



PROFESSIONAL STANDARDS ORDINANCE 2017 PROTOCOL

SCOPE

The Professional Standards Ordinance 2017 (the Ordinance) requires that a protocol is to be established which specifies how information is to be handled concerning sexual misconduct by lay church workers (ref Part 3). Section 7(2) of the Ordinance details the requirements of the Protocol.

An underlying purpose of this protocol is to provide a fair process for all parties concerned.

The Ordinance establishes the role of the Professional Standards Committee (PSC) and the Director of Professional Standards (the Director) in the implementation of the Protocol.

TERMINOLOGY

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

(a) a lay person employed by a Church body, or

(b) a lay person holding a position or performing a function with the actual or apparent authority of a Church authority or Church body.

Complainant: means the person who makes an allegation or who provides information regarding conduct of a church worker.

Complaint: means a complaint pursuant to the Ordinance.

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

(a) the fitness of a lay 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 remain in the employment of a Church body, or

(b) whether, in the exercise of a lay Church worker's ministry or employment, or in the performance of any function, the lay Church worker should be subject to certain conditions or restrictions.

Director of professional Standards (Director): means the Director of Professional Standards established in Part 5 of the ordinance.

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

(a) alleged conduct of a lay Church worker wherever or whenever occurring involving sexual harassment or assault, or sexually inappropriate behaviour;

(b) alleged inappropriate or unreasonable conduct or omission of a lay Church worker who had knowledge of conduct of another lay Church worker involving sexual abuse, or sexual misconduct, or

(c) an alleged process failure;

Professional Standards Committee (PSC): means the Professional Standards Committee established under Part 4 of the Ordinance.

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

For other definitions, see section 2 of the Ordinance

PRINCIPLES

The principles associated with this protocol are as follows:

Procedural Fairness:

- The Director, PSC, Professional Standards Board (the Board), Bishop and other appropriate officer holders shall act fairly, in good faith and without bias.
- The person subject to the allegations (the respondent) shall be given the particulars of the allegation in writing.
- Each party will have the opportunity to respond to statements made by the other.
- Each party will have the opportunity to adequately state their case, and to correct any relevant statement prejudicial to the person's case.
- Each party will be offered pastoral support by the Diocese.

Privacy: Every effort must be made to protect the privacy and confidentiality of all parties concerned. All parties will only release findings where appropriate to parties specified in the outcomes with the permission of person subject of allegations and or the person bringing the complaint after obtaining legal advice. When the Director reports to the PSC or other office holders, they will focus on the needs of: the person bringing the complaint; the person subject of the allegations; and the congregation.

Contact Persons: The Director of Professional Standards is appointed by Diocesan Council (DC). The Chairman of the PSC is appointed by Diocesan Council after the first session of every Synod.

PROCESS

Step 1: Receiving the Complaint

The Complaint is to be forwarded to the Director of Professional Standards or the Chairman of the Professional Standards Committee (PSC), and can be received initially either orally, in writing or by email.

Step 2: Referral to government authorities

At the time in which the complaint is received, or during the formalisation process, if it becomes clear that this is a child protection or criminal matter the Director will assist the person bringing the complaint to take the matter to the appropriate authorities. In accordance with Diocesan Safe Ministry policies, the Director must report all allegations of child abuse to the Police.

During police and or child protection proceedings, the church worker subject to the allegations may, for risk management reasons, need to be stepped aside or suspended from duties, and temporary

arrangements put in place. This is to be decided between the Director, PSC, and the relevant church authorities (Ordinance, Sections 33-37).

At the conclusion or cessation of police or government child protection proceedings, or the police or government authority have stated that such an investigation will not prejudice any ongoing investigation, the Diocese may recommence the Ordinance process.

In matter 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 of the complaint will be consulted and agreement of both is required to proceed.

Step 3: Formalisation of the Complaint

The Director will meet (preferably face to face, alternatively by phone) with the person bringing the complaint to explain the Ordinance process.

The Director will provide them with this protocol document, offer appropriate pastoral support, and obtain details of the complaint.

(Pastoral support means emotional and spiritual assistance from a person who is not necessarily qualified to provide professional counselling)

The complaint will then be detailed in writing. The formal complaint (allegations) will be compiled by the Director and signed by the person bringing the complaint.

In cases of allegations of adult to adult wrongdoing, and where the person bringing the complaint does not wish the matter to be taken to the civil authorities, a 'blind' report to the authorities may still need to be made, and a written statement made by the person bringing the complaint acknowledging that, in this instance, they do not wish to take legal or criminal action against the person who is the subject of the allegations.

Step 4: Decision to proceed or not, and interim measures established.

The Director, at this time, may make initial inquiries in to the validity of the complaint before taking the allegations to the church worker subject to the allegations.

The Director will notify the PSC and the Bishop as to the nature of the complaint. The Director will also notify other relevant parties.

