

DIOCESAN COUNCIL - AUGUST 2012  
PROPOSED REVISIONS TO THE PROFESSIONAL STANDARDS PROTOCOLS

PROFESSIONAL STANDARDS PROTOCOLS  
DETERMINED IN ACCORDANCE WITH THE PROFESSIONAL STANDARDS ORDINANCE 2005  
REVISED AUGUST 2012  
BENCHMARK PRINCIPLES AND FRAMEWORK  
FOR AN ABUSE PROTOCOL

### Introduction

1. The Church expects all members of the clergy and church workers to live according to God's call to Christ-likeness and purity of living.<sup>1</sup> Child abuse, sexual harassment, harassment, sexual assault, assault and sexually inappropriate conduct by members of the Church and church workers are always a failure of such call and lead to the causing of harm to others.

### Acknowledgment and Apology

2. It is acknowledged that the Church has not dealt effectively and in some cases not dealt at all with issues of child abuse, sexual harassment, harassment, sexual assault, assault and sexually inappropriate conduct involving members of the clergy and church workers. This failure of the Church has caused spiritual, mental, psychological and physical harm, pain and loss to many people. The Church deeply regrets our failure and the consequent effects. We unreservedly apologise to those who have been harmed. We state our resolve to do all in our power to avoid such failure and to avoid being the cause of such harm in the future.

### Dictionary

3. The terms in this protocol shall be the terms defined by the Professional Standard Ordinance 2005. To assist in interpreting the Protocol,

A Church worker is a person who is or who at any relevant time was a member of the clergy, a person employed by a Church body; or a person holding a position or performing a function with the actual or apparent authority of a Church authority or Church body,

Examinable Conduct relates to conduct by a church worker wherever or whenever occurring involving sexual misconduct or child abuse, inappropriate or unreasonable conduct or omission of a Church worker who had knowledge of conduct of another Church worker involving sexual misconduct or child abuse or or the failure to investigate examinable conduct.

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### Response

- ~~3-4.~~ When it is alleged or reasonably suspected that a ~~member of the clergy or~~ church worker has engaged in examinable conduct ~~constituting child abuse, sexual harassment, harassment, sexual assault, assault or sexually inappropriate conduct~~ or there has been a process failure in dealing with these matters the Church will always take such concerns seriously.
- 4-5. By using the Protocol the Church aims to:
  - i. meet the pastoral needs of informants complainant informants and victims; and
  - ii. ensure that no further harm is caused;
  - ~~ii-iii.~~ ensure procedural fairness for any respondent-

<sup>1</sup> Because the Church "receives the ... scriptures ... as being the ultimate rule and standard of faith given by inspiration of God ..." the following Biblical passages are given as examples of relevant principles: 1 Timothy 3, Titus 1, Matthew 5: 27-30, Matthew 5: 48, Philipians 2: 1-18, 1 Corinthians 6: 18-20, Ephesians 5: 1-21, Luke 17: 1-21, Timothy 5: 1-2, Mark 10: 6-9, 1 Corinthians 7, Colossians 3: 1-17, 1 Corinthians 5 & 6

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- 5-6. Therefore the Church, through the Protocol, will:
- i. promptly respond and provide support to every ~~complainant informant,~~ complainant informant, ~~victim or~~ informant,
  - ii. document the allegation, ~~complaint~~ or information,
  - iii. offer conciliation if appropriate,
  - iv. investigate the circumstances,
  - v. determine, as far as is possible, the truth of the matter,
  - vi. assess what action should be taken to resolve the allegation, complaint or information and to prevent further harm,
  - vii. deal fairly with and facilitate support of the respondent.
- 6-7. To achieve these aims and carry out its intentions, the Protocol includes the following procedures.

**Supporting People affected by Examinable Conduct ~~Victims~~**

7. The ~~people affected by examinable conduct by victims of child abuse, sexual harassment, harassment, sexual assault, assault and sexually inappropriate conduct involving members of the clergy and~~ church workers will be supported personally and in all their participation in the Protocol. As a minimum the Protocol will provide for initial periods of counselling when required by the victim. There will be a transparent process in place to determine if and to what extent on-going counselling will be provided.
8. The Diocese will have in place a procedure to enable other pastoral needs of ~~victims~~ people affected by Examinable Conduct to be met.

**The Professional Standards Director and Contact Persons**

9. The Professional Standards Director and Independent contact persons will be available by telephone, email and in writing to be contacted by and to contact ~~complainant informants, victims, or~~ informants to assist them and to receive ~~allegations, complaints or~~ information relevant to the Protocol.

