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## PROFESSIONAL STANDARDS

Approved by Diocesan Council

12 Aug 21

In effect when the Professional Standards Statute 2021 receives ascent.

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### 1. PREAMBLE

- 1.1 The purpose of this policy is to support the application of the Professional Standards Statute 2021 (the Statute) pertaining to allegations of abuse and breaches of professional standards and to:
- respond to survivors of abuse by a Church worker or Church volunteer;
  - facilitate the just, expedient and efficient resolution of the real issues in the complaint in the best interests of all parties;
  - regulate fitness for ministry or service and uphold standards in the Church; and,
  - protect the community.
- 1.2 This policy should be read in conjunction with *Policy 10.2 – Clergy and Church Workers – Faithfulness in Service*, *Policy 40.1 – Child Protection* and *Policy 40.3 – Pastoral Care and Redress*.
- 1.3 The Anglican Diocese of Perth (Diocese) is committed to a safe, supportive and ethical worshipping environment and regards any abuse or breaches of professional standards by a Church worker or Church volunteer as very serious.

### 2. SCOPE

- 2.2 This policy applies to all Church workers or a Church volunteers in the Diocese, as defined in the Statute.

### 3. DEFINITIONS

- 3.1 The terms used in this policy are consistent with those defined in the Statute.

### 4. GOVERNANCE

- 4.1 The Director of Professional Standards (the Director), the Professional Standards Committee (PSC), the Professional Standards Board (Board) and the Diocese will be guided by the processes set out in this policy.
- 4.2 The appointment, membership and functions of the PSC and Board are defined in the Statute. Recommendations concerning membership of the PSC and Board are to be made by the Diocesan Council Nominations Committee for Diocesan Council approval. Members of the PSC and Board must have completed screenings and attended ChurchSafe training in accordance with *Policy 40.4 – Screenings (Safe Ministry Checks)*. Appointments to the PSC and Board will be:
- for terms of three-years,
  - a maximum of three terms (nine years in total), and
  - staggered.



- 4.3 The PSC shall have at least three members including the chair, any of whom may reside outside the Diocese. The statute requires one person in ordained ministry, but this person or a further person appointed is to have episcopal experience.
- 4.4 The members of the Board in a particular case shall be appointed from a panel of at least eight persons comprising:
- (a) a President and a Deputy President, both of whom shall be or shall have been either a judicial officer or a practising barrister or solicitor of at least 10 years' standing of the Supreme Court of a State or Territory; and
  - (b) at least six other persons of whom at least:
    - two shall be clergy who of the Anglican Church of Australia,
    - two shall be lay persons who are members of the Anglican Church of Australia, and
    - two shall be lay persons who are not members of the Church.
- 4.5 The appointment and functions of the Director are defined in the Statute.
- 4.6 Members of the PSC and Board are entitled to claim reasonable expenses in the course of duties conducted under the Statute. Such claims are to be forwarded to the Diocesan Secretary for approval and cost attribution. Members of the PSC and the Board should consult the Director and or the Diocesan Secretary if in doubt as to what would constitute reasonable expenses prior to incurring the cost.
- 4.7 Pursuant to Section 32 of the Statute, a secretary to the Board will be appointed in consultation with the Director and the Diocesan Secretary. The Director is the executive officer for the PSC.
- 5. COMPLAINTS**
- 5.1 The Director is authorised to receive complaints.
- 5.2 An overview of the complaints process as detailed in Part 5 of the statute is at Appendix 1.
- 5.3 On receipt of a complaint the Director will:
- a. allocate a case number and commence a case summary file;
  - b. deal with complaints in line with the principles of procedural fairness and natural justice with all parties to the complaint;
  - c. evaluate the most effective action that should be taken to resolve the matter to prevent further harm and mitigate risk;
  - d. maintain the confidentiality and security of information and documentation;
  - e. ensure that accurate records are maintained;
  - f. inform the Archbishop;
  - g. arrange an extra-ordinary PSC meeting to seek guidance on the information provided should it identify a risk to children and the alleged respondent is in active ministry;
  - h. with the guidance and direction of the PSC make recommendations to the Archbishop concerning suspension from active ministry; and
  - i. provide information and support to the PSC in fulfilling their function.



