

Applies To:	<input type="checkbox"/>	Anglican Schools Commission	<input type="checkbox"/>	Community Services Commission	<input type="checkbox"/>	Diocesan Services Commission
	<input type="checkbox"/>	Episcopate & Leadership	<input type="checkbox"/>	Financial Services Commission	<input type="checkbox"/>	Ministry Education Commission
	<input type="checkbox"/>	Parishes & Other Mission Agencies Commission				
Related Documents:	<input type="checkbox"/>	Procedure	<input type="checkbox"/>	Form	<input type="checkbox"/>	Other

This Protocol assists in implementing the *Professional Standards Canon*.

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

1: Who Must Report?

1.1: Reporting Child Sexual Abuse

1.1.1: Unless clauses 1.1.2, or 1.1.5 apply, if a Church worker:

- a) experiences or witnesses alleged conduct of a **Church worker** involving **child sexual abuse**;
- b) receives **information** about alleged conduct of a Church worker involving child sexual abuse; or
- c) comes upon information about alleged conduct of a Church worker involving child sexual abuse;

they must report that information as soon as reasonably practicable to the **Office of Professional Standards**. All reports must be made directly to the Office and not through another person.

1.1.2: If a Church worker, who would otherwise be required to report information under clause 1.1.1, receives or comes upon that information in their capacity as a Church worker in an Anglican School, an Anglican Education and Care Service or the Community Services Commission, then they must report that information to a **responsible person**.

1.1.3: The responsible person must report information received under clause 1.1.2 to the Office of Professional Standards as soon as reasonably practicable.

1.1.4: Reports must not be made to a responsible person under clause 1.1.2 if they are the respondent in relation to the information or are otherwise alleged to have been involved in the perpetration of the child sexual abuse or a conduct failure.

1.1.5: If a Church worker who would otherwise be required to report information under clause 1.1.1 is the complainant in relation to that information, the Church worker is not required to report that information to the Office of Professional Standards.

1.1.6: If a Church worker witnesses **child sexual abuse** or receives information which leads them to form a **reasonable belief** that child sexual abuse has occurred, they must also report that information as soon as practicable to the Police. For a Church worker to have a complete understanding of their obligations, refer to s 229BC of the *Criminal Code 1899* (set out in **Appendix I**).

1.1.7: A Church worker may contact the Office of Professional Standards for information about police reporting requirements.

1.1.8: The Office of Professional must investigate the identity and current status of an alleged child sexual abuse offender to assist in determining whether a referral to the Professional Standards Committee is required under the *Professional Standards Canon*.

1.1.9: All child sexual abuse information received by the Office of Professional Standards must be reported to the police in accordance with **Appendix E**.

1.1.10: The person providing the information must be notified if a report to police is made.

1.2: Reporting Sexual Misconduct or Conduct Failure

1.2.1: Unless clause 1.2.4 applies, if a Church worker:

- a) experiences or witnesses alleged conduct of a Church worker involving **sexual misconduct**; or
 - b) receives information about the alleged conduct of a Church worker involving sexual misconduct;
 - c) comes upon information about alleged conduct of a Church worker involving sexual misconduct; or
 - d) receives or comes upon information related to **conduct failure** (see **Appendix B**);
- they must report that information as soon as reasonably practicable to the **Office of Professional Standards**, the **Professional Standards Committee Convenor** or a **responsible person**.

1.2.2: The responsible person must report information received under clause 1.2.1 to the Office of Professional Standards or to the Professional Standards Committee Convenor as soon as reasonably practicable.

1.2.3: Reports must not be made to a responsible person under clause 1.2.2. if they are the respondent in relation to the information or are otherwise alleged to have been involved in the perpetration of the sexual misconduct or a conduct failure.

1.2.4: If a Church worker who would otherwise be required to report information under clause 1.2.1 is the complainant in relation to that information, the Church worker is not required to report that information to the Office of Professional Standards.

1.2.5: If a Church worker is unsure whether or not there are reasonable grounds to report information to the Office of Professional Standards, then they must report that information to the Office of Professional Standards.

1.2.6: The Office of Professional must investigate the identity and current status of any person alleged to have engaged in sexual misconduct or conduct failure to assist in determining whether a referral to the Professional Standards Committee is required under the *Professional Standards Canon*.

1.2.7: In accordance with **Appendix E**, the Office of Professional Standards must consider whether information of sexual misconduct or conduct failure, received in accordance with this Protocol, should be reported to police.