A contact person must:

- i. not have any other role under the Protocol,
  - ii. inform the complainant informant of any Diocesan organisation or structure, to which the contact person belongs or any office that the she/he holds,
  - iii. disqualify himself/herself if he/she knows the respondent
  - iv. be able to listen sympathetically,
  - v. be objective but not cold,
  - vi. not provide counseling,
  - vii. have and use common sense,
  - viii. assist but not advise,
  - ix. exercise strict confidentiality,
  - x. understand and be loyal to the Protocol with no hidden agendas,
  - xi. help people to make choices without pushing them,
  - xii. have the time to be readily available,
  - xiii. write clear, informative, factually accurate reports,
  - xiv. understand legal processes and implications.
10. The identity (in general) and contact details of the Director and contact persons will be widely and regularly advertised in Church media and if possible in other media.

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**Guidelines For Contact Persons When Assisting Complainant informants, Victims And Informants**

Explaining The Confidentiality Provisions Of The Protocol Before Hearing Any Further Information Details Of The Complaint

11. Persons who are disclosing information abuse, assault, or harassment may be unclear about what outcomes they want from the disclosure. They may want to discuss the matter confidentially, find out what options they have under the Protocol and what processes will occur once they provide any information or make a complaint and then go away and think about it or discuss it with a counsellor before deciding what to do.
12. The contact person will, before obtaining any information from the informant/complainant, tell the person that any disclosure they make to the contact person will be recorded and passed on to the Director, who may also report the matter to the ~~(Arch)~~Bishop, the respondent, the Diocese's insurer and, if required, to the Police or child protection authorities.
13. If there is any ambivalence about discussing the matter further, the Director or the contact person will refer the person to a counsellor either with the authority of the Committee or within guidelines determined by the Professional Standards Committee (the PSC).

Explaining The Contact Person's Role

14. The Director or the contact person will make it clear that they are appointed by the PSC Committee, a body set up by the Diocese to handle complaints information and examinable conduct allegations of abuse, assault, misconduct or harassment by members of the clergy and church workers and that it is their role to provide information with regard to the Protocol and to assist the person with initiating the complaint process by disclosing the information conduct. They will further explain that it is not their role to provide legal advice or counselling and that they will be making referrals if appropriate.

Listening To Complainant informant's Concerns And Treating The Matter Sympathetically And Seriously

15. The Director or the contact person will listen empathically and identify the person's concerns and the background to their concerns.
16. Diversity should be both expected and respected.
17. The Director or the contact person will ascertain from the perspective of the complainant informant who discloses conduct information about of a member of the clergy or a church worker:
  - i. What conduct occurred
  - ii. Who engaged in the disclosed conduct;
  - iii. what occurred;
  - iv. when and where it occurred;
  - v. how the disclosed conduct affected them, e.g. how did they feel about it?
  - vi. how did they respond when the disclosed conduct occurred?
  - vii. How have they been affected since?
  - viii. whether they have already spoken to other people about the disclosed conduct - If yes, was it to friends? Family? The alleged abuser/harasser? A member of the clergy or church worker? Anyone outside the Church? Are they aware of the risks posed by defamation law and the need to maintain confidentiality other than reporting the matter to appropriate authorities?

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Identifying Support And Information Needs of ~~Complainant informants and Victims~~

18. The ~~Director or the~~ contact person's role is to assist the ~~complainant informant~~ by providing information, facilitating referrals, enabling disclosure, documenting ~~complaints or~~ information and reporting to the Committee. However, someone who discloses they have been abused, assaulted or harassed, is likely to have wide-ranging needs. This may leave them feeling depressed, anxious, angry and confused. It may trigger episodes of real crisis and cause flashbacks in people who have suffered past abuses, assaults or harassment. The ~~Director or the~~ contact person must be alert to these issues and needs and assist ~~complainant informants~~ and ~~person's affected by the examinable conduct victims~~ to find appropriate support services.
19. ~~The Director or Aa~~ contact person will provide support to ~~complainant informants~~ by:
- i. Creating a safe physical and emotional environment in which they can tell their story without interruptions.
  - ii. Actively listening by paraphrasing, clarifying, and checking that the incident/s and disclosed conduct of the respondent is understood from their point of view.
  - iii. Identifying their stated priorities and providing information about their options so they can make informed choices about what they want to do.
20. Whilst providing information and support, this is not the same as counselling, although it draws on skills that are used by counsellors, e.g. reflective listening and affirming the person's strengths and abilities. Nor is it to be legal advice.
21. The ~~Director or~~ contact person will exercise their skill by knowing what they can provide appropriately and when and where to refer the person to other services for additional information, ongoing support and assistance, including confidential counselling and legal advice.
22. Indicators for referral of a ~~complainant informant~~ to a counsellor are:
- i. if the person is clinically depressed, traumatised or otherwise in need of personal therapy;
  - ii. if there appears to be any ambivalence about whether the person wants to proceed with a complaint or how they want to proceed with a complaint;
  - iii. if the person for any reason is not able to talk fully and openly to the ~~Director or~~ contact person;
  - iv. if the person is too emotionally distressed to discuss the matter, talk rationally or to make any decisions;
  - v. if the matter is likely to take some time to resolve and the person will need emotional support through the process.
23. To assist people to absorb information, ~~the Director and~~ contact persons should convey information both verbally and in writing, e.g. by using handouts.

