

ANGLICAN DIOCESE OF NEWCASTLE

PROFESSIONAL STANDARDS PROTOCOL 2013

1. *Our commitment*

The Diocese of Newcastle does not tolerate abuse or other forms of inappropriate behaviour within its communities.

2. *Companion Documents*

This protocol needs to be read in association with the Professional Standards Ordinance 2012 and the Code of Conduct for Church workers called Faithfulness in Service.

3. *Diocesan undertakings*

The diocese undertakes the following in connection with the operation of this protocol.

- All information will be taken seriously.
- Where misconduct involves child abuse, we will comply with mandatory reporting requirements under State law.
- Where misconduct involves other forms of illegal behaviour, we will support a person affected by misconduct in reporting the matter to the police or to any other appropriate authority. We will comply with our responsibilities under law to make a report to police other appropriate authorities.
- We will continue to invite any person who has been adversely affected by misconduct, no matter when, to come forward and to make the matter known, so that his or her ongoing needs can be addressed.
- Nothing in this protocol prevents a person pursuing any legal process or right of action at law.

4. *What complaints may be made under this protocol?*

Any person may advise the Professional Standards Director of the Diocese of Newcastle (who is the contact person for the Diocese) if they have concern about a Church worker (lay, ordained, paid, voluntary or retired) being involved at any time in:

- sexual misconduct with an adult, or
- any form of child abuse, or
- failing to report or act appropriately with the knowledge of sexual misconduct or child abuse by another church worker, or
- failing to administer an aspect of the professional standards process prior to 2005 for which they had responsibility, or
- conduct which is contrary to the standards or guidelines of Faithfulness in Service from which a person has suffered harm or is at the risk of harm.

In this protocol advice to the Professional Standards Director is referred to as "a complaint".

Church workers should be aware of their obligation to lodge complaints of this kind with the Professional Standards Director promptly.

5. *What will the Professional Standards Director do at first when a complaint is received in accordance with this protocol?*

The Director will:

- notify the head of an agency if the respondent is an employee or volunteer of that agency.
- ask questions to make sure that the information is clear - for example, who was involved, what has occurred or what failure has occurred, when, where.
- ask questions about the identity of the person providing the information and the person affected or harmed by the conduct the subject of the information.
- assess whether the information involves a child being 'at risk of harm' and if so report to Department Of Family And Community Services and the Police promptly.
- determine what support should be provided (for example counselling) to the informant, the person the subject of the information and the respondent (if the respondent is aware of the information).
- determine whether there are any other agencies for which a mandatory notification is required and make that notification.
- review the new information alongside other information held by the PSC.
- without commencing a formal investigation verify the information.
- ascertain whether the matter is being investigated with another competent agency and liaise with that agency.

6. *After these initial steps what happens?*

The Director will not proceed with further action unless or until –

- the complaint discloses criminal conduct that should be reported to the police or conduct constituting child abuse that should be reported to Department Of Family And Community Services or conduct that should be referred to some other relevant agency; or
- the person affected by the misconduct has requested formally that the Director proceed with an investigation; or
- the information is substantiated in some other way.
but may provide de-identified reports to the PSC and the Bishop (or other relevant church authority).

Once the Director is able to proceed

- The Director will prepare a report or reports for the PSC with recommendations recognising that the PSC is not bound by those recommendations.
- The PSC will determine whether to recommend that the Church worker should be suspended from duty or have his or her duties limited and, if so, request the relevant authority to take action.
- The PSC will determine whether the matter should be further investigated and, if so, give directions to the Director.
- The PSC will, bearing in mind its privacy obligations, determine whether others should be advised of the report.

If there is a need for communication with the general public or church community the PSC through the Director will advise the Bishop about what information should be

communicated to others and what steps should be taken to ensure appropriate confidentiality for all involved.

7. *How will the need for a suspension or limitation of duties be determined?*

A respondent may choose to stand down from some or all of their responsibilities however this does not end the responsibility of the PSC to consider whether there should be a formal suspension or prohibition.

The PSC will consider the seriousness of the misconduct together with material supporting or negating the information. It will give a priority to assessing whether any person is at risk of harm. It will speak with an appropriate representative of the parish or organisation and will take account of the effect of a suspension or prohibition on the respondent, the parish or organisation and the Diocese.

The PSC normally through the Director will need to give a respondent the opportunity to be heard about a suspension or prohibition. It may seek to ascertain whether the respondent will consent to a proposed suspension or prohibition.

The PSC, normally through the Director, will request, in writing, the suspension or prohibition from the Bishop. The request will be accompanied by a statement of reasons, the advice of the relevant church body and the respondent.

8. *How will an investigation be conducted?*

If The PSC decides to investigate it will appoint a suitably qualified investigator or appoint the Director to undertake the investigation. The PSC will consider any conflict of interest, special needs, cultural issues or investigations by other competent authorities when appointing an investigator.

A respondent may or may not be aware that a investigation has been commenced into alleged misconduct concerning them at the beginning of a process.

Every investigation will be planned and records kept of the planning process.

Where Department Of Family And Community Services, the Police or other relevant agency are involved the investigator shall consult with them to ensure any investigation by them is not compromised. The Director shall liaise with any external investigator, Department Of Family And Community Services, the Police or other relevant agency.

The investigator may collect information from sources such as (but not limited to) interviews, physical evidence and specialist advice.

No child should be interviewed without the prior consent of the child's parents or carers. It may be necessary for the investigator to interview a person on more than one occasion.