1.2.8: A person providing information has the right to report directly to police any allegations of sexual misconduct.

[Note: DC amendments on 21 July 2022. Clauses 1.1.8 and 1.2.6 apply to all information received on or after 29 July 2021, as do amendments to Clause 4 and Appendix E.]

1.3: Contact Person

In accordance with section 6(2) of the Canon, the **Contact Person** for ACSQ is the Office of Professional Standards. Refer to **Appendix A**.

1.4: Anonymous Reports

Anonymous reports may be made and will be considered under the *Professional Standards Canon*, but the value of the information may be lessened because the person providing the information wishes to remain anonymous.

2: Process for Providing Information

2.1: Providing Information

2.1.1: Information may be provided to a Church authority, the Office of Professional Standards, or the Convenor of the Professional Standards Committee. The disclosure may be verbal or written (including email).

2.1.2: For requirements in relation to information that alleges conduct failure, refer to **Appendix B**.

2.1.3: For further information on rights and procedures in relation to providing information, refer to **Appendix C**.

2.2: Confidentiality of the Information Provided

2.2.1: Only persons who are:

- a) authorised by law or policy;
- b) have a specific role in relation to the Canon; or
- c) have a specific role in relation to a related claim for damages or compensation, will be informed of the details of the information provided.

2.2.2: Persons who may be informed under clause 2.2.1 include:

- a) members of the Professional Standards Board;
- b) the Secretary of the Professional Standards Board;
- c) members of the Professional Standards Committee;
- d) the Office of Professional Standards;
- e) the General Manager;
- f) the Church Authority for the respondent;
- g) the Group Manager – Redress and Claims;
- h) an investigator appointed under the Canon;
- i) Diocesan insurers; and
- j) the police.

2.2.3: For any disclosure made pursuant to clause 2.2.1, the person providing the information and the respondent, as well as any other named person, are only to be identified if that is necessary in the circumstances of the disclosure.

2.2.4: Where applicable, information received under this Protocol will be recorded on the National Register in accordance with the *National Register Canon*. For guidelines in relation to the National Register, refer to **Appendix D**.

2.3: Informing the Respondent

2.3.1: Under normal circumstances, when information is received about a Church worker (the **respondent**), they will be informed as soon as practicable in accordance with the principles of natural justice. For further information, refer to **Appendix C**.

2.3.2: If the information is a type (see 1.1 and 1.2 above) which must be reported to the police, the respondent will not be advised of the information or that the police have been informed until such time as the police provide consent for such disclosure, unless the Professional Standards Committee determines that the respondent must be informed because a substantial injustice might otherwise occur.

2.3.3: The respondent will be advised of the nature of the information and the name of the person providing the information except where the person providing the information has requested that their name not be disclosed to the respondent or when it is otherwise considered that providing their name may create an undue risk for the person providing the information (see clauses 2.3.4 and 2.3.5).

2.3.4: Subject to clause 2.3.5, if, on consideration of a request for confidentiality or other circumstance, the Professional Standards Committee considers that providing the name or details of the person providing the information (being a complainant, witness, or informant) may:

- cause undue risk to the named person; or
- adversely affect an investigation of the information,

the Committee may not inform the respondent of the person's name or may not disclose full details of the information to the respondent.

2.3.5: If the Committee determines that an external investigator is to be appointed to undertake an investigation, the respondent must be advised of the complainant's or witness's full name.

2.4: Disclosure of the Respondent's Name

It may be appropriate to publicly name the alleged respondent in 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 children from that person. Information about the named person must be limited to those who need to know. This includes children who potentially are at risk and their parents.

2.5: Pastoral Support or Assistance

2.5.1: Pastoral support or assistance will be offered to a complainant at the time the complaint is made. The complainant may nominate a person of their own choosing; or the Office of Professional Standards, in consultation with the complainant, may nominate a person. The support will be provided for as long as is necessary. For further information, refer to **Appendix F**.

2.5.2: 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, refer to **Appendix F**.

2.5.3: Professional counselling will also be offered to the complainant and the respondent. The person may nominate a counsellor, or the Office of Professional Standards 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.

2.5.4: Costs will be borne by the Diocese.

2.6: Mediation and Conciliation

2.6.1: In matters where no obligation exists for the information to be referred to the police for investigation, mediation or conciliation may be offered to both the person providing the information and the respondent as an option for resolution of the allegations made.