Identifying Ways In Which The Disclosure Could Be Addressed

24. The ~~Director or~~ contact person will help the ~~complainant informant~~ identify:
- i. whether what is disclosed comes within the description of ~~examinable conduct child abuse, harassment, sexual assault, assault [including physical, spiritual or psychological abuse], or any sexually inappropriate behaviour~~ in the Protocol;
  - ii. the options and choices that are therefore available.

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25. The Director or the contact person needs to ascertain what other advice, if any, has been sought or recommended. If others have become involved, there may need to be a contact with the Protocol arranged for other professionals and persons involved in assisting the complainant informant.
26. The Director or contact person must ALWAYS advise about:
- i. options available under the Protocol, i.e. conciliation or investigation and determination (and that they usually occur in that order);
  - ii. the complainant informant's rights to take external action and other avenues of redress;
  - iii. the rights of the respondent to be informed and to respond;
  - iv. any action which the Committee may take of its own initiative eg. Investigation;
  - v. the responsibility of the Committee and Director to report alleged criminal conduct to the police and alleged child abuse to child protection authorities (subject to relevant State laws).
27. If the disclosed conduct is apparently not covered by the Protocol the complainant informant must immediately be told so. If it is still of concern to the complainant informant they must then be assisted to consider how it can be dealt with and who they can see about it. If they still wish the information complaint to be recorded and lodged with the Director this should occur. ~~with the Protocol this should not be prevented.~~

Identifying Expectations And Next Steps

28. The Director and the contact person will discuss what the complainant informant wants and what they want to do next. They should be asked what outcomes they are seeking.
29. When a complainant informant indicates that their main aim is to redress any disadvantage that they may have suffered from the disclosed conduct the Director or the contact person will indicate what courses may be open to them.
30. Some complainant informants will be readily able to articulate the fact that they want:
- i. the disclosed conduct to stop; or
  - ii. the respondent to know that the disclosed conduct hurt, humiliated, intimidated or offended them; or
  - iii. something specific, such as a change of workplace or other arrangements,
  - iv. financial compensation .
31. These sorts of outcomes may be able to be achieved through conciliation.
32. When a complainant informant indicates that their main significant aim appears to formal action be punitive towards the respondent the Director or the contact person will explain that:
- i. "disciplinary" measures may be the end result of a hearing before the Board regarding fitness to hold office, but are not the only possible outcome;
  - ii. the respondent has a right to natural justice (including procedural fairness, the right to know the full details of the information allegation if a complaint is made, a right of reply and a right to a fair hearing);
  - iii. the aims of the Protocol are to ensure that pastoral needs are met and that no further harm occurs.

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33. The Director or contact person will keep in mind that a complainant informant may need time to think about what to do and may change their minds. Therefore there may be a need for multiple conversations with the complainant informant.

Assisting Respondents

34. The Director or Contact persons may also assist respondents. A contact person must not receive information from or assist both the complainant informant or victim and the respondent in the same matter. If a contact person in relation to a matter is contacted by a respondent and they have already spoken to the complainant informant or a person affected by the examinable conduct victim—they must immediately inform the person that they are or have been the complainant informant's contact person and refer them to the Director or another contact person. The same applies if a complainant informant or person affected by examinable conduct victim—contacts a contact person who has already spoken to the respondent. Otherwise the names of contact persons in relation to particular matters should be confidential.
35. The Director or Contact persons should adopt a similar assisting rather than a directive or advisory approach with respondents as for complainant informants, creating an environment in which they feel able to talk openly and without interruption, inviting them to talk about their perception of the events in question and giving them appropriate literature. They should discuss with the respondent:
- i. who, if anyone, has already been informed of the complaint, and that a record will be made of the conversation and passed on to the Committee;
  - ii. their right to see a confidential counsellor and to assistance in obtaining the counselling if necessary;
  - iii. their right to say nothing if their statement may incriminate them and the benefits of their co-operation;
  - iv. all the Protocol procedures and the potential benefits of conciliation, if it has been offered;
  - v. the confidential and voluntary nature of conciliation and the fact that information obtained or disclosed during conciliation cannot be used by anyone in any other context;
  - vi. the implications of refusing conciliation;
  - vii. the complainant informant's right to refuse conciliation;
  - viii. the fact that they must not engage in the disclosed conduct or retaliate against, defame, or in any way victimise a person in relation to the making of a complaint, allegation or providing information, whether under the Protocol or elsewhere;
  - ix. the right of a complainant informant who alleges that they have been assaulted, abused or harassed to proceed externally (e.g. to the Police, the child protection authorities, the Equal Opportunity Commission or the civil courts);
  - x. the responsibility of the Director and Committee to report alleged criminal conduct to the police and alleged child abuse to child protection authorities (subject to relevant State laws).

