the question whether the issue has been proved to the reasonable satisfaction of the (tribunal). In such matters “reasonable satisfaction” should not be produced by inexact proofs, indefinite testimony or indirect inferences’.

Briginshaw v. Briginshaw (1983) 60 CLR 336.

6.2 Outcome of the investigation – no case to answer

The report of the investigator will be taken to the Professional Standards Committee by the Director.

If the Professional Standards Committee considers that the respondent has no case to answer, the Director shall inform both the complainant and the respondent. The matter is then closed.

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6.3 Outcome of the investigation – case to answer

The report of the investigator will be taken to the Professional Standards Committee by the Director.

If the Professional Standards Committee finds that the respondent does have a case to answer, the Director shall inform both the complainant and the respondent.

If required under section 54 of the Canon, the Committee will make an appropriate reference to the Professional Standards Board.

6.4 The Professional Standards Board

After considering all the relevant material, the Board will determine whether or not the respondent is unfit for office, and whether there should be certain conditions or restrictions placed on him/her. The respondent will have an opportunity to speak to the Board, make submissions and may examine or cross-examine witnesses.

If the Board determines that the respondent is unfit, it has a number of disciplinary actions which it may recommend to the **Church Authority**. The Church Authority is required to give effect to those recommendations.

The Board will provide a copy of the determination and recommendation/s to –

- the Church Authority;
- the respondent; and
- the **National Register**.

7. Review of Decisions

7.1 Reviewable decisions

Certain decisions made by the Board are **reviewable decisions**.

A reviewable decision is a determination or recommendation made by the Board which if acted upon would have the effect of:

- deposing a person from Holy Orders; or
- terminating a contract of employment; or
- removing or suspending a person's capacity to gain income as a Church worker.

7.2 Application for review

If a respondent is aggrieved by a reviewable decision of the Board, the respondent may apply to the Director for a review of the decision *within 14 days* of being provided with a copy of the Board's determination and recommendation. The Church Authority cannot act on any recommendation made to it by the Board until 14 days have passed and no application has been received.

The application for review can be made on any one or more of the following grounds –

- there was a breach of the rules of **natural justice**
- the procedures for making the decision were not observed
- the Board did not have jurisdiction to make the decision
- the decision was so devoid of any plausible justification that no reasonable Board could have made it.

The application must be in writing and addressed to the Director, and must set out the grounds for review.

Protocol

7.3 Cost of a review

As soon as a reviewer has been appointed by the Director, the reviewer will be asked for his/her estimate of the fee. The Director will notify the respondent and he/she will be required to pay 50% of the estimated fee within seven days. If the respondent fails to make the payment, the application for review will lapse.



7.4 The review process

When the Director receives an application for review, three things must happen:

- a reviewer will be appointed immediately; and
- a Church Authority shall not act on any recommendation; and
- no information will be forwarded to the National Register,

until a determination by the reviewer has been made.

The reviewer may make all or any of the following determinations:

- quashing or setting aside the decision;
- referring the decision back to the Board for further consideration;
- declaring the respondent's rights in relation to any matter to which the decision relates;
- directing either the respondent or the Board to do or not to do anything necessary to do justice.

The purpose of the review is to *review* the recommendation or determination; not to re-hear the matter or to conduct a new hearing.

Frequently asked questions

1 Who can make a complaint?

Anybody who genuinely believes that sexual misconduct has occurred can make a complaint.

2 Can I make an anonymous complaint?

You can make an anonymous complaint. It is difficult to fully investigate an anonymous complaint and you may find the result of the complaint is not as you would have liked.

3 How do I make a complaint?

You may take your complaint to any responsible person in the parish, agency, school or other Church body where the sexual misconduct, has occurred. This person is obliged to then refer any information to the Director of Professional Standards or a member of the Professional Standards Committee.

You may also contact the Director by telephone directly on **1800 242 544** or email **dops@anglicanbrisbane.org.au**.

4 What should I include in my complaint?

You should provide as much detail as you can including:

- the name and details of the complainant;
- who carried out the incident;
- whether you know of any other person who may have been affected;
- when it happened;
- where it happened;
- the details of the incident.

