

## Handling Complaints against Staff and Volunteers PEP-13

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### **PURPOSE**

The **Procedure for Handling Complaints Against Staff and Volunteers** sets out the clear steps which must be followed when receiving a complaint or information that may relate to a serious breach of the Volunteer, Leader and Staff Covenant.

The Church has an obligation in accordance with Reportable Conduct Legislation to have practices and procedures to deal with Reportable Conduct, including:

- for receiving complaints of Reportable Conduct;
- for dealing with Reportable Conduct allegations; and
- for the receipt, handling and disclosure of information relating to Reportable Conduct and investigations.

### **SCOPE**

This Procedure applies to all staff and volunteers of the Church.

This Procedure applies to all matters which are a serious breach of the Volunteer, Leader and Staff Covenant including complaints relating to any form of child abuse or sexual misconduct involving a child.

In addition, the following information applies to endorsed ministers:

- If an endorsed minister is found to have breached the Ministering Persons Code of Ethics and Conduct it also constitutes a breach of the church's Volunteer, Leader and Staff Covenant.
- Fresh Hope would also conduct an investigation using the Procedure for Complaint Handling in relation to a complaint.

Please note: This Procedure does not apply to matters which would more appropriately be dealt with under the Procedure for Conflict Resolution (for example, a low-level/minor breach of the Volunteer, Leader and Staff Covenant).

If there is any doubt as to whether a complaint or information would fall within the scope of the Procedure, or about any of the steps set out in the Procedure, a safe church team member should contact the Fresh Hope Safe Ministry Practices Leader on (02) 8573 6000.

The Procedure should be read in conjunction with the Safe Church Policy and:

- Volunteer, Leader and Staff Covenant for Staff and Volunteers
- Procedure for Responding to Child Protection Concerns
- Procedure for Conflict Resolution
- Privacy Policy

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#### 1. Receiving a complaint or information

Anyone can make a complaint or pass on information that relates to a breach of the Volunteer, Leader and Staff Covenant (including Reportable Conduct) by staff or volunteers of the Church to:

- Church Leadership;
- the Safe Church Team Leader and the Safe Church Team; or
- any staff or volunteer.

Complaints or information may be received verbally, however a written outline of the complaint should be encouraged. In all cases, the Safe Church Team should document all complaints and information received in the Safe Church Concerns Form.

#### 2. Reporting information

##### a) Determining appropriate reporting process

- Any complaint about a staff member or volunteer which may be considered a serious breach of the Volunteer, Leader and Staff Covenant should be reported to the Safe Church Team.
- On receipt of a complaint or information that may relate to any form of child protection concern the person that has received the complaint or information is to also follow the Procedure for Responding to Child Protection Concerns.
- Any person who has knowledge that a serious crime has been committed, whether or not it is related to children, should report that knowledge to the Police.

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- iv. If a complaint is, or should be, reported to government authorities the Safe Church Team will only commence an investigation under this Procedure after consultation with the government authorities that it has been reported to.
- b) Allegations regarding Reportable Conduct
- i. The Head of Entity (typically either the paid senior pastor or the chair of the church governance body) is obligated to notify the Reportable Conduct Scheme (the Office of Children's Guardian) of Reportable Conduct allegations within the timeframe defined below, in accordance with **Reportable Conduct Legislation**. This covers any staff or volunteers who are required to hold a WWCC.
    - A notification must be made within 7 business days of receiving the complaint or information (s29(4) of the Children's Guardian Act (2019)).
    - A 'final entity report' must be submitted within 30 days.
    - If it is not possible to submit the final report within 30 days then an interim report must be submitted within 30 days in accordance with s38 of the Children's Guardian Act 2019.
  - ii. A notification of the allegation to the Reportable Conduct Scheme must be in writing and should include:
    - the name, date of birth and WWCC number of the person;
    - the name, contact details and head of the relevant entity;
    - details of the allegation;
    - the nature of the relevant entity's initial risk assessment and risk management action plan;
    - if a report to police has been made, the police report reference number;
    - if a report has been made under **Mandatory Reporting Legislation**, the report reference number; and
    - the names of other relevant entities that employ or engage the employee.

### 3. Risk Assessment

- a) In addition to considering or making a report under section 2 above, the Safe Church Team, and pastoral staff where relevant, must conduct a risk assessment relating to the safety of the complainant or any other children or vulnerable people and take reasonable precautions to minimise those risks.
- b) The church should be careful not to prejudice ongoing criminal investigations and so there may be a need to initiate risk management without alerting the person subject of the complaint.
- c) Subject to the view of government authorities, if the church has received a plausible complaint of child sexual abuse or sexual misconduct involving a Child and the complaint relates to a staff member or volunteer who is engaged in 'child-related work', then the Church Leadership is to suspend the person from such duties while the complaint is considered in accordance with this Procedure.

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### **4. Appointing a person to handle the complaint**

- a) Where a matter is to be investigated under this Procedure, the Church Leadership is to appoint a person to handle the complaint (the investigator).
- b) In appointing the investigator, the Church Leadership will avoid conflicts of interest (for example where there may be a close personal relationship between the subject of the complaint and the proposed investigator).
- c) For any matters related to any form of harm or abuse of a child, the investigator should be an external person (unless this is not reasonably practicable and a suitably qualified and independent internal investigator is available).
- d) Church leaders should contact the Churches of Christ NSW/ACT Safe Ministry Practices Leader on (02) 8573 6000 for assistance in identifying an external investigator.