**Director of Professional Standards (The Director)**

36. The Diocese ~~or the Committee as its delegate~~ will appoint a paid<sup>2</sup> Director whose responsibility will be to implement all actions under the Protocol. She/he will be a full member of but not the chair of the Committee.

<sup>2</sup>Where the diocese cannot appoint their own paid Director they may make arrangements to use the services of the paid Director of another diocese. This may involve the appointment of a Deputy Director to implement arrangements in the Diocese concerned.

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37. The Director must:
- i. have qualifications, or experience in legal practice and procedure,
  - ii. have skill, training or experience in counseling or an associated area,
  - iii. not be a member of the clergy or married to a member of the clergy,
  - iv. be granted some form of security of tenure.

38. If the Director receives ~~an allegation or complaint or knows or reasonably suspects that a member of the clergy or information that~~ a Church worker has engaged in ~~child abuse, sexual harassment, harassment, sexual assault, assault [including physical, spiritual or psychological abuse], or any sexually inappropriate behaviour~~ examinable conduct the Director will promptly cause the following to occur:

- i. invite and assist the complainant informant or person affected by the examinable conduct victim to provide a written statement of the allegation or complaints information except where this a contact person has already been done so,
- ii. ~~provide a copy of the written allegation or complaint to the respondent and invite and assist the respondent to provide a written response within 14 days or such other reasonable time as might be allowed,~~
- iii-ii. bring the matter before the Committee who will advise what further action is to be taken,
- iv-iii. implement what is advised by the Committee and advise all concerned.

39. If the Director receives a complaint that there has been a process failure in dealing with previous allegations ~~of child abuse, sexual harassment, harassment, sexual assault, assault or sexually inappropriate conduct involving a member of the clergy~~ examinable conduct involving ~~or~~ a church worker the Director will promptly cause the following to occur:

- i. invite and assist the complainant informant or victim person affected by examinable conduct to provide a written statement of the information allegation or complaints except where this a contact person has already done so,
- ii. ~~provide a copy of the written allegation or complaint to the Church body concerned and invite the Church body to provide a written response within 14 days or such other reasonable time as might be allowed,~~
- iii-ii. bring the matter before the Committee who will advise what further action is to be taken,
- iv-iii. implement what is advised by the Committee and advise all concerned.

39A The Committee when advising the Director shall, in order to ensure procedural fairness for the respondent, determine the manner in which the respondent is to be advised of the information.

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**Professional Standards Committee (the Committee)**

40. The Diocese will appoint the Committee whose responsibility it will be to ensure that all allegations, complaints and information are dealt with in accordance with the Protocol. It will have at least three members in addition to the Director who collectively satisfy the requirements of:
- i. experience in ordained ministry,
  - ii. experience in the law,
  - iii. experience and qualifications in child protection, counselingcounselling, human resource management or social work,
  - iv. gender balance, and

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v. where possible, a person not a member of this Church.

41. The Committee will advise the Director on all matters under the Protocol. It will also be the Committee's role to ensure that the Protocol is publicized and operates satisfactorily and to make recommendations to the Diocese on implementing child protection and safe ministry policy.
42. In every case where the Committee has ~~an allegation, complaint or~~ information ~~and response~~ brought before them by the Director they will advise the Director what further action is to be taken under the Protocol which must will include be one of the following, to:
- i. take no further action (where the complaint is considered to be false, vexatious, misconceived or trivial),
  - ii. recommend the suspension of or prohibition of ministry by the church worker
  - ~~iii.~~ refer to another relevant body or person,
  - ~~iv.~~ notify the Police or child protection authorities,
  - ~~v.~~ implement a process of conciliation, or
  - ~~vi.~~ appoint an investigator.

42A The Committee must maintain written minutes of its meetings that formally and clearly detail the decisions taken at these meetings. Such minutes must be confirmed at subsequent meetings.

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42B Any recommendation from the Committee to a Church authority that a Church worker be the subject of a prohibition order or suspended must be in writing, detail the matters taken into account by the Committee, outlines how the respondent has been heard and signed by a member of the Committee indicating it is a fairly represents the views of the Committee.

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42C In considering whether a church worker should be the subject of a prohibition order or suspended the Committee shall recommend the lowest course of action to the Church authority that the Committee believes will satisfy the need for prohibition or suspension.

42D All directions to the Director to appoint an investigator or to commence an investigation must be in writing and signed by the Chair or Deputy Chair of the Committee.