2.6.2: If mediation or conciliation is considered an appropriate option by the Office of Professional Standards, each party to the allegations 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, refer to **Appendix G**.

2.7: Regular Advice to Person Providing the Information and Respondent

2.7.1: Persons providing information and respondents may be concerned about aspects of the process and the length of time certain actions may take.

2.7.2: Both parties will be kept informed of the progress of the investigation. The Office of Professional Standards will contact the person providing the information and respondent regularly, and at least monthly, to inform them of progress. When the process is completed, final letters will be sent to the parties advising of the outcome.

2.7.3: If, at any time, the person providing the information or respondent wishes to ask a question, seek clarification about a matter, or simply to speak to the Office of Professional Standards, contact may be made by any means. Contact details are listed in **Appendix J**.

3: Referral of Information to Another Diocese

If the information relates to:

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

the matter may be referred by the Professional Standard's Committee to the Professional Standards Committee (or equivalent) of that Diocese for investigation.

4: Before an Investigation

4.1: Before the Investigation

Before appointing an investigator to further investigate information referred by the Office of Professional Standards, the Professional Standards Committee shall:

- determine whether the allegations made are 'information' as defined in the Canon;
- inform the Church worker about whom the information has been received of the complaint and the name of the person providing the information (but see 2.3); and
- determine whether the information could constitute **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 by an external investigator.

4.3: Allegations of ‘Harm’

If a complainant alleges that harm of a significant nature to their 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, refer to **Appendix H**.

4.4: Information Not Proceeded With

If the information is:

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

the person providing the information:

- 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 Professional Standards Committee may refrain from further investigating the allegations.

4.5: Referral to an Investigator

4.5.1: External investigators are appointed by the Professional Standards Committee to investigate information which may constitute examinable conduct.

4.5.2: Investigators must have high level skills in investigating complex human issues. Investigators to whom these matters are referred must be independent persons whose role is to act objectively and transparently.

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 information by the Office of Professional Standards; and the names and contact details of the person providing the information and the respondent, and any other relevant people. The investigator will carry out the investigation in accordance with the Canon and Protocol. The investigator will investigate the information and provide a report to the Office of Professional Standards.

5.3: Interviews – General

5.3.1: The investigator may wish to speak with all parties to the allegations including the respondent, and may request statements, reports, documents, and other material relevant to the allegations. 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 Office of Professional Standards.

5.3.2: The investigator may request the Office of Professional Standards to arrange interviews for the investigator with the person providing the information, 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.

5.3.3: Interviewing the person providing the information 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.

5.3.4: Persons providing information and respondents may have a support person present during interviews. It is recommended that all interviews are taped [recorded] by the investigator. It is preferable that statements be in the form of statutory declarations.

5.4: Interviewing the Person Providing the Information

5.4.1: When interviewing the person providing the information, the investigator will advise them 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;
- 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 information is to be maintained;
- they may obtain independent legal advice;
- at the end of the investigation, the investigator will provide a report to the Office of Professional Standards for presentation to the Committee.

5.4.2: If the person providing the information chooses not to participate in the investigation process, the investigation may continue but the lack of participation by the person providing the information will be taken into account when weighing the evidence and may make substantiation less likely.

5.5: Interviewing the Respondent

5.5.1: When interviewing the **respondent**, the investigator will provide all allegations and particulars held and advise them that:

- they do not have to say anything;
- if they choose not to say anything, adverse findings may still be made against them;
- whatever they do say will be recorded and may have to be produced in a court if summonsed or subpoenaed;
- for the purposes of the investigation, they are presumed innocent until another conclusion is drawn on the balance of probabilities;
- confidentiality of the information is to be maintained;
- they may obtain independent legal advice;
- at the end of the investigation, the investigator will provide a report to the Office of Professional Standards for presentation to the Committee.

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

5.6: Interviewing Children or Persons with a Disability

5.6.1: Children are to be interviewed with a parent or guardian or other suitable adult (with the prior approval of the parent or guardian) present, and care should be taken when interviewing persons with a disability.

5.6.2: The Office of Professional Standards 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

6.1.1: At the conclusion of the investigation, the investigator will provide a report to the Office of Professional Standards. 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.

6.1.2: 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 (1938) 60 CLR 336.