5 How long will it take to deal with the complaint?

Each complaint will be dealt with as promptly as practicable. Some things such as counseling and support can be offered quickly.

The investigation may take further time depending on the complexity of the complaint and the number of persons to be interviewed.

Generally, it is intended that the process is completed within three to six months of the complaint being made but timing depends on the nature of the investigation required.

6 What happens to my complaint?

If the subject matter of the information is considered to be 'examinable conduct', then the matter will be investigated. The external investigator will obtain all statements, reports, other documents and any other material which will assist in a determination of the matter.

7 What if I am unhappy with the actions of the Professional Standards Committee or the Director of Professional Standards?

The Protocol does not remove the right of the complainant to seek remedy at law at any time. If you are unhappy with decisions made under the Protocol, you can ask the Professional Standards Committee to review them.

Glossary

Abuse of Power means the mistreatment of a person by actions or threats when justified by an appeal to God, faith, religion or professional knowledge; and includes the use of a position of spiritual or professional authority to dominate or manipulate another person or group, and claims for inappropriate deference to a person with spiritual or professional authority.

Allegation means information or an assertion which is still to be proved.

Child is a person under the age of eighteen years.

Child Exploitation Material means material that describes or depicts a person who is, or who appears to be a child:

- (a) engaged in sexual activity; or
- (b) in a sexual context; or
- (c) as the subject of torture, cruelty or abuse (whether or not in a sexual context);

in a way that a reasonable person would regard as being, in all the circumstances, offensive. Child exploitation material can include any film, printed matter, electronic data, computer image and any other depiction.

Child Sexual Abuse, for the purposes of **Appendix E**, means an alleged crime which exposes a child to or involves a child in sexual processes beyond his or her understanding or contrary to accepted community standards.

Sexually abusive behaviours can include voyeurism, exhibitionism and exposing the child or involving the child in pornography. It includes child grooming, which refers to actions deliberately undertaken with the aim of befriending and establishing an emotional connection with a child to lower the child's inhibitions in preparation for sexual activity with the child.

Church Authority means the Archbishop or a person or body having administrative authority of or in a Church body to license, appoint, authorise, dismiss or suspend a Church worker.

Church Body includes a parish, school, any body corporate, organisation or association that exercises ministry within, or on behalf of, the Church.

Church worker means a person who is or who, at any relevant time, was:

- (a) a member of the clergy; or
- (b) a person employed by a Church body; or
- (c) a person holding a position or performing a function with the actual or apparent authority of a Church Authority or Church body;

but excludes a bishop subject to the jurisdiction of the Special Tribunal of the Church.

Complainant means the person who makes an allegation or who provides information about an act of sexual misconduct.

Confidentiality. Each worker who has access to information regarding suspected or disclosed sexual misconduct has an obligation to observe appropriate confidentiality. The Diocese is unable to promise absolute confidentiality since, in responding to the complaint, the steps of the Protocol will require some disclosure of certain details, either internally or externally.

State authorities may compel people to give evidence about actions under the Protocol and to produce relevant documents.

Director of Professional Standards includes an Associate Director of Professional Standards in matters that are the responsibility of an Associate Director.

Examinable Conduct means conduct, wherever or whenever occurring, the subject of information which, if established, might call into question:

- (a) the fitness of a Church worker, whether temporarily or permanently, now or in the future, to hold a particular or any office, licence or position of responsibility in the Church or to be or to remain in Holy Orders or in the employment of a Church body; or
- (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.

Glossary



Grooming means the manipulative cultivation of a relationship in order to:

- (a) initiate or hide sexual assault of an adult or a child;
- (b) facilitate the procurement of a child to engage in a sexual act; or
- (c) expose, without legitimate reason, a child to any indecent matter.

In the case of child sexual assault, an offender may groom not only the child, but also the child's parents or guardians, and clergy and church workers.

Information means information of whatever nature and from whatever source relating to:

- (a) alleged conduct of a Church worker wherever or whenever occurring involving sexual harassment or assault, or sexually inappropriate behaviour, grooming or the possession, making or distribution of child exploitation material;
- (b) alleged inappropriate or unreasonable conduct or omission of a Church worker who had knowledge of conduct of another Church worker involving sexual harassment or assault, or sexually inappropriate behaviour, grooming or the possession, making or distribution of child exploitation material; or
- (c) an alleged process failure.