#### Conciliation

43. The Director, on advice from the Committee, may implement conciliation between the ~~complainant informant~~ and the respondent where both agree in writing to participate in conciliation. The Director is not to implement conciliation where the complaint or allegation involves child abuse or an offence which under the NSW Crimes Act would constitute a serious indictable criminal offence. The person or persons appointed to undertake the conciliation process must be independent and be acceptable to the Committee, the Director, the ~~complainant informant~~ and the respondent.
44. If the conciliation process has not resolved the issues to the satisfaction of both the ~~complainant informant~~ and the respondent within one month from the date of the commencement of the process then the Director must report this to the Committee who must then advise what further action is to be implemented under clause 41 of the Protocol. Conciliation must not continue unless the Director, the ~~complainant informant~~ and the respondent are of the opinion that there is in their respective

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opinions a reasonable prospect of resolving the issues through conciliation and the ~~complainant informant~~ and respondent agree to continue their participation in the conciliation. The Director shall continue to report each month until the matter is resolved or the ~~complainant informant~~ or respondent indicate that they no longer agree to continue their participation in the conciliation.

45. All communications, whether written or oral, that take place during conciliation other than any agreed outcome are to be treated as confidential by each person involved in conciliation and cannot be used in any procedure under the Protocol.

**Investigation**

46. The Director will engage an investigator in a matter when advised to do so by the Committee but must not appoint an investigator and must revoke the appointment if the subject matter is under investigation by some other competent body or is the subject of legal proceedings.

46A With the consent of the Committee, the Director may undertake the investigation in accordance with the procedures spelt out in this protocol for investigators.

47. An investigator will only be engaged after conciliation has failed to resolve the matter or when the Committee considers that conciliation is not appropriate.

48. The role of the investigator is to gather evidence about ~~complaints, allegations and the~~ information to and to make a report.

49. The investigator must:

- i. Carry out an investigation ethically and promptly and focus his/her investigation on the matter which is the subject of the information;
- ii. interview and obtain a written and signed statement from the ~~complainant informant~~ or person affected by the examinable conduct victim unless the investigator considers that any statement already obtained under the Protocol is sufficient;
- iii. interview and obtain a written statement or record from every available relevant witness;
- iv. include in every statement material which indicates that the maker of the statement understands that their statement is to be used for the purposes of the Protocol;
- v. notify the respondent of the ~~complaint or allegations information~~ at an appropriate time if they have not already been notified and in any event invite them to provide a response and any material relevant to the ~~complaint or allegation information in the manner prescribed by the Ordinance;~~
- vi. make a written, or with the consent of the respondent a taped record of all interviews with the respondent and provide the respondent with a copy of any such record;
- vii. allow each person interviewed to have another person present who is not likely to be a witness to ~~the complaint or allegations information;~~
- viii. inform the Director of any matter or circumstance which causes the investigator to form the view that the investigation should be terminated;
- ix. provide to the Director a written report setting out the results of the investigation together with signed copies of all statements, records of interviews and any other relevant material.

50. When the Director receives a report from the Investigator he must bring it before the Committee who must advise one of the following:

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- i. There is not prima facie evidence that the respondent engaged in examinable conduct ~~which is child abuse, sexual harassment, harassment, sexual assault, assault or sexually inappropriate conduct and that~~ no further action be taken;
- ii. There is prima facie evidence that the respondent engaged in examinable conduct ~~which is child abuse, sexual harassment, harassment, sexual assault, assault or sexually inappropriate conduct~~ and that the matter be referred to the Board for consideration;
- iii. There is prima facie evidence that the respondent engaged in examinable conduct ~~which is child abuse, sexual harassment, harassment, sexual assault, assault or sexually inappropriate conduct~~ but that having regard to all the evidence, a Board is not likely to find that the respondent engaged in such conduct and in such case whether the matter should be referred to the Board for consideration;
- ~~iii.~~iv. There is prima facie evidence that the respondent did not engage in examinable conduct but engaged in other conduct which constitutes an offence or a ministry issue and that the conduct should be referred to the Church authority for further action-

51. The Director must take action in accordance with the advice of the Committee.

51A The determination that the information relating to a respondent constitutes examinable conduct must be communicated by the Committee to the Director, the Church authority and the respondent in writing and signed by a member of the Committee indicating that the views fairly reflect the determination of the Committee.

51B The Committee shall appoint a suitably qualified legal practitioner to present the determination of the Committee and the associated evidence to the Board.

51C The Committee shall ensure that all material collected in the investigation together with the determination of the Committee is made available to the Respondent promptly.

51D The Committee, the Director and the legal practitioner representing the Committee shall conduct themselves as model litigants in keeping with the Model Litigant Policy applying to the Government of NSW.