6.2: Outcome of the Investigation

6.2.1: The report of the investigator will be provided to the Professional Standards Committee by the Office of Professional Standards.

6.2.2: If the Professional Standards Committee considers that the respondent has no case to answer on the basis of the findings of the investigator and all the material obtained in connection with the investigation, the Office of Professional Standards shall inform both the person providing the information and the respondent. The matter is then closed.

6.2.3: If the Professional Standards Committee finds that the respondent does have a case to answer on the basis of the findings of the investigator and all the material obtained in connection with the investigation, the Office of Professional Standards shall inform both the person providing the information and the respondent.

6.2.4: Following a determination under 6.2.3, if required under section 54 of the Canon, the Committee will make an appropriate reference to the Professional Standards Board.

6.3: The Professional Standards Board

6.3.1: After considering all the relevant material, the Board will determine whether or not the respondent is unfit for office, or whether there should be certain conditions or restrictions placed on them. The respondent (or their legal representative) will have an opportunity to speak to the Board, make submissions and may examine or cross-examine witnesses.

6.3.2: If the Board determines that the respondent is unfit or should be subject to conditions or restrictions, it has a number of actions which it may recommend to the **Church Authority**. The Church Authority is empowered to give effect to those recommendations.

6.3.3: 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

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

7.1.2: 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

7.2.1: If a respondent is aggrieved by a reviewable decision of the Board, the respondent may apply to the Office of Professional Standards 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.

7.2.2: 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.

7.2.3: The application must be in writing and addressed to the Office of Professional Standards, and must set out the grounds for review.

7.3: Cost of a Review

7.3.1: As soon as a reviewer has been appointed by the Office of Professional Standards, the reviewer will be asked to estimate the fee. The Office of Professional Standards will notify the respondent and they will be required to pay 50% of the estimated fee within seven days.

7.3.2: If the respondent fails to make the payment, the application for review will lapse.

7.4: The Review Process

7.4.1: When the Office of Professional Standards receives an application for review, three things must happen:

- a reviewer will be appointed within 14 days; 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.

7.4.2: 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.

7.4.3: 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 Provide Information and Process for Providing

Any person who:

- a) has knowledge of; or
- b) has experienced;

child sexual abuse, sexual misconduct or conduct failure by a Church worker, may provide information under this Protocol.

You may provide your information to the Office of Professional Standards, the Convenor of the Professional Standards Committee or a responsible person.

Contact Details

You may contact the Office of Professional Standards directly on **1800 242 544** or email **professionalstandards@anglicanchurchsq.org.au**.

Contact details for the Convenor of the Professional Standards Committee, are available on the Diocesan website.

2: Can I Provide Information Anonymously?

You can provide information anonymously.

It is difficult to fully investigate anonymous information and you may find the result of the investigation is not as you would have liked.

3: What Should I Include when Providing Information?

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.

4: How Long Will it Take to Deal With the Information?

All information will be dealt with as promptly as practicable. Some things such as counselling and support can be offered quickly.

The investigation may take further time depending on the complexity of the information and the number of persons involved.

Generally, it is intended that the process is completed within three to six months of the information being received but timing depends on the nature of the information and whether an investigation is required.

5: What Happens to My Information?

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.

6: What if I am Unhappy with the Actions of the Professional Standards Committee or the Office 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.

DEFINITIONS

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.

Anglicare means Anglicare Southern Queensland.

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 includes **grooming**, and any abusive behaviour with a child for the sexual gratification of the respondent or another person, as well as any conduct falling within the definition of a 'child sexual offence' under the *Criminal Code 1899* (including the possession, making or distribution of **child exploitation material**).

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.

Complaint means an allegation or information from a complainant, provided under this Protocol, verbally or in writing, that they have been the subject of child sexual abuse or sexual misconduct by a Church worker, or that there has been a conduct failure by a Church worker.

Complainant means a person who has allegedly been the victim of sexual misconduct or child sexual abuse, or who has been adversely affected by conduct failure.

Conduct failure means any conduct falling within part (b) or part (c) of the definition of **information** under this Protocol.

Confidentiality. Each worker who has access to information regarding suspected or disclosed child sexual abuse, sexual misconduct or conduct failure has an obligation to observe appropriate confidentiality. The Diocese is unable to promise absolute confidentiality since, in responding to information, 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.

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.

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

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

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

Informant means a person who provides **information** but is not the complainant or a witness in relation to that information.