Investigator means a person who is appointed by the Professional Standards Committee under section 19 (1) of the Canon to investigate complaints or information on behalf of the Committee.

Licensed Person means a bishop, priest, deacon or worker licensed to officiate within the Diocese.

Natural Justice. The principles of natural justice will apply to all decisions made under the Protocol.

As the consequences of any decision (that is, the effect/s on a person's rights, interests or legitimate expectations) for any individual become more severe, so the importance of demonstrably acting fairly increases.

Natural Justice (*Continued*)

The fundamental principles of natural justice are:

- the right to be given a fair hearing and the opportunity to present one's case;
- the right to have a decision made by an unbiased decision-maker; and
- the right to have that decision based on logically probative evidence.

National Register means any national register established pursuant to a Canon of General Synod or a resolution of the Standing Committee of General Synod for the purpose of recording determinations of the Board and other equivalent bodies.

Pastoral Support or Assistance means emotional and spiritual assistance from a person who is not necessarily qualified to provide professional counselling and which is offered to the respondent and the complainant.

Privacy. Privacy legislation applies to records generated under the Protocol. The complainant and the alleged respondent may exercise their rights under that legislation. The contact person must give proper notice under the *Privacy Act 1988* (Commonwealth) before collecting personal information.

Process Failure means the failure by a Church body or Church Authority prior to this Canon coming into effect to deal appropriately with or investigate matters referred to in paragraphs (a) or (b) of the definition of Information.

Professional Standards Board means a Board constituted under Part 7 of the *Professional Standards Canon* and convened from a panel appointed by the Archbishop-in-Council comprising a President, a Deputy President, five members of the clergy of at least seven years' standing and five lay persons who may or may not be members of the Church.

Professional Standards Canon means the *Professional Standards Canon* as passed by the Synod of the Diocese of Brisbane in June 2004 and any subsequent amendments.

Glossary

Professional Standards Committee means the Professional Standards Committee established under Part 4 of the Canon.

Prohibition Order means an order prohibiting a Church worker from:

- holding a specified position or office; or
- being employed by a Church body or Church Authority; or
- carrying out any specified functions in relation to an office or position in the Diocese, or in relation to employment by a Church body.

Respondent means a Church worker whose alleged conduct or omission is the subject of a complaint or information.

Responsible Person means a Rector or a Priest-in-Charge of a parish, a Head of a School, the senior person in a ministry, or a senior manager of a Church body.

Reviewable Decision means a determination or recommendation of the Board which, if acted upon by the relevant Church Authority, may have the effect of:

- (a) deposing the respondent from Holy Orders; or
- (b) terminating the respondent's contract of employment, or removing or suspending the capacity of the respondent to gain income as a Church worker.

Reviewer means a barrister of not less than 5 years standing appointed at the Director's request by the President of the Bar Association of Queensland, or if the President is unwilling to appoint, or unreasonably delays in doing so, appointed by the Chancellor.

Sexual Assault includes:

- any abusive behaviour with a child for the sexual gratification of the respondent;
- any abusive behaviour with an adult for the sexual gratification of the respondent where the respondent is in a position of authority over the adult.

Sexual harassment includes unwelcome conduct of a sexual nature, whether intended or not, in relation to an adult where the person reasonably feels in all

circumstances offended, belittled or threatened. Such behaviour may consist of a single incident or several incidents over a period of time.

Sexual misconduct includes:

- any conduct falling within the definition of Information under this Protocol; and
- for the purposes of Appendix E, any conduct constituting Child sexual abuse.

Sexually inappropriate behaviour includes:

- any form of unwanted sexual contact or invitation to sexual contact with a person, whether or not there is consent and regardless of who initiated the contact or the invitation to contact holding a specified position or office;
- any form of sexual contact or invitation to sexual contact that is inappropriate behaviour in the circumstances where the respondent is in a pastoral relationship with or is in a position to exercise authority over or influence the other person.