- 5.4 The Director is to ensure complaints are dealt with in a timely manner, however it is acknowledged that for historic cases, there are impediments to the investigation process, which may cause significant delays.
- 5.5 In relation to any new/current disclosures and allegations:
- All disclosures of current child sexual abuse must be reported to WA Police.
  - Any reporting that is required under Mandatory Reporting Legislation or Reportable Conduct Scheme must be undertaken.
  - The Director will advise the Working with Children Screening Unit.
  - The Director will notify the Archbishop and Diocesan Secretary of all complaints of abuse, by a Church worker or Church volunteer.
  - The Diocesan Secretary will notify the Diocesan insurer.
  - The Director and PSC will co-operate with and assist WA Police with their investigation.
  - The Director and PSC must ensure that their actions do not interfere with, influence or hinder an investigation undertaken by WA Police.
  - When the investigation by WA Police is complete, the family or guardian of the child may indicate that they wish to participate in the internal review or the process as detailed in *Policy 40.3 - Pastoral Care and Redress*.
- 5.6 In relation to any past/historical disclosures and allegations:
- If a disclosure is made that identifies historical child sexual abuse, the complainant should be encouraged to report the matter to the Child Abuse Unit of WA Police.
  - Any reporting that is required under Mandatory Reporting Legislation or Reportable Conduct Scheme must be undertaken.
  - The Director will advise the Working with Children Screening Unit if required.
  - Third party disclosures of historical sexual abuse to the police require the written authority of the complainant. Without this authority, no action or investigation will be undertaken by WA Police.
  - If the adult complainant indicates that they wish to report alleged child sexual abuse to WA Police, the Director will provide support and accompany the person to the police station or Child Abuse Unit, if requested to do so.
  - The Director and PSC will co-operate with and assist WA Police with their investigation and ensure that their actions do not interfere with, influence or hinder an investigation.
  - Until such time that any investigation by WA Police is complete, the role of the Director is to provide support to the complainant and their family which includes counselling and a support person, if requested.
  - When the investigation by WA Police and / or the judicial process is complete, the complainant may indicate that they wish to apply for redress and the following options are available.
    - the Diocese process as outlined in *Policy 40.3 - Pastoral Care and Redress*,
    - the National Redress Scheme, or
    - exploring options available through Common Law by consulting an independent legal provider.
- 5.7 Similar processes to those outlined in this policy will be followed for those self-reporting pursuant to Section 11.3 of the Statute.



**6. SUPPORTING THE COMPLAINANT**

- 6.1 When allegations have been received, the Director will respond promptly and arrange to meet with the complainant and / or the alleged survivor of abuse. If required, the Director will assist them to write a statement and the written consent pursuant to Sections 44.2 and 44.3 of the Statute.
- 6.2 The Director will offer the complainant and / or the alleged survivor of abuse:
- a. access to professional counselling, pastoral care and a support person;
  - b. a meeting with the Archbishop for a direct personal response; and
  - c. a monetary payment in keeping with the guidelines of the financial schedule as outlined in *Policy 40.3*.
- 6.3 The Director may be the support person for the complainant.
- 6.4 Any support person to the complainant, if appointed, may:
- a. assist with the care of the complainant,
  - b. assist with communication between the complainant and the PSC, and
  - c. make recommendations to the PSC through the Director (if not the support person) as to the provision of counselling or other care for the complainant and the immediate family who have been affected by the alleged abuse.
- 6.5 The Director or support person must not provide counselling services to the complainant.
- 6.6 Any expenses incurred in providing professional counselling for the complainant, are to be forwarded to the Director for approval and cost attribution.

**7. SUPPORTING THE RESPONDENT**

- 7.1 When allegations have been received the Director will:
- a. advise the respondent via telephone or email that a complaint has been received;
  - b. arrange to meet with the respondent and outline the allegations that have been made;
  - c. offer the respondent the option of a support person, access to pastoral support and counselling;
  - d. advise the respondent of their compliance obligations as outlined in Section 12, 13 and 14 of the Statute;
  - e. advise the respondent that the matter will be referred to the PSC at their next meeting;
  - f. if suspension, a prohibition order or safety agreement is warranted as required under Part 5.3 of the Statute, advise the respondent that a recommendation will be made to the Archbishop or relevant Church authority for this to occur;
  - g. provide notice to the respondent and the relevant Church entity, of any recommendations made pursuant to Section 49 of the Statute; and,
  - h. advise the respondent of the review process if they are aggrieved by decision of the PSC or Board.
- 7.2 If the respondent, agrees to a support person, they will be referred to the Archdeacon of Perth who will source an appropriate person to:
- a. assist with the care of the respondent;
  - b. assist with communication between the respondent, the Director / investigator and the PSC; and,
  - c. make recommendations to the PSC as to the provision of counselling or other care both to the respondent and to other persons who have been affected by the alleged abuse.
- 7.3 The support person must not provide counselling services to the respondent.



