

Diocese of Adelaide
Professional Standards Protocol 2020
Communications Protocol

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, and to ensure that both the Complainant and the Respondent are aware of their rights and responsibilities.
2. This Protocol is adopted in accordance with the requirements of the *Professional Standards Ordinance 2015* and *Professional Standards Protocol 2020* of the Anglican Diocese of Adelaide 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.

The Complainant

4. If a complaint is made that clearly falls outside the scope of 'misconduct', the Director may inform the Complainant accordingly. The Director may nevertheless seek by mediation, conciliation or arbitration, to foster a settlement of any dispute connected with the complaint and a reconciliation between the parties.
5. When the Complainant makes a complaint to the Professional Standards Committee (PSC), the Director will contact the Complainant to find out about the complaint. Generally, that contact will be by meeting at the Complainant's choice of place.
6. The Director will advise the Complainant that the Director is required to keep a record of the name of the Respondent if that is provided. They will also advise the Complainant that if the matter is to be referred to the police or child protection authorities and advise them accordingly.
7. If the Complainant has lodged a complaint and has consented to the complaint being dealt with under the Professional Standards Protocol 2020 or are contemplating doing so, the Director will make available:
 - a. a copy of the Ordinance and the Professional Standards Protocol 2020;
 - b. a brochure outlining the nature of the Diocese's complaint process;
 - c. a "complaint form" to assist the Complainant in providing details of the complaint;
 - d. a consent to process form as referred in Clause 8 of this Protocol;
 - e. where the complaint involves an allegation of physical abuse or sexual abuse, a summary of the National Redress Scheme as adopted by the Diocese and the available care and assistance.
8. **Consent:** The Director will explain to the Complainant the processes available under the Ordinance and the Professional Standards Protocol and seek written consent as

provided in the Ordinance. This consent to process is Form 1 of the Professional Standards Regulations 2020.

9. The Director will also explain to the Complainant how it is their choice whether to make a complaint and proceed with a formal complaint under the Professional Standards Ordinance 2015 and Professional Standards Protocol 2020 and will advise the Complainant of alternative avenues of formal and informal redress that are open e.g. dealing with the complaint informally, making a report to the police, or complaining to the appropriate State Government authority or instituting other legal action.
10. If the Complainant has given the written consent referred to above, the Director and PSC:
 - a. will proceed to deal with the complaint in accordance with the Ordinance and this Protocol; and
 - b. in the case of a complaint of physical abuse or sexual abuse, advise the Registrar of the complaint and the circumstances of the Complainant or other person the subject of the abuse.
11. **Welfare of the Complainant:** Whatever the nature of the complaint, the Professional Standards Office will actively assess the welfare of the Complainant and that of any other person affected by the conduct complained about. They may in the appropriate case arrange care and assistance for the Complainant by way of counselling or other services from a Professional Support Person. The Diocese will meet the reasonable costs of these services if the Complainant decides to take up the offer.

The Respondent - the Church worker about whom the complaint is made

12. If a complaint of alleged misconduct has been made against the Respondent, unless it is impracticable in the particular circumstances, within a week from the Complainant giving written consent to the Director giving the Respondent notice of the complaint and to the PSC dealing with it under the Ordinance, the Director or a PSC delegate will be in contact with the Respondent, as provided in the following paragraph.
13. The Director will make available:
 - a. a copy of the complaint and any further details provided;
 - b. a copy of the Ordinance and this Protocol; and
 - c. a Respondent's brochure which outline the nature of the Diocese's Professional Standards complaint process.
14. The Respondent has the right:
 - a. to obtain independent legal or other professional advice, at their cost, before responding to the complaint; and
 - b. to make submissions (with or without evidence) as to why the PSC without embarking on any investigation should not entertain the complaint or should dismiss it or take no further action in relation to it.

The Director will inform the Respondent of these rights when contacting them about the complaint. Where the complaint contains serious allegations, or where the

Respondent's livelihood may be adversely affected, it is likely in the Respondent's best interests to obtain legal advice.