Stand Down and Prohibition. If an allegation of sexual misconduct is made against a worker, the worker may, after being given an opportunity to be heard, be stood down from his/her position until the allegation has been dealt with after consideration of the following:

- the seriousness of the conduct alleged in the information;
- the nature of the material to support or negate the allegations;
- whether any person is at risk of harm;
- the effect on the respondent, a relevant Church body or the Church; and
- any similar allegation within the previous ten years.

The Professional Standards Committee will recommend to the relevant Church Authority that the respondent should be suspended from duties, or that a prohibition order may be made. A decision whether to stand down a worker may be made at any time after an investigation has commenced.

Appendix A

Role and function of Contact Person

Role

The role of a Contact Person is to take information from persons who wish to make a complaint against clergy or a Church worker. The Contact Person will respond to the person with dignity and respect and will provide any necessary information about the Protocol, the complaint procedures and available support services which will assist the person in his/her decision to make a complaint. If the person wishes to proceed with the complaint, the Contact Person will take full details.

In the Diocese of Brisbane, the Director of Professional Standards acts as the Contact Person.

Functions

The functions of the Contact Person include:

- to provide the first contact for persons who wish to make a complaint to the Diocese regarding assault by clergy or a Church worker;
- to provide information regarding the Protocol to those persons and to provide a copy of the Protocol;
- to respond to and clarify any questions or concerns the person may have prior to proceeding with a complaint;
- to provide information about counselling and pastoral support which are offered to complainants;
- to receive 'information' as defined in the Canon;
- to provide information regarding other options available to those who wish to make a complaint, including reporting the matter to the police and seeking legal advice and commencing legal action;
- to provide an on-going contact point for complainants in relation to the progress of their complaints.

Appendix B

Procedure for dealing with alleged process failure

'Process failure' means the failure of a Church body or authority to have *appropriately dealt with or investigated* information relating to alleged conduct of a Church worker or the alleged inappropriate or unreasonable conduct or omission of a Church worker who had knowledge of conduct of another Church worker involving sexual misconduct.

The process failure must have occurred prior to the Professional Standards Canon coming into effect, that is, prior to June 2004.

The complaint alleging process failure on the part of a Church body or authority is to be provided to the Director of Professional Standards.

The complaint should include the following information:

- details of the original complaint;
- the date the matter was dealt with by the Church body or authority;
- identification of the Church body or authority;
- clear reasons why it is considered that a process failure occurred.

The complaint will be investigated in accordance with sections 4, 5 and 6 of this Protocol except that, if the matter was previously investigated, it will be investigated by an investigator not involved in the first complaint.

Appendix C

Provision for informing persons of rights and procedures



Informing complainants

Persons making a complaint or who contact a Contact Person and indicate that they may make a complaint shall be given or sent a copy of the Protocol and the Canon. In addition, the Contact Person or the Director of Professional Standards will outline the rights of the complainant under the Protocol to make a complaint, contact the police where the matter is a crime or is sexual abuse of a child, seek independent legal advice, or take legal action in the criminal or civil courts.

The complainant will be advised by the Director of Professional Standards of the Diocesan procedures for managing a complaint, with specific advice regarding the circumstances under which the respondent may or may not be informed of the details of the complaint.

In certain cases – where particular circumstances exist – the respondent may not be advised of the complainant’s identity until the investigation commences. Where there is concern about possible interference with witnesses or retaliation or in child abuse matters, the complainant may not be identified.

If a complaint is dealt with by a process of mediation or conciliation, the respondent must be informed of the full details of the complaint and the name of the complainant prior to any mediation or conciliation process.

In addition, if the complaint will be investigated by an independent investigator appointed by the Professional Standards Committee, the complainant will be informed of the investigation process by reference to sections 4, 5 and 6 of the Protocol.

On request, complainants may be informed of the remedies available under the Canon for acts of sexual misconduct, by clergy or Church workers. Such advice should be provided in context by informing the complainant that certain procedures are to be completed before such remedies are applied. In addition, the person is to be informed that where the most severe remedies are recommended, there is a review mechanism available to the respondent.

Informing respondents:

A respondent must be informed of the complaint made against him/her in accordance with the principles of natural justice. When a complainant has requested that he/she is not identified, the respondent will not be informed of the complainant’s name. Generally, the respondent will be provided with the name/s of the complainant/s when the investigation commences.