- 7.4 The respondent will **not** be provided with identifiable information of the complainant until their safety and welfare has been assured. When the identity of the complainant is known, the respondent will be advised not to contact the complainant.
- 7.5 The respondent may request legal support, but only to help understand the process, not in preparation of a legal defence. If the respondent chooses to be legally represented, the Director will direct all communication to the legal provider.
- 7.6 Any expenses incurred in providing professional counselling for the complainant, are to be forwarded to the Director for approval and cost attribution.
- 7.7 Any expenses associated with providing legal advice to the respondent are to be agreed between the Chair of the PSC and the Diocesan Secretary. A limit of \$5,000 plus GST applies to legal expenses.

## **8. SUPPORTING THE PARISH**

- 8.1 The Director and area Archdeacon will ensure that a pastoral strategy for the parish is developed as soon as practicable after receipt of the complaint. The pastoral strategy shall address, but is not limited to:
- a. consultation with the clergy in the parish who may be affected by the complaint;
  - b. appointment of a support group to assist with the implementation of the strategy;
  - c. consideration of the information will be shared with the parish in keeping with the requirements of confidentiality and respect;
  - d. a strategy for pastoral care, healing and counselling within the parish and the individuals affected;
  - e. consultation where appropriate where the complainant and respondent are members of the same parish;
  - f. management and care of the congregation during the investigation and ongoing recovery as required; and
  - g. the provision of professional, pastoral and spiritual support for subsequent clergy in their role of healing the parish.
- 8.2 The Director and area Archdeacon will monitor and facilitate implementation of the pastoral strategy as required by the support group.

## **9. ALTERNATIVE DISPUTE RESOLUTION**

- 9.1 The Statute requires that the Archbishop or Archbishop's delegate and the Committee must, in consultation with complainants, respondents and any other relevant party, ascertain, where deemed appropriate, whether there are opportunities to resolve the complaint and bring about restoration and healing through the use of alternative resolution processes. The advice of one or more service providers will be sought to ascertain the most appropriate process.
- 9.2 Further advice is available in Policy 10.14 – Alternative Dispute Resolution.
- 9.3 Any expenses associated with providing professional dispute resolution services are to be agreed between the Chair of the PSC and the Diocesan Secretary.



**10. INVESTIGATIONS**

- 10.1 The PSC can appoint one or more of its own members or the Director or an independent investigator to investigate a complaint. Such appointment may be on such terms, as the PSC deems necessary and appropriate:
- a. The investigator cannot be the support person for either the complainant or the respondent.
  - b. Once appointed, the investigator will be provided with:
    - a copy of the complaint or information,
    - any response from the respondent, where applicable, and
    - any other details relevant to the complaint or information.
  - c. The complainant and respondent will be notified of the appointment of an investigator.
  - d. The PSC is not obliged to appoint an investigator and may suspend an investigation of the complaint or information (or part of the complaint or information):
    - while the conduct, the subject of the complaint or information or part of the complaint or information is under investigation by the police or is the subject of legal proceedings;
    - where the complaint or information or part of the complaint or information is being dealt with by an equivalent body to the PSC in another Diocese;
    - where the PSC forms the opinion that the complainant is not co-operating with the investigation;
    - as outlined in Section 42 of the Statute the PSC forms the opinion that, the allegations are false, vexatious or misconceived, or their subject matter is trivial; or
    - where there is insufficient evidence to proceed.
- 10.2 Generally the investigation will be conducted as follows:
- a. no person will be interviewed more than is necessary to complete the investigation;
  - b. a person with an intellectual disability or psychiatric condition will not be interviewed without the prior written authority and in the presence of a family member or guardian, nor without consultation with their treatment provider or any welfare agency engaged with the person or their family;
  - c. if there is a requirement for a child to be interviewed, this will be undertaken by WA Police and or the Department of Child Protection and Family Support;
  - d. if the person being interviewed does not speak or understand English well, an interpreter may be required; and,
  - e. no threats, intimidation or inducement will be made to any person intended to persuade the complainant to withdraw the complaint or information or to persuade the respondent to admit the complaint or information;
- 10.3 In dealing with the complainant or alleged victim of abuse:
- a. the investigator will promptly advise the PSC where the complainant has failed to co-operate with the investigation.
- 10.5 In dealing with the respondent the investigator will:
- a. invite that the respondent to provide a detailed report to the PSC within 21 days or such further period as the Director may allow in relation to any matter relevant to the investigation; and,
  - b. if the respondent declines to answer a question because the answer might tend to incriminate the person a written record shall be made of the question and of the ground of refusal.



