
DIOCESE OF THE MURRAY

PROFESSIONAL STANDARDS PROTOCOL

PART 1 – PRELIMINARY

1. Introduction

- (1) This protocol forms part of the Church's strategy for ensuring that proper processes are in place for dealing with information and complaints that allege misconduct by a Church worker.
- (2) This protocol is adopted in accordance with the requirements of the *Professional Standards Ordinance 2016* of the Diocese of The Murray and must be read in conjunction with that ordinance.
- (3) In the event of an inconsistency between this protocol and the ordinance, the ordinance will prevail to the extent of the inconsistency.

2. Principles

The Diocese adopts the following principles in connection with the operation of this protocol:

- (a) all complaints will be taken seriously;
- (b) we offer respect, pastoral care and ongoing long-term or episodic support, including professional counselling where appropriate, to anyone who provides information or makes a complaint about alleged misconduct and for those who have suffered the effects of misconduct;
- (c) we will do all we can to lessen harm by providing the best care possible;
- (d) we will also offer appropriate support to any Church worker who is accused of misconduct;
- (e) the rights of a person accused of wrongdoing will be respected;
- (f) we will be as open, transparent and accountable as possible while respecting the rights of complainants to privacy and to make their own informed choices about whether to participate in diocesan processes or to seek assistance elsewhere;
- (g) we will respect and not abuse confidentiality and will not use confidentiality in a way that seeks to protect the Church;
- (h) where a complaint involves child abuse, we will comply with mandatory reporting requirements under State law;

- (i) where a complaint involves other forms of illegal behaviour, we will support a complainant in reporting the matter to the police or to any other appropriate authority;
- (j) in any event, we will report to the police any matter that appears to relate to an indictable offence;
- (k) 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;
- (l) a Church worker who is alleged to have committed criminal or non-criminal acts that breach the professional standards of the Church must face the appropriate diocesan processes;
- (m) no person may interfere with or attempt to influence the Bishop, the Director, the Professional Standards Committee, the Professional Standards Board, the respondent, support persons, carers or investigators in the exercise of a function;
- (n) nothing in this protocol prevents a person pursuing any legal process or right of action at law.

3. Interpretation

- (1) An expression used in this protocol and in the Ordinance has, unless the contrary intention appears, the same meaning in this protocol as it has in the Ordinance.
- (2) In this protocol, unless the contrary intention appears, *the Ordinance* means the *Professional Standards Ordinance 2016* of the Diocese of The Murray.

PART 2 – INITIAL PROCESSES

4. Application of Part

This Part applies when the Director receives information or a complaint on behalf of the PSC.

5. Preliminary contact

- (1) The Director may contact or meet with the person who provided the information or made the complaint to obtain preliminary information about the matter.
- (2) The Director must provide advice to the person about the procedures that may be undertaken with respect to the information or complaint.
- (3) The Director must advise the person that the Director is required to keep a record of the name of the respondent if it is provided or when it becomes known.
- (4) The Director must also make an initial assessment of what (if any) support must be provided to any person on account of the provision of information of the making of a complaint.

PART 3 – SUPPORT PERSONS AND CARERS

6. Support persons and carers

- (1) The PSC must establish a scheme for the provision or funding of suitable persons for the care or support of any person who may be involved (directly or indirectly) in a process under the Ordinance.
- (2) The care or support provided under subclause (1) may include:
 - (a) counselling;
 - (b) spiritual support or direction;
 - (c) pastoral care;
 - (d) other services or support considered appropriate by the PSC.

7. Support persons

- (1) Where a complaint has been made to the Director, the Director may offer any person who may be involved in the processes under this protocol the services of a support person.
- (2) However, the Director must obtain the concurrence of the PSC before appointing a support person for a person who is not a complainant or respondent.
- (3) The qualifications or other attributes of a person who may act as a support person under this section will be determined by the PSC but, for the purposes of this section, a support person does not include a legal practitioner engaged to assist a person in connection with any matter under this protocol or the Ordinance.
- (4) The PSC may establish a panel of suitable persons who may be available to act as support persons under this protocol.
- (5) If a support person is appointed from the panel established by the PSC in response to an offer by the Director, the reasonable costs associated with the support person will be borne by the diocese.
- (6) A support person may only act for one person in respect to a particular matter.
- (7) A support person must act in the best interests of the person in relation to whom an appointment has been made.
- (8) The role of a support person appointed to assist a complainant or victim may include providing counselling, explaining any process, clarifying the outcomes that may be possible and exploring with the person what he or she may seek from disclosure.
- (9) A support person may also assist the complainant or victim, on request, to prepare a written document that sets out the details of the complaint.
- (10) A support person may also provide informal professional advice to the Director from time to time as requested.