The Queensland Police Service has requested that no details of allegations of child sexual abuse be given by the Church to the respondent. Unless there is an unacceptable risk to persons, when an allegation of child sexual abuse is made, the information will only be provided to the police.

When information is given to the respondents, copies of the Protocol and the Canon will be provided at the same time advice is given that a complaint has been made. Respondents will also be informed of the process to be followed and that stand down may be considered. Respondents will be informed that if stand down is considered appropriate, they will have an opportunity to be heard.

Appendix D



Provisions for advice to Archbishop and other relevant bodies

Information regarding the operation of the Professional Standards Canon and the Protocol will be provided to the Archbishop and other appropriate bodies in accordance with the guidelines below.

The information provided will respect the principles of confidentiality and privacy while at the same time ensuring that actions and decisions taken under the Canon or the Protocol are accountable and transparent.

Annual Report

Information which does not identify the complainant or the respondent in any matter will be provided in the form of an annual report (based on the calendar year) to the Archbishop-in-Council.

The report will include –

1. Information regarding complaints made to the Director of Professional Standards comprising the following non-identifying details:
 - the numbers and types of complaints;
 - the nature of the allegations made;
 - whether the respondents are clergy or laity (paid or unpaid);
 - the respondents' offices or positions at the time of the alleged behaviour (however, care will be taken to ensure that the person cannot be identified);
 - whether or not any respondent has been stood down;
 - whether any investigation has been commenced and, if so, its current status;
 - the name of the investigator;
 - whether the allegations have been referred to another body or state authority;
 - whether the allegations concern another Diocese.

2. Recommendations regarding any proposed changes to the Protocol.
3. Advice regarding actions taken by the Director in his role as Director for another Diocese within the Province of Queensland.

Monthly Report

A confidential report will be prepared for the Archbishop within the week following the monthly meeting of the Professional Standards Committee. The report will provide information regarding each complaint currently before the Committee. It will include the names of the complainants and respondents, the substance of the allegations, and the action taken by the Director in responding to the allegations.

Ad hoc advice

1. The Archbishop

The Director will inform the Archbishop in writing as soon as practicable after information is received regarding allegations of sexual misconduct (as defined in the Canon) against clergy, Heads of Schools, Directors and Chairs of Commissions and other senior persons within the Church. Any additional information which may be requested by the Archbishop will be provided in a form which is convenient to the Archbishop.

Information regarding other matters will be provided to the Archbishop by way of the monthly report.

The Director will regularly inform the Archbishop of the progress of each complaint related to active clergy. At the conclusion of any investigation the Director will, as soon as practicable, advise the Archbishop in writing of any recommendations of the Committee for action.

The Chair of the Professional Standards Committee will meet with the Archbishop regularly to discuss any matters relating to complaints currently before the Committee.

2. Other Church authorities

Generally, the Director will inform the relevant Church Authority in writing and verbally as soon as practicable after information is received about a Church worker appointed to a paid or unpaid position in a Church body.

Where a complaint relates to child sexual abuse, the Queensland Police Service has requested that no information regarding the allegations is communicated to any person. Reference should be made to **Appendix E** for further requirements.

When appropriate, the Director will regularly inform the relevant Church Authority of the progress of each complaint related to the Church body. At the conclusion of the investigation the Director will as soon as practicable advise the Church Authority in writing of any recommendations of the Committee for action.

National Register

In accordance with the *National Register Canon*, the following information will be provided to the National Register. The Register requires only information regarding a complaint about the conduct of a person involving *sexual harassment or assault or sexually inappropriate behaviour or child abuse*; or inappropriate or unreasonable conduct of a person who had knowledge of another person in relation to those matters.

In relation to clergy, the following information will be provided:

- advice that the person has been the subject of an investigation into an allegation by the Professional Standards Committee;
- any decision by the Committee;
- the date of reference of a matter to the Professional Standards Board or a diocesan tribunal or a Special Tribunal;
- details of the determination made by any one of the above;
- details of relinquishment of Holy Orders; and
- details of any deposition from Holy Orders.

In relation to lay Church workers, the following information will be provided:

- the date when the worker became the subject of an investigation by the Professional Standards Committee;
- any decision by the Committee;
- the date of reference of any matter to the Professional Standards Board; and
- details of any determination or recommendation of the Board.