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

- (a) alleged conduct of a Church worker wherever or whenever occurring involving child sexual abuse, sexual harassment, sexual assault, or sexually inappropriate behaviour;
- (b) alleged inappropriate or unreasonable conduct or omission of a Church worker who had knowledge of conduct of another Church worker involving child sexual abuse, sexual harassment, sexual assault, or sexually inappropriate behaviour; 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.

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 reliable evidence.¹

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.

Office of Professional Standards means the Director of Professional Standards or an Associate Director of Professional Standards, as appointed under the *Professional Standards Canon*.

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 person providing the information 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 the Professional Standards 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, eight members of the clergy of at least seven years' standing and eight 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.

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.

Reasonable Suspicion means a person acting reasonably being inclined to accept information as true rather than reject it as false. The information does not need to be well-founded or checked to be factually correct.

¹ See ss 27(d) and 49(3) of the *Professional Standards Canon* in relation to the application of the rules of evidence.

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 Principal, 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 Office of Professional Standard'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 an adult for the sexual gratification of the respondent or another person, 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 means any conduct falling within part (a) of the definition of **information** under this Protocol, but does not include **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;
- 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 child sexual abuse or sexual misconduct is made against a Church worker, the worker may, after being given an opportunity to be heard, be stood down from their 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.

Witness includes a person who observes child sexual abuse, sexual misconduct or a conduct failure.

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 or provide information against 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 procedures and available support services which will assist the person in their decision to provide information. If the person wishes to proceed with providing the information, the Contact Person will take full details.

In the Diocese of Brisbane, the Office 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 provide information to the Diocese regarding child sexual abuse, sexual misconduct or conduct failure by 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 providing information;
- 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 provide information, including reporting the matter to the police and seeking legal advice and commencing legal action;
- to provide an on-going contact point for persons providing information in relation to the progress of their information.

APPENDIX B

Procedure for Responding to Alleged Conduct Failure

Information alleging **conduct failure** on the part of a Church worker, Church body or Church authority must be provided to the Office of Professional Standards.

The information provided should include the following:

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

The information 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 investigation.

APPENDIX C

Informing Persons Providing Information

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

The person providing the information will be advised by the Office of Professional Standards of the Diocesan procedures for managing information, with specific advice regarding the circumstances under which the respondent may or may not be informed of the details of the information (as per clause 2.3 of the Protocol).

In addition, if the information will be investigated by an independent investigator appointed by the Professional Standards Committee, the person providing the information 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 child sexual abuse 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

When information is given to the respondents (in accordance with clause 2.3 of the Protocol), copies of the Protocol and the Canon will be provided at the same time. Respondents will also be informed of the process to be followed including that stand down may be considered under the *Professional Standards Canon*, another Canon or the law.

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 person providing the information, 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 information provided to the Office of Professional Standards comprising the following non-identifying details:
 - the numbers and types of information received or otherwise dealt with that calendar year; and
 - for contemporary allegations;
 - 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;
 - whether the allegations have been referred to another body or state authority;
 - whether the allegations concern another Diocese.
2. Information regarding the numbers and types of complaints considered by the Professional Standards Committee and Professional Standards Board, and the outcome of those complaints.
3. Information regarding actions taken by the Office of Professional Standards in relation to safe ministry policies, and audit, screening and training practices.

[Note: DC adopted amendments on 21 July 2022. Previous monthly report requirements removed. Effective date of this amendment is 1 January 2022.]

Ad Hoc Advice

1: The Archbishop

The Office of Professional Standards will inform the Archbishop in writing as soon as practicable after information is received regarding allegations of child sexual abuse or sexual misconduct (as defined in the Canon) against clergy, Principals, 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.

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

The Secretary of the Professional Standards Board will advise the Archbishop in writing of any recommendations of the Professional Standards Board for action.

The Convenor of the Professional Standards Committee or Director of Professional Standards may meet with the Archbishop to discuss any matters relating to information currently before the Committee, and will do so at the Archbishop's request.

2: Other Church Authorities

Generally, the Office of Professional Standards 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 information 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 Office of Professional Standards will regularly inform the relevant Church Authority of the progress of information related to the Church body. At the conclusion of the investigation the Office of Professional Standards will as soon as practicable advise the Church Authority in writing of any recommendations of the Professional Standards Committee for action.