The Director will consider and implement risk management strategies & interim measures for the person who is the subject of the allegations e.g. suspension (section 33). In relevant cases the insurers will also be notified.

A complaint may be declined or deferred at this or at any point during the process by The Committee (section 30). The various reasons include, but are not limited to: the matter has already been or is already being dealt with; a failure to provide details; false, vexatious or misconceived or trivial; insufficient evidence; or the person bringing the complaint is unwilling to act as a witness in an investigation. In such instances the Director will in writing provide such reasons to the person bringing the complaint.

At this point it will also be decided which process will be used to manage the complaint. That is if it is a matter relevant to the Ordinance then this Ordinance process will continue. If not, the matter will be

'triaged' by the Professional Standards Committee, and the appropriate Safe Ministry Response Process implemented by the Bishop.

Step 5: Notification to the Respondent (i.e. person subject of the allegations)

The Director will contact the person subject of the allegations to arrange a face-to-face meeting to provide them with the formalized complaint and to explain the Ordinance process. The Director will inform the person that they can bring another person as a support person to the meeting.

At the meeting the Director will provide the person subject to the allegations with the written formalised allegations, provide them with this protocol document and explain the Ordinance process. The Director will offer appropriate pastoral support.

Discussion will take place as to any interim measures to be implemented. The Director will also explain that the person subject to the allegations is to respond in writing within 14 days to the Director.

Step 6: Response - non-disputed complaints

Where the response of the person subject of the allegations does not dispute the complaint then the matter is to be referred to the PSC for deliberation and recommendations.

The Director will:

- notify all parties that the matter is to go before the Committee; and
- provide the person subject of the allegations with copies of all materials before the Committee and invite the person to provide any other relevant material related to the allegations.
- provide the Committee with a report of the matter and all materials including any additional material from the person subject of the allegations.

Step 7: Response - disputed complaints – investigation

Where the response of the person subject of the allegations disputes the complaint then the matter will be investigated by the Director, PSC or a suitably qualified investigator. The burden of proof shall be on the balance of probability. The respondent will be given written notice to provide a detailed report with a specified time in relation to any matters relevant to the investigation. The obligation of a respondent is found in section 32 of the Ordinance.

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.

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 by the Director. If at any time, the complainant or respondent wishes to ask a question, seek clarification about a matter, or simply speak to the Director, contact may be made by the means listed on the Diocesan website.

Step 8: The Committee – Review & Recommendations

Once the report of the investigation has been received or, as in Step 6, the matter has not been disputed, the Director shall report his findings and make recommendations to the PSC.

The PSC will make a determination in relation to the findings. Where the recommendations have implications for the respondent's employment status as a church worker or their future capacity to gain income as a church worker, the matter shall be referred to the Board.

Step 9 Notification of parties as to recommendations of the Committee

The Committee will give written notice of its recommendations to the respondent.

If the PSC considers that a respondent has no case to answer, the Director will inform both the complainant and the respondent. The matter is then closed.

If the PSC finds the respondent does have a case to answer, the Director will inform both the complainant and the respondent.

The respondent may in writing request a review of the determination by the Board.

The PSC shall cause a copy of the final determination and recommendation to be provided to the relevant church authority; to the respondent; and shall cause relevant details to be forwarded where appropriate to the director for entry into the National Register.

Step 10: Response to the recommendations

The person subject to the allegations can, within 14 days of receiving the recommendations, and in writing to the Director:

- a) accept the recommendations – in which case the recommendations are implemented.
- b) reject the recommendations. In this instance the PSC will promote a charge to the Board.

If a response is not received from the person subject to the allegations within 14 days, then it will be deemed that the person subject to the allegations has accepted the recommendations.

Step 11: Professional Standards Board (Part 8)

If the recommendation of the PSC is that the charges be promoted to the Board, or when a person subject of the allegations respond as in b in step 10 above, the Board will hear the matter.

The Board will act in accordance with the Requirements of Part 8 (Sections 60-77) of the Ordinance. The Board will request any documents and material relevant to the reference from the PSC and will give reasonable notice of its sitting to all relevant parties. The respondent will have an opportunity to speak to the Board, make submissions and may examine or cross-examine witnesses.

After considering all the relevant material, the Board will make a determination and recommendations. This determination and recommendations will be provided to the relevant Church authority, the respondent, and shall cause relevant details to be forwarded where appropriate to the Director for entry in to the national Register.

Step 12: Review or Determination and Recommendation (Part 9)

If the respondent is aggrieved by the decision of the Board which may lead to termination of employment or removing or suspending the capacity of the person to gain income as a church worker, the respondent may apply to the Registrar for a review of the decision.

This application needs to be received within 21 days of receiving the Board's determination and recommendation.

The grounds for review and the process of review are found in part 9 of the Ordinance.

REVIEW OF PROTOCOL

This Protocol is to be reviewed prior to December 2024.