Appendix E



Procedures for working with other authorities

Commitment

The Diocese is committed to a co-operative working relationship with relevant law enforcement, prosecution and child protection authorities of the states, territories and the Commonwealth including the Queensland Police Service and the Department of Communities, Child Safety and Disability Services.

Reporting matters to the police

The Director must report all allegations of child sexual abuse to the Police.

Child sexual abuse must be reported regardless of when the alleged sexual abuse occurred, whether the respondent is deceased or whether the complainant wishes the police to be informed or not.

If based on the allegations made, the Director suspects a child is being harmed, or is at risk of harm from child sexual abuse, a report to police will be made immediately after the relevant information is received, even if the respondent is not able to be clearly identified.

In all other cases where the above circumstances do not exist, the allegations will be reported within 14 business days.

Complainants may also choose independently to inform the police of the allegations, and will be encouraged to do so.

When information is reported to the police, the Director will:

- inform the complainant;
- unless there is an unacceptable risk posed by the respondent to a person and stand down action needs to be taken, not inform the respondent that the complaint has been made; and
- unless there is an unacceptable risk to a person by the respondent, take no further investigative step without the police first stating in writing that such an investigation would not prejudice any police investigation.

Investigations by the Professional Standards

Committee

Where the police are not investigating, or otherwise state in writing that an investigation by the Diocese will not prejudice a police investigation, the Professional Standards Committee may conduct an internal investigation in accordance with sections 4, 5 and 6 of this Protocol. If this is to happen, the complainant and the respondent will be informed prior to commencement of the investigation and the appointment of an investigator.

Schools

In relation to schools, state legislation requires Heads of Schools to report allegations of significant harm or sexual abuse against children in their schools, or the risk of the same, by any person to the relevant state authorities – either the Queensland Police Service or the Department of Communities, Child Safety and Disability Services.

The *Student Protection in Anglican Schools Policies and Procedures 2015* provides detailed procedures to be followed when a child or another person alleges that a child has been harmed in the school.

Appendix F

Provision for assistance/support to all persons affected



Support to complainant and family

When a person makes a complaint of sexual misconduct, against clergy or a Church worker, the Church is committed to responding with empathy, support and respect. The Church will seek to be compassionate to complainants and provide assistance to them which is relevant, timely and helpful.

As the complainant may have been involved in the Church, the impact of the sexual misconduct, may include issues of spiritual concern as well as psychological and emotional distress. It is recognised that appropriate support may need to be available to assist the person deal with the spiritual issues confronting him/her. Therefore, pastoral support will be offered to the person at the time of making the complaint.

In addition, counselling will be offered to assist the person work through the personal and psychological issues and concerns which arise.

The counselling will be arranged with an independent counsellor with suitable qualifications and experience. The selection of the counsellor may be made by the complainant or by the Director of Professional Standards. The Director may seek a progress report from the counsellor. Usually, up to ten sessions will be offered in the first instance; but following review, further sessions may be offered after consultation with the practitioner. Costs are borne by the Diocese.

If the subject matter of the complaint has significantly impacted on family members or close colleagues of the complainant, counselling and/or pastoral support may be offered to them as well. This will be assessed by the Director at the time of the initial complaint.

Formal apology to complainant

It is acknowledged that an apology from the Church is an appropriate Christian response to a person who has been abused by clergy or a Church worker.

Support for respondent

An integral part of the Protocol is being just, fair and compassionate to the respondent. Pastoral support and counselling will be offered to the respondent at the time when he/she is advised that a complaint has been against him/her. The counselling will be arranged with an independent counsellor with suitable qualifications and experience. The selection of the counsellor may be made by the respondent or by the Director of Professional Standards. The person providing pastoral support may be nominated by the Director or by the respondent. Such support will be confidential and the costs will be borne by the Diocese.

Support for parish or organisation

Where specific circumstances require that the respondent be stood down in accordance with the Canon – either from a position within a Church organisation or from a parish – the person's colleagues or parish may require support.