The Secretary of the Professional Standards Board will advise the relevant Church Authority in writing of any recommendations of the Professional Standards Board for action.

National Register

In accordance with the *National Register Canon*, the Office of Professional Standards must record on the National Register the requested details in relation to child sexual abuse or sexual misconduct information.

APPENDIX E

Procedures for Working with Other Authorities

Commitment

The Diocese is committed to co-operative working relationships 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 Children, Youth Justice and Multicultural Affairs.

Reporting Child Sexual Abuse to the Police

The Office of Professional Standards must report all child sexual abuse to the Police, except where the information is prohibited from being reported under the *National Redress Scheme for Institutional Child Sexual Abuse Act 2018* or *Child Protection Act 1999*.

[Note: DC adopted amendments on 21 July 2022. Reference to the Child Protection Act 1999 is effective as of 29 July 2021.]

Subject to the matters above and below, child sexual abuse must be reported no matter when the alleged sexual abuse occurred, even if the respondent is deceased.

Reports to police will not identify the complainant ('blind report'), unless:

- the complainant is a child and remains a child at the time of the report;
- the complainant consents in writing to their identity being disclosed; or
- disclosure of the complainant's identity is necessary to help ensure the safety of the complainant, or another child or vulnerable person.

If based on the information received, the Office of Professional Standards suspects a child (whether the complainant or another child) is:

- currently being harmed; or
- is at risk of harm from child sexual abuse;

a report to police will be made as soon as reasonably practicable after the relevant information is received, even if the respondent is not able to be clearly identified.

In all other cases child sexual abuse information must be reported within 5 business days.

Complainants may also choose independently to inform the police of the information they have provided, and will be encouraged to do so.

Reporting Sexual Misconduct to the Police

If the Office of Professional Standards receives information concerning sexual misconduct which leads the Office of Professional Standards to form a reasonable suspicion that a criminal offence has occurred, the Office of Professional Standards will obtain the written consent of the complainant to report that information to the police, or will otherwise encourage the complainant to make a complaint.

If the complainant provides their consent, the Office of Professional Standards is to report the information to police within 5 business days of receiving that complainant's written consent.

Further Matters When Reporting to Police

When information is reported to the police, the Office of Professional Standards will:

- inform the complainant where possible;
- 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 information has been provided;
- unless there is an unacceptable risk to a person by the respondent, take no further investigative steps without the police first stating in writing that such an investigation would not prejudice any police investigation; and
- provide to the police any further information or records requested, on the condition that a warrant is provided for any physical records to be disclosed that may cause legal liability for ACSQ.

[Note: DC adopted amendments on 21 July 2022. Provision of further information on condition of warrant is effective as of 29 July 2021.]

Reporting Material to the Police which Does Not Relate to Child Sexual Abuse or Sexual Misconduct

The *Policy for Reporting Criminal Allegations or Information to the Queensland Police Service* is to be followed for reporting obligations concerning allegations which do not involve child sexual abuse or sexual misconduct by a Church worker or other person.

Investigations by the Professional Standards Committee

Where the police are not investigating, or otherwise state in writing that any further 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 person providing the information and the

respondent will be informed prior to commencement of the Committee investigation and the appointment of an investigator.

Anglican Schools and Education and Care Services (ECS)

In relation to Anglican Schools, state legislation requires Principals to immediately report reasonable suspicions of sexual abuse or likely sexual abuse towards a student to the Queensland Police Service. In addition to this, all reasonable suspicions a child is in need of protection from harm as a result of physical or sexual abuse is also under state legislation required to be reported by various professionals within schools or ECS (such as teachers and registered nurses, and for ECS, adult staff), to the Department of Children, Youth Justice and Multicultural Affairs.

Note: Detailed policies and procedures for Schools and ECS are available from the Anglican Schools Commission, to be followed when there are child protection concerns. A concern is information that leads to a reasonable suspicion of circumstances that may have posed, or continues to pose, a risk to the physical or psychological safety of a child or young person. This includes, but may not be limited to incidents or allegations of sexual, physical, other abuse or inappropriate behaviour.

Anglicare Southern Queensland

In relation to Anglicare:

- As an approved provider under the *Aged Care Act 1997* (Cth) Anglicare must report according to the *Serious Incident Response Scheme*;
- As a registered provider under the *National Disability Insurance Scheme Act 2013* (Cth), Anglicare must report according to the *NDIS Reportable Incidents Scheme*;
- As a Licensed Care Service under the *Child Protection Act 1999* (Qld), Anglicare must meet legislated reporting requirements, including compliance with the *Statement of Standards*.