- (11) A support person may also provide to the Director any acknowledgement of a person's consent for the purposes of any process under this protocol.

8. Carers

- (1) The PSC must ensure that there are available suitably qualified persons ("carers") who may provide pastoral care to a complainant, informant, victim, respondent, or other Church worker who may be involved in processes associated with a matter that is the subject of a complaint under this protocol.
- (2) A carer acts in a voluntary capacity.
- (3) Where a complaint has been made to the Director, the Director may offer any person who may be involved in the processes under this protocol the assistance of a carer.
- (4) A person may choose his or her own carer (who does not need to be a person who is available under subclause (1)).
- (5) If a carer is chosen under subclause (4), the person must provide the carer's name and contact details to the Director for the purposes of this protocol (and the Director will confirm that the person is prepared to act as a carer under this protocol).
- (6) A carer may only act for one person in respect to a particular matter.
- (7) A carer must act in the best interests of the person in relation to whom an appointment has been made.
- (8) A carer may, with the consent or at the request of the person for whom they are caring-
 - (a) make or receive communications on behalf of the person; and
 - (b) liaise with the Director.
- (9) A carer must deal with all information associated with a matter on a confidential basis.

PART 4 – INITIAL PROCESSES

9. Initial contact or disclosure

- (1) The Director will then keep a matter the subject of information provided to the Director confidential unless or until -
 - (a) the person who has provided the information has provided his or her consent to the further disclosure of the matter;
 - (b) the matter discloses criminal conduct that should be reported to the police or conduct constituting child abuse that should be reported to the appropriate State authority;
 - (c) a formal complaint has been lodged with the PSC;

- (d) the subject-matter of the information is substantiated in some other way; or
 - (e) the disclosure is otherwise authorised under the Ordinance or this protocol.
- (2) Nothing in subclause (1) prevents –
- (a) the Director from providing information or a report to the PSC; or
 - (b) the Director from taking steps to gain information about the functions or duties being performed by a person at a particular time; or
 - (c) the Director from providing, for reporting purposes, information or other material in a form that does not identify a particular person while it remains confidential.

10. Initial assessment

- (1) The Director will make an initial assessment of any information or a complaint to determine whether the matter may constitute information which, if established, would constitute misconduct.
- (2) If the Director considers (or subsequently forms the view) that the matter does not constitute information which, if established, would constitute misconduct, or that the matter can properly be dealt with by other means, the Director will advise the complainant accordingly.
- (3) In a case where subclause (2) applies, the Director may assist the person to refer the matter to another body or authority, or may assist in resolving the matter through some other process.
- (4) The Director must inform the PSC if or when a matter is dealt with under subclause (3).
- (5) If the Director considers at any time that any person may be in immediate need of care or protection, or that there is a likelihood of a continuation of any serious behaviour or that any such behaviour may be repeated, or that some other reason exists to take action under this provision, the Director may immediately report the matter to another authority and may then co-operate with the authority in relation to the matter.
- (6) The Director will take reasonable steps to establish a formal protocol for cooperation with relevant authorities for the purposes of subclause (5).
- (7) If the Director considers that there are sufficient grounds for so doing, the Director may request the PSC to initiate action with a view to the PSC recommending to the relevant Church authority that a suspension order or a prohibition order or both, as the case may require, be made against the respondent under the Ordinance.
- (8) The Director may, as the Director thinks necessary, seek independent professional advice in order to assess or deal with any information or a complaint.

11. Provision of services

- (1) With permission of the complainant, the Director may refer a person who has provided information or an alleged victim to counselling or other services, as appropriate, from a support person (and this may occur even if a formal complaint is not subsequently made).
- (2) The Director and any support persons are expected to listen fully, honestly and compassionately to the person (including concerning the facts of the situation and its emotional psychological and spiritual effects).
- (3) Consideration is to be given to any other measures that may be able to be provided to meet the needs of a person in relation to whom proceedings under this protocol may be relevant.

12. Contact with complainant or victim

- (1) A Church authority or the respondent must not have any contact with a person who has provided information or an alleged victim in the course of a resolution of a matter under the Ordinance except through, or on the advice or permission of, the Director or the PSC.
- (2) Subject to the provisions of any relevant Ordinance, nothing should be done or said that a person could reasonably interpret as questioning the capacity of a person to provide information or to make a complaint, denying a person the right to determine whether or not to speak publicly about a matter or the Church's response to information or a complaint, questioning a right to pursue alternative therapy or redress or, subject to any policy of the Diocesan Council, questioning or qualifying a person's ability to continue to participate actively in the life of the Church.

