



ANGLICAN DIOCESE OF RIVERINA PROFESSIONAL STANDARDS PROTOCOL 2016

Purpose of the Professional Standards Ordinance (PSO) 2004

The purpose of the Profession Standards Ordinance is to provide a just and fair process for managing allegations (complaints) of sexual harassment, sexual assault, sexually inappropriate behavior made against clergy and church workers, in the ordinance these are referred to as “examinable conduct”.

The ordinance aims to assist those who have experienced sexual harassment, sexual assault or sexual misconduct, to find healing.

It seeks to provide the person or person’s subject of allegation/s with a fair and just course of hearing and compassionate dealing.

It is a means of unbiased assessment of allegations, as the findings may well lead to some form of disciplinary action. Any sanctions imposed on clergy or church workers will be consistent with the relevant laws and the processes that govern that person’s employment.

Finally it speaks to the issue of prevention. It will help shape to future ministry practice as well as to address the past, with provisions concerning the sharing of information with other church groups where offenders move to another diocese or denomination.

In the Anglican Diocese of the Riverina complaints and grievances other than of a sexual nature, against clergy and church workers are to be dealt with in accordance with the Ministry and Ministry Tribunal Ordinance 2000.

Guiding Principles

Jesus uncompromisingly told the truth in love. He called people to act rightly and uphold the rights of those who had been oppressed or were powerless to get justice (Matthew 23:23). This commitment means calling abusers to true change in heart and action. This differs greatly from guilt-ridden remorse. What is needed is a readiness to accept discipline and make restitution. These are indicators of true change (Matthew 3:7-12). In Ezekiel 18:30-31, God requires a responsible owning by the abuser of the hurt caused to the victim and a complete change of attitude and behaviour.

Procedural fairness (also known as natural justice):

Without undue delay: Acting as quickly as possible shall be a genuine recognition of the seriousness of allegation. Care should be taken to avoid delays.

Clear Communication: All parties should be fully and speedily informed regarding decisions made, the reasons for the decisions and what processes are being used at all stages, particularly where there is any delay.

Non-bias manner: The case will be managed, assessed, conciliated, and facilitated by persons who have no relationship (biological or other) any party. They shall not have a negative or bias view of the case matter, e.g. persons who have experienced past sexual abuse should not manage a sexual abuse claim.

Conflict of interest: The case will be managed, assessed, conciliated, and facilitated by persons who have no stake in benefiting from any particular outcome of the case.

Evidence based: Assessment of disputed facts to be conducted by a suitably qualified assessor.

(source: *NSW Ombudsman Child Protection in the Workplace 2004*).

Following the principles of procedural fairness:

- The Director, Professional Standards Committee, Professional Standards Board, Bishop and other appropriate officer holders shall act fairly, in good faith and without bias.
- The person/s subject to the allegation/s 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 of adequately stating their case and correcting or contradicting 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(s) subject of allegation(s)/s and or the person/s bringing the complaint/s after obtaining legal advice; or in the event that findings must be shared in order to protect others in the future; or where it is a requirement for legal or insurance purposes.

When the Director of Professional Standards (Director) reports to the Profession Standards Committee (PSC) or other office holders, he/she will focus on the needs of: the person/s bringing the complaint, any family; the person/s subject of the allegation/s; and the congregation/agency.

Scope of the Professional Standards Ordinance 2004 (PSO)

Clergy & Church Workers

Under the PSO a member of the clergy or church worker is a person employed by a Church body; or a person holding office or performing a function with the actual or apparent authority of a Church authority or Church body; and therefore can have a complaint of sexual harassment, sexual assault, sexually inappropriate behavior brought against them (Section 2).

Recommendations that may be made by the Professional Standards Committee (PSC) are outlined in Section 20 and Sections 30-34.

Matters of examinable conduct, that relate to a church worker's fitness for ministry, which may be referred to the Professional Standards Board (PSB) are contained in Section 54

Determinations that may be made by the Professional Standards Board in relation to a church worker's fitness for ministry are contained in Section 69.

Note: *This protocol is for the implementation of our Professional Standards Ordinance 2004 (PSO).*

For a full set of definitions please refer to Part 1 of the PSO.

PROCESS

Step 1: Receiving Complaint/s

A complaint may be made either orally or in writing, or partly orally and partly in writing.

Where a complaint is received by any other clergy, church worker or other office holder other than the Director of Professional Standards (Director) he/she will forward the complaint to the Director as soon as possible and practical. The Director may also bring a complaint.

Step 2 Referral to government authorities

At the time of reception of the matter, or during the formalisation process, if it becomes clear that this is a child protection or criminal matter the Director will assist the person/s bringing the complaint/s taking the matter to the appropriate authorities.

During police and or child protection proceedings the church worker/s subject to the allegations may, for risk management reasons, need to be stepped aside or suspended from duties, and temporary arrangements put in place (Section 30).

At the conclusion or cessation of police or government child protection proceedings the diocese may recommence the PSO process.

Step 3: Formalisation of the Complaint

The Director will meet (preferably face to face) with the person/s bringing the complaint/s to explain the Professional Standards process.

The director will provide them with this protocol document, offer them appropriate support, listen to their story to gain the details of the complaint, and complete a **Complaint Lodgment Form**.

The formal complaint (set of allegations), will within 14 days be written up by the Director, and be signed and dated by the person/s bringing the complaint/s.