Note: detailed policies and procedures are available from the Community Services Commission that outline legislated reporting obligations.

APPENDIX F

Provision for Assistance/Support to all Persons Affected

Support to Complainant and Family

When a person makes a complaint against 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 child sexual abuse or 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 them. Therefore, pastoral support will be offered to the person at the time of making the complaint.

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

Complainants may select a counsellor of their choice. The counsellor will be an independent counsellor with suitable professional qualifications, accreditations and

experience. Usually, up to ten sessions will be offered in the first instance. Further sessions may be offered after consultation with the counsellor. 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 Office of Professional Standards 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 a Church worker.

Support for Respondent

An integral part of the Protocol is being just, fair and compassionate to the respondent. Pastoral support and ex-gratia funding for counselling will be offered to the respondent at the time when they are advised that a complaint has been against them. Respondents may select a counsellor of their choice. The counselling will be arranged with an independent counsellor with suitable professional qualifications, accreditation and experience. Usually up to ten sessions will be offered. The person providing pastoral support may be nominated by the Office of Professional Standards 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 information to be referred to the police for investigation, mediation or conciliation may be offered to both the person providing the information and the respondent as an option for resolution of the allegations.

If mediation or conciliation is considered an appropriate option by the Office of Professional Standards, each party to the information 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 person providing the information and their 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 the information 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 information 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 Responding to Child Sexual Abuse and Sexual Misconduct*** allows for the Office 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 Office of Professional Standards 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 Office of Professional Standards will inform the complainant:

- the purpose of the psychological assessment;
- a copy of the report will be given to them by the Office of Professional Standards;
- the name and qualifications of the psychologist and, if required, the names of other psychologists if the complainant requests a different one;
- they will be provided with suitable and timely breaks and refreshments through the assessment process;
- de-briefing by a different psychologist will be available to them 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.

APPENDIX I

Criminal Code Failure to Report Offence

229BC – Failure to report belief of child sexual offence committed in relation to child

(1) This section applies to an adult if:

- a. the adult gains information that causes the adult to believe on reasonable grounds, or ought reasonably to cause the adult to believe, that a child sexual offence is being or has been committed against a child by another adult; and
- b. at the relevant time, the child is or was:
 - i. under 16 years; or
 - ii. a person with an impairment of the mind.

(2) If, without reasonable excuse, the adult fails to disclose the information to a police officer as soon as reasonably practicable after the belief is, or ought reasonably to have been, formed, the adult commits a misdemeanour.

Maximum penalty – 3 years imprisonment.

(3) For subsection (1), it does not matter that the information was gained by the adult during, or in connection with, a religious confession.

(4) Without limiting what may be a reasonable excuse for subsection (2), an adult has a reasonable excuse if:

- a. the adult believes on reasonable grounds that the information has already been disclosed to a police officer; or
- b. the adult has already reported the information under any of the following provisions, or believes on reasonable grounds that another person has done or will do so:
 - i. the *Child Protection Act 1999*, chapter 2, part 1AA;
 - ii. the *Education (General Provisions) Act 2006*, chapter 12, part 10;
 - iii. the *Youth Justice Act 1992*, part 8 or 9; or
- c. the adult gains the information after the child becomes an adult (the alleged victim), and the adult reasonably believes the alleged victim does not want the information to be disclosed to a police officer; or
- d. both of the following apply:
 - i. the adult reasonably believes disclosing the information to a police officer would endanger the safety of the adult or another person, other than the alleged offender, regardless of whether the belief arises because of the fact of the disclosure or the information disclosed;
 - ii. failure to disclose the information to a police officer is a reasonable response in the circumstances.

(5) An adult who, in good faith, discloses information mentioned in subsection (1)(a) to a police officer is not liable civilly, criminally or under an administrative process for making the disclosure.

(6) In this section:

relevant time, in relation to the child sexual offence mentioned in subsection (1)(a), means the time that the adult:

- a. believes to be the time of commission of the offence; or
- b. ought reasonably to believe to be the time of commission of the offence.

APPENDIX J

For enquires regarding this Protocol contact the Office of Professional Standards, at:

Phone: 1800 242 544

Email: professionalstandards@anglicanchurchsq.org.au