13. Informal resolution

- (1) The Director may arrange for informal resolution or mediation between a complainant and a respondent at any time if that may assist the parties.
- (2) Nothing in this clause limits or prevents action being taken under Part 6.

PART 5 – PROCESSES FOR RESPONDENT

14. The respondent

- (1) If -
 - (a) a formal complaint has been made and accepted as a matter of information which, if established, would constitute misconduct; or

- (b) the Director has otherwise determined that a matter should be further investigated and that it is appropriate to do so after taking into account the requirements of clause 6, the Director (or a person appointed by the Director) will contact the respondent with a view to arranging a meeting (and this should normally occur within one week of receipt of a formal complaint or any relevant consent (whichever is the later)).
- (2) The respondent will be offered the assistance of a carer to be present at the meeting, or the respondent may select his or her own carer.
 - (3) If a carer is a person selected from a group constituted by the PSC, the carer should normally contact the respondent within 24 hours after being appointed.
 - (4) A carer should follow up on any initial advice provided about the availability of professional counselling support and, if the respondent seeks a support person through the carer, should ask the Director to make an appropriate appointment.
 - (5) The Director (or a person appointed by the Director) will provide the respondent with a copy of the complaint setting out the information on which the complaint is based and will advise the respondent of his or her right to obtain independent legal or other professional advice, at their cost, before responding to the complaint.
 - (6) Unless this has already occurred, the respondent will be offered the services of a support person from a panel constituted under this protocol.
 - (7) The Director will also advise the respondent that in order to determine whether the facts of the case are significantly disputed, a written response to the complaint is required to be provided to the Director within 3 weeks of the respondent being provided with a written copy of the complaint, or within such longer period as appears appropriate to the Director (and a carer or support person may assist the respondent with this process and may liaise with the Director as appropriate).
 - (8) In the event that the respondent chooses not to participate actively in the process, the Director will prepare a report for the purposes of the PSC and make a record on an appropriate register maintained by the Director.
 - (9) The details on the register may then be taken into account when the Director is next required to provide a clearance to any Church authority or Church body, whether for paid or voluntary work.
 - (10) If both parties have given their consent and, in the opinion of the Director, this is an appropriate way to proceed, the Director may arrange a face-to-face meeting or a written apology.

- (11) Any carer will also keep in regular contact with the respondent and, if appropriate, with the support person assisting the respondent, and may assist the respondent to liaise with the Director in accordance with the provisions of this protocol.

15. The Bishop

In a matter involving a formal complaint against a member of the clergy, the Bishop should not seek to have any contact with the respondent except after consultation with, or on the advice or recommendation of, the PSC or the Director.

PART 6 – FORMAL INVESTIGATION

16. Formal investigation

- (1) If there is a significant difference between the facts reported by the complainant and the facts reported by the respondent, or where a complaint has been made by someone other than the person directly affected by the misconduct complained about and the matter appears to justify investigation, the Director may take steps to investigate the matter or to appoint an investigator.
- (2) The appointment of an external investigator will be made by the PSC or by the Director after consultation with the PSC.
- (3) The complainant, the respondent and any other relevant person will be provided with ongoing care and support while an investigation is undertaken.
- (4) If the matter is under investigation by another competent body or is the subject of legal proceedings, the Director, in consultation with the PSC, should consider whether an investigation under this protocol should be suspended pending the determination of the other processes or proceedings.
- (5) The role of an investigator is to gather information about any complaint or allegation and to prepare a report to the Director for consideration by the PSC.
- (6) The complainant and the respondent will be afforded a reasonable opportunity to be interviewed by an investigator.
- (7) A report prepared by an investigator will be the property of the PSC. The parties will be advised of this before being interviewed by an investigator.

PART 7 – RELATED MATTERS

17. Mediation

If the Director considers that mediation is likely to resolve the issues raised by a complaint, the Director may, after consultation with the PSC, seek the consent of the relevant parties to refer the matter to mediation.

18. Continuation of matter despite resolution between parties

- (1) The Director, the PSC, the Board and any Church authority or Church body may continue to take action under this protocol, and to make or receive any recommendation, despite the fact that there has been a formal or informal resolution of a complaint between the parties to the complaint.
- (2) The Director, the PSC and any other person or entity appointed under this protocol may continue to exercise their respective roles even if litigation has been commenced against a Church body or Church worker.

19. Pastoral response

The PSC may recommend that a pastoral response should be developed for the care of any parish, congregation or other Church community affected by a matter arising under this protocol.

20. Completion of process

As appropriate, the PSC or the Director may, at the completion of a matter, liaise with those involved in a process under this protocol to explain the outcome and to discuss any further action that should be taken.