**Professional Standards Board (The Board)**

52. ~~The Board shall follow the procedures spelt out in the Professional Standards Ordinance. Diocese will appoint a panel from which will be constituted the Board in each case. The panel will include:~~

- ~~i. A President and Deputy Presidents who shall be a Judge or former Judge or a Legal Practitioner or former Legal Practitioner who has been admitted for at least seven years;~~
- ~~ii. Five persons who are members of the clergy;~~
- ~~iii. Five lay persons who are members of the Church.~~

~~53. Each Board constituted for a particular matter will consist of:~~

- ~~i. a President or Deputy President; and also~~
- ~~ii. an equal number of members of the clergy and lay persons.~~

~~54. The role of the Board is to inquire into any complaint, allegation or information referred to them by the Committee.~~

~~55. The Board will:~~

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- ~~i. not be bound by the rules of evidence;~~
- ~~ii. make whatever inquiry the Board considers appropriate;~~
- ~~iii. be assisted by the Committee and the Director;~~
- ~~iv. provide procedural fairness to the respondent;~~
- ~~v. allow the respondent to be represented by a legal practitioner;~~
- ~~vi. determine whether they are reasonably satisfied that the disclosed conduct has occurred;~~
- ~~vii. determine to what extent, if any, the conduct affects the respondent's fitness to hold office;~~
- ~~viii. recommend to the church body what action, if any, should be taken in regard to the respondent;~~
- ~~ix. recommend what action, if any, should be taken in regard to further supporting the victim.~~

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~~56. The actions that can be recommended by the Board are contained in the Legislation.~~

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- ~~56. Once the Board has made its determination and formalised its recommendations it shall forward the same to the Church authority within seven days and shall provide the Church authority with a document that~~
- ~~a. Enumerates clearly and concisely the findings of the Board~~
  - ~~b. Details the Board's recommendations~~
  - ~~c. Consents to the public release of the determination and recommendations~~
  - ~~d. Provides advise on the public release of other information~~
  - ~~e. Details any desired arrangements for restorative justice consequent upon the determination.~~

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~~56A. The communication of the determination and recommendation together with the implementation of restorative justice procedures shall be a matter for the Church authority which may seek the assistance of the Board, the Committee, the Director or their servants.~~

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#### Dealing fairly with Respondents

57. Respondents are entitled to have access to contact persons for assistance and to know the substance ~~of the complaint, allegation or~~ information against them at the earliest possible stage. They are to be afforded the opportunity and provided with assistance to put everything before the Committee, investigator and Board which they consider to be relevant. They are entitled to be represented before the Board and to test the evidence.

~~57A. The Diocesan Council shall determine the if possible arrangements should to be made to provide assistance to pay for respondent's ~~their~~ representation. The Director shall ensure that the arrangements are communicated to respondents at the time they are advised of information concerning them and at such other times as are necessary to ensure the respondent's receive procedural fairness.~~

#### Records

58. All records under the Protocol will be kept confidential and secure. Access to the records will be controlled by the Director. In accordance with privacy requirements respondents will be entitled to see records relating to themselves unless the Committee determines that to allow them access would put another person at risk of serious harm. The Privacy policies of the Diocese must be complied with in relation to all records under the Protocol.

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59. Information will only be provided to third parties, including church bodies, for bona fide employment screening purposes, to child protection authorities for the protection of a child or children and to the Police in the investigation or prosecution of an offence.

**Outcomes**

60. The outcomes which are possible under the Protocol are:
- i. the pastoral needs of the victim are met;
  - ii. the concerns of the complainant informant or victim-people affected by examinable conduct regarding the respondent are satisfied in conciliation; and
  - iii. the described conduct is investigated, considered by the Board and recommendations made for action in respect of the respondent to ensure that the conduct is not repeated and no further harm is done.

**Role of the Church authority(Arch)Bishop and Reporting Requirements**

61. The Diocesan BishopChurch authority is not involved in the operation of the Protocol.

The Church authority He is entitled to be kept informed of all matters that come before the Protocol, to be regularly updated as to their progress and to make reasonable enquiries regarding any matter which the Committee and Director must answer.

The Church authority He must pass on to the Committee all complaints, allegations and information relevant to the Protocol of which he becomes aware.

The Church authority may offer advice but He must not interfere with or attempt to influence contact persons, the Committee the Director, the investigator or the Board in the exercise of their functions.

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**Co-operation with Government Authorities**

62. The Committee will notify the relevant child protection authorities of all complaints, allegations or information of child abuse where there are reasonable grounds to suspect that a child or children are at current risk of harm.
63. The Committee will notify the Police of all complaints, allegations or information where the disclosed conduct is a serious indictable criminal offence under NSW law.
64. The Committee will co-operate fully with the child protection authorities and Police in all their investigations and action. Where possible a formal protocol for co-operation should be entered into with these authorities.

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

65. Records of the proceedings under the Protocol will be made available to church bodies, church bodies of other denominations and child-related employers for the purposes of employment screening unless the Committee has advised or the Board has determined that the complaint was false, vexatious or misconceived.
66. The findings, recommendations and implementations of the recommendations of the Board will be recorded in the diocesan registry and in a national register of such findings which should be accessible to all church bodies, church bodies of

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other denominations and child-related employers for the purposes of employment screening.

**Funding**

67. The Diocese will provide sufficient funds to enable the Protocol to operate. ~~As a minimum the Director or Deputy Director, the contact persons and the investigators should be paid for their work.~~

**Reviewing and Changing the Protocol**

68. The Committee is responsible to review the operation of the Protocol from time to time and to recommend changes to the Diocesan Council.