15. The Ordinance imposes on the Respondent certain obligations, subject to section 27, to:
 - a. comply with any requirement of an investigator;
 - b. truthfully answer any question put by an investigator in the exercise of powers conferred by this Ordinance;
 - c. not mislead the Director or the PSC or an investigator or other delegate of any of them;
 - d. not unreasonably delay or obstruct the Director or the PSC, or an investigator or other delegate of any of them in the exercise of powers conferred by this Ordinance; and
 - e. attend a mediation, conciliation, neutral evaluation or other dispute resolution meeting when directed by the PSC in relation to a complaint. The privilege against self-incrimination is also preserved.

16. **Welfare of the Respondent:** Whatever the nature of the complaint, the Office of Professional Standards will actively assess the welfare of the Respondent. They may in the appropriate case arrange care and assistance for the Respondent by way of counselling or other services from a Professional Support Person. The Diocese will meet the reasonable costs of these services if the Respondent decide to take up the offer.

17. The Respondent will be expected to provide the PSC with a written response to the complaint within 3 weeks (or such longer period as the Director may allow in writing) of them receiving a copy of the complaint and any accompanying details. The Director will write to the Respondent about this timeline and what happens if there is no response.

The Investigation

18. The Complainant and the Respondent will be given a reasonable opportunity to present to the investigator any relevant alleged facts or circumstances on which they wish to rely.

19. Where the nature and gravity of the complaint warrants it:
 - a. before completing the investigation, the investigator shall inform the Complainant in writing of the substance of any proposed recommendations on findings on any relevant questions of fact and shall give the Complainant a reasonable period to respond in writing, not being greater than 14 days; and
 - b. the investigator shall inform the Respondent (or nominated representative) in writing of the substance of any proposed recommendations on findings on any relevant questions of fact and any response from the Complainant and shall give the Respondent or nominated representative a reasonable period to respond in writing, not being greater than 14 days.

Determination of a complaint by the Board

20. The Director must as soon as practicable cause a copy of the determination of the Board or the Review Board, their reasons and recommendations or directions to be provided to the Complainant and to the Respondent, or to the living nominated representative of a deceased Respondent.
21. Within 7 days of the Board making any final finding of fact or recommendation on the complaint (the decision), if the finding of fact or recommendation is adverse to the Respondent, the Director shall inform the Respondent
 - a. that he or she may within 30 days from the date of the decision or such further period as the Professional Standards Review Board may allow, apply to the Professional Standards Review Board for review of the decision; and
 - b. that if he or she does not apply to the Review Board for a review, he or she has the opportunity within a further 14 days to address any submissions to the Archbishop or other relevant Church authority directed to any permissible variation or modification of a recommendation.
 - c. The Ordinance does not give any nominated representative of a deceased Respondent the opportunity to apply to the Professional Standards Review Board for review of the decision of the Board. That nominated representative may however make submissions to the PSC as to why it should seek a review of the decision of the Board pursuant to the Ordinance. The Director shall inform the nominated representative in writing of that opportunity.

Application for Review

22. The Director shall give the Complainant notice of any application by the Respondent or the PSC to the Review Board for review of a decision. A Complainant is invited to communicate any comments they wish to make to the Director. A Complainant is not a party to the proceeding. They will be advised of the determination of the Review Board: section 102(1) of the Ordinance.

Completion of the Process

23. As appropriate the Director will liaise with those involved in this Protocol at the completion of the matter and will seek comment about the process and may discuss possible improvements.

Confidentiality

24. Part 19 of the Ordinance imposes strict confidentiality obligations in connection with a complaint or matter but requires or authorizes disclosure in the circumstances there referred to. See also Clause 23 below of this Protocol.

Co-operation with other Dioceses, other Denominations and other Child Related Employers.

25. Each of the Director and the PSC has a duty under the Act to disclose certain information in their possession relating to alleged misconduct of a Church worker to other office holders or bodies in the circumstances there prescribed: sections 108-109 of the Ordinance.