Note: In cases of allegations of historical abuse and/or adult to adult sexual misconduct where the person bringing the complaint does not wish the matter to be taken to the civil authorities, e.g. allegations of adult sexual assault, but rather wishes the church process to be carried out, the following **Church Process request** is to be attached: *"The Church has strongly urged me to take my complaint to the police or other civil authority. It has been explained to me that any procedure the church establishes cannot compel witnesses, subpoena documents, or insist on a cross-examination of witnesses. It cannot impose the same penalties as a criminal court. Aware of these limitations, I still state to do not wish to take my complaint to the police or other civil authorities, at this time, and I/we ask that the church engage its own response procedure."*

Step 4: Profession Standards Committee (PSC) – recommendation to proceed.

The Director **will notify the Professional Standards Committee (PSC)**, and the Bishop as to the nature of the complaint. The Director will also notify other relevant parties. In relevant cases the insurers will also be notified at this stage.

If, in the event a PSC within the Riverina has not be able to be formed, the Diocese of Riverina may use the PSC of another Anglican Diocese within Australia. A letter stating the agreement between the Bishop of Riverina and the Diocesan Bishop of the Diocese from which Riverina will use their PSC will be required.

The Director may make initial inquiries in to the validity of the complaint before taking the allegations to the clergy person/s and or church worker/s subject to the allegations.

The PSC will consider and implement **risk management strategies & interim measures** for the person/s subject of the allegation/s e.g. suspension, request to voluntarily stand down (Section 30). Section 31 states that the relevant Church Authority (Bishop) to give effect to these recommendations of

the PSC. Any temporary measure will not deprive a church worker from whatever stipend, salary or allowance and other benefits that he or she would otherwise have received (Section 34.d).

A complaint may be declined if the matter has already been or is already being dealt with, failure to provide details of the wrongdoing, false, vexatious or misconceived or trivial, insufficient evidence, or the person bringing the complaint is unwilling to act as a witness in an investigation (Section 27).

In such instances the Director will in writing provide the reasons for the person/s bringing the complaint/s being dismissed or deferred.

Step 5: Notification of the person/s subject of the allegation/s

The Director will phone the person/s subject of the allegation/s to arrange a face-to-face meeting to provide them with the formalized complaint and to explain the PSO to the person.

The Director will ask the person on the phone if they would like to bring another person as a support person to the meeting.

At the meeting the director will provide the person subject of the allegation/s with the written formalised allegation. They will work carefully through the PSO process and advise them of possible sanctions that might follow if the allegations are proven.

Discussion of the interim measures to be implemented will be undertaken.

The Director will also explain that the person/s subject of the allegation/s is to **respond in writing within 14 days to the Professional Standards Committee.**

Step 6: Response from person/s subject of the allegation

6a. Not disputed

Where the response of the person/s subject of the allegation/s does not dispute the complaint/s then the PSC may refer the PSB for determination, or to the relevant church Authority for appropriate action.

The PSB notify all parties that the matter is to be heard. The referring body (i.e. Bishop and/or PSC) will provide the person/s subject of the allegation/s with copy of all materials before the PSB and invite the person to provide any other relevant material.

The Director will provide the PSB with a report of the matter and all materials including any additional material from the person/s subject of the allegation/s.

6b Disputed – PSC Investigation of examinable conduct (Section 25).

Where the response of the person/s subject of the allegation/s disputes the complaint/s, then the matter may be investigated by suitably qualified investigator appointed by the PSC. The burden of proof shall be on the balance of probability.

This step may take between of 2-8 months, depending upon the complexity of the case.

Once the investigation has been complete and there is enough evidence for the matter to be referred Professional Standards Board (PSB) for deliberation and determination (Section 54), it will be referred to the secretary of the Professional Standards Board with 14 days, including the investigator's report.

The Director will then notify, in writing, all parties that the matter is to be heard by the Professional Standards Board.

Step 8. Hearing by the Profession Standards Board (PSB) – Outcome for church workers.

The establishment and operation of the PSB is set out in Parts 7 & 8 of the PSO.

The Board is made up of 10 members, with 5 clergy and 5 lay persons. Due to the small numbers and geographical span of the Diocese of Riverina, the preference is that the board of another Anglican Diocese within Australia be utilized. In this instance Diocesan Council shall elect the board from another Diocese and a letter stating the agreement between the Bishop of Riverina and the Diocesan Bishop of the Diocese from which Riverina will use their board will be required.

Matters to be heard by the board relate to the *fitness* of a church worker to continue in their office (Section 54).

The board will hear the matter and must act fairly and according to good conscience and the substantial merits of the case (Section 49.3).

In board hearings all parties, e.g. the diocese and the person/s subject of the allegations are entitled to legal representation (Section 63 a).

The board is able to hear matters in the absence of a person affected by the determination after reasonable efforts have been made to give the person opportunity to appear (Section 65).

The board may require further investigation, reports and evidence to be presented to help in its deliberations.

Determinations as to the fitness of a church worker to continue in their role include: an apology to the church worker where the person is found innocent, conciliation, admonition, retraining, supervision, ministry restriction/conditions, employment terminated, or deposition from Holy Orders (see Section 69 for a full set of possible outcomes relating to church workers).

The appropriate Church Authority (eg Bishop) will then give action to the determination of the PSB (Section 71).

Step 9 Outcomes for the victim/s

The PSO states that the Professional Standards Committee will advise the relevant church Authority (Bishop) or Church body as to the financial or other needs of person/s affected by the conduct of church workers (Section 20.i of PSO and also the Diocese of Riverina Care and Assistance Scheme).

Another way this may be thought of is what healing measures may be helpful for victims of sexual harassment, assault or misconduct. These healing measures will be considered by the relevant church authority and or body in consultation with the Director and PSC.