### **5. Providing support**

The Church is to ensure that support is provided to both the Complainant and the Respondent, including:

- providing them with a contact person to whom they can direct inquiries about the progress of the complaint;
- offering them a support person; and
- considering providing them with access to counselling and other support services.

### **6. Investigating the complaint**

- a) The investigator is to investigate the complaint or information received by:
  - acting in good faith, without bias and without unreasonable delay;
  - collecting and documenting evidence, including conducting interviews and taking statements from the complainant and other witnesses; and
  - maintaining a record of all relevant evidence obtained and the steps taken in the investigation.
- b) If the matter is related to a Reportable Conduct Allegation, the investigator is to consider matters in division six of the Children's Guardian Act (2019) including:
  - the nature of the reportable allegation and any defence;
  - the gravity of the matters alleged; and
  - whether the reportable allegation relates to conduct that is in breach of the Ministering Persons Code of Conduct, the Volunteer, Leader and Staff Covenant and/or accepted community standards.

### **7. Putting the complaint to the respondent**

- a) The investigator is to put the complaint in writing to the person whose conduct is subject of the complaint (the respondent).
- b) In doing so, the investigator is to:
  - set out the complaint with sufficient detail for the respondent to understand the complaint;
  - state the part of the Volunteer, Leader and Staff Covenant that is alleged to have been breached;

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- set out the potential adverse outcomes for the respondent in the event that there is a finding that the respondent breached the Volunteer, Leader and Staff Covenant; and
- provide the respondent with an opportunity to respond to the complaint in writing and within a stated timeframe not exceeding 2 weeks.

### **8. Putting any further adverse information to the respondent**

If, in the course of the investigation, further adverse information is brought forward in relation to the respondent, the investigator will:

- advise the respondent in writing of the further adverse information
- provide the respondent the opportunity to respond to the information.

### **9. Investigator's findings**

- a) The investigator must provide a written report which sets out:
  - i. the complaint
  - ii. the part of the Volunteer, Leader and Staff Covenant that is alleged to have been breached;
  - iii. their finding(s)
  - iv. the evidence relied upon to make the finding, including the response of the respondent (if any) to the complaint
  - v. a finding about whether the complaint is sustained or not sustained, using the "balance of probabilities" as the standard of proof (for matters relating to child protection concerns, reference should be made to Reportable Conduct Legislation)
  - vi. possible outcomes or consequences that the Church Leadership may consider implementing
- b) If the matter relates to an allegation of Reportable Conduct the investigator should ensure that the report also sets out:
  - i. information about the facts and circumstances of the reportable allegation
  - ii. the findings after completing the investigation including an analysis of the evidence and the rationale for the finding(s)
  - iii. a copy of any written submission made by the employee or volunteer
  - iv. any copies of documents in the relevant entity's possession that are relevant to the report, including transcripts of interviews and copies of evidence.
- c) The Investigator's Report will be provided to the Church Leadership team for consideration.
- d) A summary of the Investigator's Report (considering both confidentiality and procedural fairness) will be provided to the respondent along with:
  - i. an invitation to respond in writing to the Church Leadership team within a defined timeframe
  - ii. written notice of the possible consequences (if the Investigator's Report is accepted by the Church Leadership team).

Consequences may include suspension, termination from duties for volunteers, termination of engagement for staff or imposing conditions on the employment/

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engagement. It may also require notice to Police, Ombudsman and/or the Office of Children's Guardian, which may impact WWCC clearance.

### 10. Determination of Complaint and Outcomes

- a) The Church Leadership team is to consider the investigator's report and to decide whether to accept the findings put forward by the investigator.
- b) In doing so, the Church Leadership team is to consider all relevant material available.
- c) If the Church Leadership team makes a determination that a complaint is sustained and the Volunteer, Leader and Staff Covenant has been breached, they are to determine an outcome for the respondent, which may include the consequences listed above.
- d) If the Church Leadership team does not accept the investigators findings, the Church Leadership team should decide whether there is another conclusion on the basis of the evidence presented, and record written reasons for departing from investigators findings (and if relevant, propose an outcome for the respondent as above).

### 11. Communication of Outcome

- a) The respondent will be informed in writing of the:
  - determination of the complaint
  - any consequences arising from the determination
  - the reasons for the decision
- b) The person who raised the complaint will be informed of the outcome of the complaint.
- c) If the matter constitutes a **child abuse offence** or other serious criminal offence, a report must be made to the local police station (unless a report has already been made).
- d) If the matter is Reportable Conduct, the 'Head of Entity', must notify the Reportable Conduct Scheme - Office of Children's Guardian (OCG) in accordance with Reportable Conduct Legislation, including the:
  - Investigator's Report;
  - any deviation made by the Church Leadership team from the investigator's findings, including reasons for the deviation and the proposed course of action in response.
- e) If the matter relates to a finding that a staff member or volunteer has engaged in a **child abuse offence**, Child Sexual Abuse or Sexual Misconduct involving a Child, the Church is to make a report to the OCG in accordance with WWCC Legislation. The respondent should be provided with written notice of this report having been made.

Church leaders may seek advice from the Fresh Hope Safe Ministry Practices Leader on (02) 8573 6000 to ensure that the determination and outcome is consistent with the evidence gathered.