69. The Diocesan Council will review this protocol at least once every two years.

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**Dictionary**

~~*Allegation*—Disclosure of child abuse, sexual harassment, harassment, sexual assault [including physical, spiritual or psychological abuse], or any assault or sexually inappropriate conduct involving a member of the clergy or a church worker.~~

~~*Assault*—Conduct which intentionally applies force to another or attempts or threatens by any gesture to apply such force to another.~~

~~*Child abuse*—Any conduct (or lack of conduct) which endangers or impairs a child's physical, psychological or emotional health and development. It includes the following abuse:~~

~~*Emotional*—constant criticism, belittling and persistent teasing.~~

~~*Neglect*—absence of adequate food, shelter, emotional security, and medical care.~~

~~*Physical*—severe beating, shaking, burns, human bites, strangulation.~~

~~*Sexual*—any sexualized activity with a child including sexual conversation, fondling, masturbation, exhibitionism, attempted sexual intercourse, sexual intercourse, incest, pornography.~~

~~*Church*—The Anglican Church of Australia~~

~~*Church body*—Person, office holder or legal entity who employs, appoints, licences, authorises or elects a member of the clergy or church worker.~~

~~*Church worker*—Person who exercises the authority of the Church including:~~  
~~— all members of the clergy who hold a licence or are resident in the diocese;~~  
~~— any person holding an office in the diocese;~~  
~~— a member of Synod [or any national body of the Church];~~  
~~— a church warden or member of any other parish board, council or committee constituted by canon, ordinance or resolution of the Synod or of a parish council;~~  
~~— a person employed by the Church or a diocesan agency;~~  
~~— a member of a body incorporated by the diocese;~~  
~~— a person in a position of trust in a diocesan agency or parish a person who is engaged in the worship, care and education with parishioners in any capacity~~  
~~— any other position of leadership in the diocese.~~

~~*Clergy*—Person who has been ordained as a deacon, priest or bishop.~~

~~*Complainant*—Person who discloses child abuse, sexual harassment, harassment, sexual assault, assault or sexually inappropriate conduct involving a member of the clergy or church worker.~~

~~*Complaint*—Disclosure by a victim of child abuse, sexual harassment, harassment, sexual assault, assault or sexually inappropriate conduct involving a member of the clergy or church worker.~~

~~*Diocese*—Unit of organisation of the Church under the charge of a Bishop and Synod (representative group of clergy and lay persons).~~

~~*Harassment*—Offensive, belittling or threatening conduct directed at an individual or group, which is unwelcome, unsolicited, usually unreciprocated and often (but not always) repeated.~~

~~For harassment to occur, there does not need to be an intention to offend or harass. The test is whether it was reasonable in all the circumstances that the person felt offended, belittled or threatened. Moreover, harassment may be of a minor nature.~~

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Examples of harassing conduct include:

- ~~(a) — Offensive physical contact, derogatory language or intimidating actions;~~
- ~~(b) — Insulting or threatening gestures or language (overt or implied) or continual and unwarranted shouting;~~
- ~~(c) — Unjustified and unnecessary comments about a person's capacities or attributes;~~
- ~~(d) — Openly displayed pictures, posters, graffiti or written materials which might be offensive to some;~~
- ~~(e) — Phone calls or messages on electronic mail or computer networks which are threatening, abusive or offensive;~~
- ~~————— (f) — Persistent following or stalking.~~

~~*Informant* — Person other than a victim who discloses child abuse, sexual harassment, harassment, sexual assault, assault or sexually inappropriate conduct involving a member of the clergy or church worker.~~

~~*Information* — Evidence other than an allegation or complaint of child abuse, sexual harassment, harassment, sexual assault, assault and sexually inappropriate conduct involving a member of the clergy or church worker.~~

~~*Legislation* — Church canons, ordinances, rules or regulations which authorise action by the Committee, Director, Board and Church body under the Protocol.~~

~~*Process failure* — Failure by a Church body to deal adequately or at all with an allegation, complaint or information of child abuse, sexual harassment, harassment, sexual assault, assault and sexually inappropriate conduct involving a member of the clergy or church worker.~~

~~*Respondent* — Member of the clergy or church worker who it is alleged or there is information has engaged in conduct which is child abuse, sexual harassment, harassment, sexual assault, assault or sexually inappropriate conduct.~~

~~*Serious criminal offence* — Criminal offence for which a maximum penalty of imprisonment for one year or more may be imposed.~~

~~*Sexual assault* — Conduct involving the use of emotional or physical intimidation or violence to force another person to engage in sexual activity.~~

~~*Sexual harassment* — Unwelcome conduct of a sexual nature which makes a person feel offended, humiliated or intimidated, and where that reaction is reasonable in the circumstances. Many kinds of behaviour can amount to sexual harassment if they offend or intimidate another person:~~