- 10.6 After the investigation provide a written report containing all information relevant to the allegations to the Director. Evidence will be presented being that of a reasonable satisfaction on the balance of probabilities. The Director will present the investigator's report to the PSC.
- 10.7 The Diocese acknowledges that for any complainant to meet with the Director or investigator in a 'Church' property could be a traumatic experience. However, the safety of the Director or investigator is paramount, and a suitable and safe place will be sourced for any such meeting. At all times, the Director or investigator is discouraged from meeting in the private home of a complainant.
- 10.8 While it is acknowledged that such meetings can be very emotive and difficult for those making allegations, verbal abuse of the Director or investigator is unacceptable, and any such meeting will be terminated until such times that the complainant agrees to be civil and respectful.

## **11. SUSPENSION**

- 11.1 Suspension is mandatory only if the respondent is charged with an offence relating to sexual or child abuse; otherwise the PSC is required to apply the "unacceptable risk" test.
- 11.2 In the event the suspension of a member of clergy is recommended and approved by the Archbishop or Church authority, the liability for payment of his or her stipend will be borne by Diocesan Council for the period of suspension.
- 11.3 Depending on the circumstances of the case, it may be appropriate for the member of clergy to vacate the Diocesan provided rectory. If this occurs the clergy person will be paid housing allowance and reimbursed for utility costs for the period of suspension plus relocation costs, in order to find and fund their own accommodation. The fixed component of motor vehicle allowance will also be paid during the period of suspension.
- 11.4 The cost of such actions will be reported to Diocesan Council. There will a 12-month limit on payments to suspended clergy, unless approved by Diocesan Council.
- 11.5 The parish will be responsible for meeting the cost of associated with a Locum while the incumbent clergy person is suspended.

## **12. COMPLAINTS FROM OUTSIDE THE DIOCESE**

- 12.1 The Director or PSC may receive a complaint from outside the Diocese in the following circumstances:
- a. Alleged abuse occurred outside the Diocese and the respondent is resident, working or licensed ("resident") in this Diocese.
  - b. Alleged abuse occurred within this Diocese and the complainant is no longer resident in this Diocese.
- 12.2 Generally such cases will be managed in consultation with the equivalent body in the other Diocese and as follows:
- a. Complaints received where the respondent resides outside the Diocese will be referred to the equivalent body in the diocese in which the respondent resides.
  - b. Complaints received where both the complainant and the respondent reside outside this Diocese will be conveyed to the equivalent body in the diocese in which the respondent resides.



- c. Where the complainant resides outside the Diocese and allegations of abuse occurred in this Diocese, the PSC will ensure via an equivalent body that appropriate support people are assigned, and counselling is available.

**13. AGENCIES AND SCHOOLS OF THE DIOCESE**

- 13.1 If allegations are received of current child abuse at any Church school or Church entity:
  - a. the school / college must make a report to the WA Police or Department of Communities (Child Protection) in keeping with mandatory reporting legislation;
  - b. the Director will notify the Archbishop and the Diocesan Secretary; and
  - c. the matter will be documented.
- 13.2 Clergy licensed by the Archbishop in agencies and schools are bound by the terms of that licence, which includes compliance with the requirements of the Statute.

**14. DEALING WITH ALLEGED PROCESS FAILURE**

- 14.1 The Director will report any alleged process failures to the PSC at its next meeting. The PSC will consider options to address the failure which may include the replacement of support persons or the investigator. The PSC is to report matters of process failure to the Diocesan Council.
- 14.2 Failure by a person to deal properly with a complaint is itself a breach of professional standards.

**15. MEDIA INTEREST**

- 15.1 The Director will advise the Archbishop and the Diocesan Secretary of any allegations or complaints received that may be of interest to the media, so that appropriate statements and responses can be provided.

**16. COSTS ASSOCIATED WITH PROFESSIONAL STANDARDS STATUTE**

- 16.1 Costs incurred in facilitating the requirements of the Statute and this policy will be borne by Diocesan Council. The Diocesan Secretary is authorised to approve expenditure and report to Diocesan Council accordingly. Expenditure may be incurred for:
  - a. PSC and Board expenses,
  - b. Board secretary,
  - c. investigation expenses,
  - d. professional counselling,
  - e. legal support,
  - f. professional dispute resolution services, and
  - g. stipends, housing allowance, reimbursement of utility costs and relocation costs for suspended clergy.



# PROFESSIONAL STANDARDS STATUTE (PSS)

## OVERVIEW OF PART 5 PROCESS