Appropriate advice should be given to the parish or organisation in a form which is suitable to the circumstances and respects the privacy of both the respondent and the complainant. In some cases, it may be appropriate to invite other persons who may have been affected to come forward in confidence. This option should be considered carefully and thoughtfully in consultation with responsible people. Persons who come forward with other allegations will be offered support and counselling as described above.

Where it is considered appropriate that the parish or organisation should be informed of the standing down of the respondent, all persons should be informed that pastoral support is available, and support should be offered to all persons who request it. Where a respondent has been named and later it is found that there is no case to answer, the Diocese shall take appropriate steps to restore the respondent's reputation.

Appendix G

Process for mediation or conciliation

In matters where no obligation exists for the complaint to be referred to the police for investigation, mediation or conciliation may be offered to both the complainant and the respondent as an option for resolution of the complaint.

If mediation or conciliation is considered an appropriate option by the Director, each party to the complaint will be consulted and agreement of both is required to proceed. Any related costs will be borne by the Diocese.

Mediation is a process in which an independent mediator helps parties in dispute to try to arrive at an agreed resolution of their dispute. The mediator does not impose a decision on the parties. If an agreed solution can be found at mediation, there is no need for further action to be taken.

Mediation offers the opportunity to achieve a practical solution for the dispute.

Persons who may attend a mediation session include: the mediator; the respondent and any support person; the complainant and his/her support person. The mediator will ensure that no one is disadvantaged in the mediation process.

The process of mediation includes the following steps:

- the mediator will explain the process of mediation;
- the mediator will ask each party to make an opening statement about how each sees the dispute;
- the mediator will then assist the parties to identify the key issue/s in dispute;
- the mediator will then assist the parties to develop and consider possible ways to resolve the issue/s in dispute;

- at some stage, the mediator may wish to speak with each party in private to clarify points or to discuss options for resolution. These sessions are confidential and nothing will be said about them without your consent. You can also speak with the mediator privately and confidentially at any time;
- the mediation will conclude with everyone present where the mediator will close the mediation and confirm the outcome.

The mediator will not make decisions for you, but will guide you through the process and be attentive to your needs.

Conciliation is a similar process but is one where the conciliator will take a more directive role. Persons who are party to a complaint will be directed to attend conciliation, and may if they wish ask for support persons to accompany them. However, the support persons cannot participate in the process.

The conciliator will generally be someone with specific expertise in the subject matter of the dispute and will advise on the resolution of the dispute.

The conciliator will determine the process of the conciliation, may make suggestions for terms of the resolution, provide expert advice on likely settlement terms, and may actively encourage the parties to reach a resolution.

The conciliator may also point out the strengths and weaknesses of the complaint and each party's response.

Appendix H

Psychological assessments

Section 28 of the *Professional Standards Canon* (PSC) states that –

For the purpose of an investigation the PSC or an investigator shall obtain such statutory declarations, written statements, recorded conversations, reports, documents and other material as the PSC or its delegate considers necessary or advisable for presentation to the Board.

The *Protocol for Dealing with Sexual Misconduct* allows for the Director of Professional Standards to request a complainant to participate in a psychological assessment by an independent forensic psychologist as part of the investigation process. The purpose of the assessment is to assist in determining whether harm was caused by the alleged conduct, whether the harm was of significant nature, and whether the harm was caused by the conduct of the Church worker or by other factors.

If a complainant agrees to a psychological assessment, the Director will prepare a brief for the psychologist which summarises the purpose of the assessment, the alleged behaviour of the Church worker, and any other information which would assist in the assessment.

The following guidelines will be followed when an assessment is requested.

The Director of Professional Standards will inform the complainant:

- the purpose of the psychological assessment;
- a copy of the report will be given to him/her by the Director;
- the name and qualifications of the psychologist and – if required – the names of other psychologists if the complainant requests a different one;
- he/she will be provided with suitable and timely breaks and refreshments through the assessment process;
- de-briefing by a different psychologist will be available to him/her following the assessment.

The psychologist will inform the complainant about the assessment including:

- the nature of any tests which will be used;
- the purpose of each test;
- the estimated time the assessment will take; and
- the purpose to which the assessment report will be put.

The psychologist will ensure that the complainant is provided with opportunities for breaks and refreshments during the assessment process – whether or not the complainant requests them.

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