- ~~————— (a) — jokes, gestures, displays of offensive pictures;~~
- ~~————— (b) — telephone or e-mail messages;~~
- ~~(c) — physical contact or expressions of affection that are not reciprocated;~~
- ~~————— (d) — implicit or explicit demands of a sexual nature;~~
- ~~(e) — refusing to leave another person alone when requested;~~
- ~~————— (f) — observation (such as by a 'peeping Tom')~~

~~Sexual harassment does not arise in the context of choice and mutual consent.~~

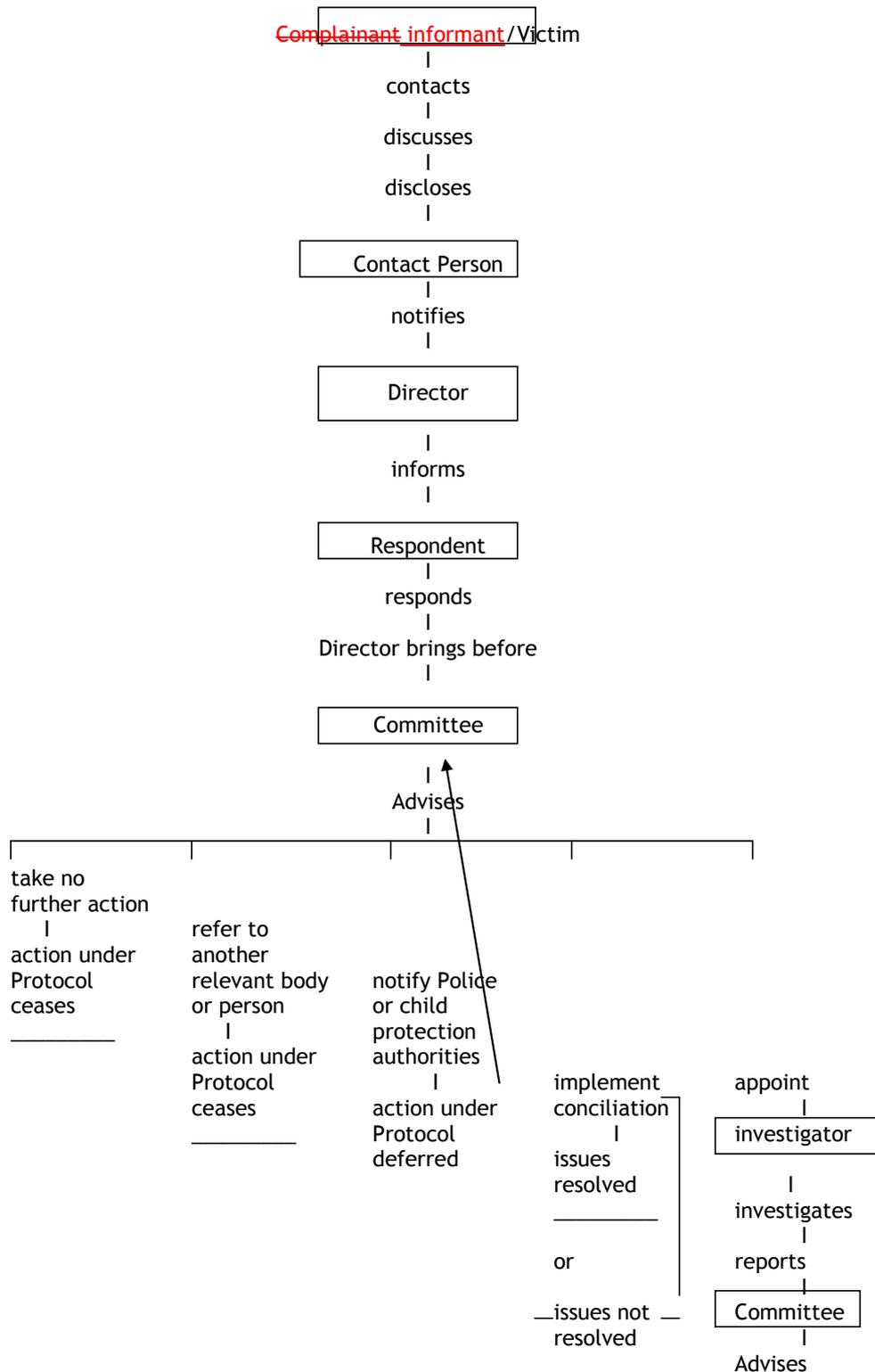
~~*Sexually inappropriate conduct* — Conduct of a sexual nature which is regarded by right thinking members of the Church in the Diocese as disgraceful and inconsistent with the standards to be observed by a member of the clergy or a church worker.~~

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~~Victim Person upon whom the disclosed child abuse, sexual harassment, harassment, sexual assault, assault or sexually inappropriate conduct by a member of the clergy or church worker is perpetrated.~~

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Summary of Protocol Procedures



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