The investigator will ensure that any interview is adequately recorded, including details of the questions and responses. The record should include the location of the interview, the identity of people present, the start and finish times of the interview. Where possible a record should be verified, signed and dated.

Where during the investigation material is obtained which may change the assessment of the risk posed by the respondent it shall be communicated promptly to the Director and by the Director to the Committee.

At any stage in the investigation other allegations may emerge which must be recorded and referred to the Director and by the Director to the Committee.

An investigator shall be apprised of the professional standards record of the respondent.

An investigator shall keep detailed notes of the investigation.

9. *When will the respondent be informed?*

The Director may unless directed otherwise by the PSC inform a respondent that the Director has received a complaint about the respondent's conduct.

A respondent must be informed of their rights and their obligations under these protocols and the Ordinance when they are advised of the complaint by the Director.

As a general rule, the Director will only inform the respondent of a complaint once the investigation has been concluded unless the process would be assisted by earlier advice, there is a risk that the conduct may be known more widely or there is need to suspend or limit the Church worker.

Where Department Of Family And Community Services, the Police or another relevant agency are involved the respondent will not be informed without prior consultation with them.

When all the relevant material has been obtained, the Church worker should be informed of the complaint and given an opportunity to respond. The Director will ensure that the Church worker is directed to a support person and a chaplain (if appointed) at the time they are advised of a report.

10. *What must a respondent do?*

A respondent is not required to respond immediately but is required to respond within a reasonable timeframe and without undue delay. A respondent is entitled to seek advice. The Diocese will pay up to \$1000 on receipt of a claim, with supporting invoices, from a respondent who is in stipendiary ministry for professional services retained by him or her to assist them respond.

The respondent may be accompanied by a support person at any interview.

The respondent is obliged to answer truthfully any question put to them. A negative view may be taken of a decision by a respondent not to answer a question.

If the matter proceeds to a Professional Standards Board hearing or other disciplinary process the relevant body may take into account any cooperation or lack of cooperation from a respondent in formulating its recommendations or determinations.

The respondent shall respond in writing in a manner determined by the PSC or in an interview properly recorded.

A support person may observe but not interrupt an interview and must keep all aspects of the meeting with the respondent, investigator and Director confidential.

It may be necessary for a respondent to be re-interviewed if new information arises. The respondent will be given the opportunity to respond to any new information.

The Director may offer the respondent counselling or other support.

11. *What should happen to the Investigator's Report?*

The investigators Report together with a copy of any material acquired during the investigation will be forwarded to the Director and by the Director to the Committee. This includes all of the information gathered, both in support of and not in support of, the complaint against the Church worker.

12. *What will the PSC do with the Investigator's Report?*

The PSC will determine whether there is examinable conduct for the purposes of the Professional Standards Ordinance 2012, a breach of Faithfulness in Service which does not constitute examinable conduct or a disciplinary matter which should be referred to another body.

The PSC shall

- a) refer a finding of examinable conduct together with the investigators report and associated material to the Professional Standards Board. The PSC will ensure that respondent is provided with a copy of all material forwarded to the Professional Standards Board who shall determine the manner in accordance with the Professional Standards Ordinance 2012, or
- b) advise the Bishop of any breach of Faithfulness in Service and recommend action to be taken by the Bishop, or
- c) advise the Bishop that there is a disciplinary matter which should be considered by another body but not the Professional Standards Board, or
- d) form the view that a matter has been dealt with sufficiently by another competent body and take no further action, or
- e) dismiss the matter as false, misleading or vexatious and/or take no further action.

The PSC will document its decisions and the reasons for its decisions. It shall ensure that a print copy of all material is developed and kept permanently.

The PSC shall ensure that the person affected by the misconduct, the respondent, any head of an agency and the Bishop are informed in writing of its decisions.

13. *Record keeping*

The Director shall be responsible for ensuring that all records of the PSC are kept securely.

All material obtained by the Professional Standards Committee, Director and servants shall be treated as sensitive information for privacy purposes and kept confidential.

14. *Limitations on the Pastoral Role of the Bishop*

The Bishop should not seek to have any contact with a person affected by misconduct or the respondent except after consultation with, or on the advice or recommendation of, the PSC or the Director.

15. *What can a person experiencing misconduct expect?*

They can expect to have information about misconduct to be taken seriously. When a report is made to the Diocese they can expect their privacy to be respected and to have their reasonable needs supported. They can expect the Diocese and its officers to work quickly recognising that historically these matters take a long time to resolve. They can expect that the Diocese will hold church workers accountable for their conduct. If asked to give evidence they can expect to do so before an open, transparent and impartial Professional Standards Board.

16. *What can a person responding to a report expect?*

They can expect that their privacy will be respected and they will be offered support while the allegation of misconduct is considered and, if necessary, investigated to determine the truth of the situation and address any issues that are subsequently identified as part of that process. If asked to give evidence they can expect to do so before an open, transparent and impartial Professional Standards Board.

17. *Conciliation and Mediation*

There are no processes of conciliation and mediation for respondents in relation to complaints of child abuse, sexual misconduct or the failure to report abuse or misconduct. These matters must be considered by the Professional Standards Board if an investigation establishes that there is a case to answer which has not been dealt with satisfactorily by another competent authority.

The PSC may recommend to the Bishop that a process of conciliation and mediation be entered into for respondents on other matters that may be reported such as a breach of Faithfulness in Service.

The Diocese has a Pastoral Aid and Assistance Scheme for people who experienced child abuse or sexual misconduct. The Director can assist a person affected by this sort of misconduct to make an application.

18. *Communication*

The Bishop may release to the public information about professional standard complaints, investigations and determinations.