



SOUTH AUSTRALIAN COMMISSION
FOR CATHOLIC SCHOOLS

Dealing with Allegations of Misconduct

Procedure



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1 Purpose

These procedures are designed to assist complainants, employers and investigators in relation to responding to allegations of misconduct against workplace participants in Catholic schools and the Catholic Education Offices.

Catholic Education SA (CESA) is committed to:

- 1.1 creating and sustaining schools where pastoral care, mutual respect, protection of children and young people and high professional standards are evident;
- 1.2 ensuring that prevention strategies, including training, are an essential aspect of the overall work of Catholic Education SA;
- 1.3 implementing effective responses where allegations of misconduct are made;
- 1.4 addressing the important need for pastoral care for victims and assistance to other persons affected.

2 Scope

It is accepted that there is a range of conduct which, while not representing best practice, is best dealt with at the school level and is not intended to be encompassed by these Procedures.

Where an allegation relates to sexual misconduct by a staff member the response should, in addition to these procedures, be guided by the Managing Allegations of Sexual Misconduct in SA Education and Care Settings.

The Procedures for Dealing with Allegations of Misconduct should be used when an allegation of misconduct arises against an employee or volunteer (or any other workplace participant such as a contractor, tutor, instructor or student teacher) in a Catholic school or the Catholic Education Offices.

Where a person wishes to report an allegation of misconduct against a Principal of a Diocesan Catholic School, the report should be directed to the Diocesan Director of Catholic Education.

Where a person wishes to report an allegation of misconduct against a Principal of Another Catholic School, the report should be directed to the Principal's Employer.

Where a person wishes to report an allegation of misconduct against the Director, the report should be directed to the Director's employer. In the case of the Director of Catholic Education for the Archdiocese of Adelaide, the employer is the Archbishop of Adelaide. In the case of the Director of Catholic Education for the Diocese of Port Pirie, the employer is the Bishop of Port Pirie. The Director's employer is responsible for assessing and investigating the allegation(s) in accordance with the employer's procedures.

These guidelines are consistent with the Catholic Church's document Towards Healing which outlines procedures for dealing with allegations of abuse by Church personnel or complaints against former employees or volunteers (or other workplace participants) of schools.

3 Policy Supported

These procedures directly support, and should be read in conjunction with, the Code of Conduct for Staff employed in Catholic Education SA and other related policies.

4 Procedures

Please note that the person against whom an allegation is made is referred to in this document as the 'person subject of the allegation' (PSOA).

STEP 1 – Reporting Allegations

- 4.1 An allegation against staff or Others including a Deputy Principal should be reported to the Principal (or the Principal's delegate). In the event that the person making the report remains concerned regarding follow up, the allegation should be reported to a Principal Consultant at the Catholic Education Office (CEO) and/or Another Catholic School representative.
- 4.2 If the allegation is against the Principal of a Diocesan school, the allegation should be reported to the Diocesan Director or the Assistant Director – Leadership. If the allegation is about staff or Others in the Catholic Education Offices, the allegation should be reported to the Assistant Director – People and Culture.
- 4.3 If the allegation is against a Principal of Another Catholic School, the report should be directed to the Principal's Employer. The person making the report should contact the nominated person as detailed above and report the allegation.
- 4.4 Where the person making the report is a student and the student confides in a teacher or Others, the person receiving the report must convey the report to the Principal (or delegate) or Director or Assistant Director – Leadership (or in the case of Another Catholic school to the Principal's employer) as soon as possible.
- 4.5 Where the person making the report or confiding to Staff or Others is a student, the person receiving the report should inform the student that they have an obligation to notify the student's parent(s).

Please note: If the report involves a suspicion of child abuse, see step 2 of these procedures.

The Principal or Director or Assistant Director (or delegate) will:

- 4.6 Remain calm and non-judgmental.
- 4.7 Record the allegation if verbal.
- 4.8 Listen and use open-ended questions to seek information.
- 4.9 Assure the person making the report that the allegation will be taken seriously and assessed to determine the next steps.
- 4.10 Assure the person making the report that he or she will be provided with support and information about the progress of their report as appropriate.
- 4.11 Counsel the person making the report regarding confidentiality.
- 4.12 Inform the person making the report that it may be necessary to interview them at a later date.
- 4.13 Inform the person making the report of support and counselling services.

Also consider the person's safety and wellbeing. Where the person making the report is a student, inform the student that you have an obligation to notify the student's parent(s).

STEP 2 – Notification to Other Agencies (in cases of suspected child abuse)

Mandatory Notification

If a mandated notifier is informed that a child (a person under 18 years) is being or has been abused or otherwise suspects, on reasonable grounds that a child has been abused (physically, sexually, emotionally or psychologically), the mandated notifier must report the matter to Families SA at the earliest opportunity. It is not necessary to prove that abuse has occurred. If the mandated notifier is not sure whether reasonable grounds exist, he or she is encouraged to consult with Families SA for advice. All contact with Families SA is through the Child Abuse Report Line (CARL) on 131 478 or electronically through <http://www.families.sa.gov.au/pages/protectingchildren/ReportingChildAbuse/>

Other useful references on the CEO website and CESA Online (Catholic Education Intranet) include:

- [Protective Practices for Staff in their Interactions with Students](#)
- [Procedures for Dealing with Child Abuse](#)
- [SACCS Child Protection Policy](#)
- [Interview of students \(by Families SA or Police\)](#)

Notification to Police (SAPOL)

In serious matters, Families SA will refer abuse allegations to SAPOL. The Principal, Director or Assistant Director must also refer allegations of sexual or serious physical abuse to SAPOL on 131 444. If the matter is referred to the police, contact the CEO (and/or the relevant employer in the case of Another Catholic School) for further advice as soon as possible. If the police are involved, the school's investigation should not proceed without police consent. Specifically, the police should be asked whether the PSOA can be informed that an allegation has been reported against him or her. The Principal, Director or Assistant Director must not contravene police advice in this regard.

STEP 3 – Assessment

Intake

The Principal becomes aware of allegation(s); and

- 4.14 Determines, on a prima facie basis, whether a policy, direction or professional standard may have been breached and the seriousness of the alleged breach.
- 4.15 May obtain preliminary information from the person making the report as well as from other available information to assist with the determination in sub-clause 5.13 (above).
- 4.16 Contacts the Principal Consultant (and/or the relevant employer in the case of Another Catholic School) to discuss and seek advice regarding the legal, industrial, mandatory notification, pastoral care and media implications of the allegation.
- 4.17 Notifies CARL/SAPOL as appropriate.

Discernment

- 4.18 Joint assessment involving the Principal, Principal Consultant and, where appropriate, external legal adviser will take place to determine whether the allegations will be treated as Level One (see step 4 below) or Level Two (see step 6 below). Considerations include:

- staff member's previous disciplinary history in relation to this type of misconduct;
- context and nature of the conduct (actions, level of force, impact upon others, level of injury);
- legality;
- connection to employment;
- the likely consequence, if the allegation were to be wholly or partially sustained.

- 4.19 When investigation is deemed necessary go to the next step. If Level One, go to Step 4 and if Level Two, go to Step 6.

Level One matters encompass all serious misconduct allegations which may involve child protection issues, violence or the threat of violence, criminal matters and/or significant breach of duty of care. Such matters, if wholly or partially sustained, may lead to dismissal, final warning or a formal warning.

Level Two matters are less serious and encompass all other misconduct concerns or allegations where an investigation is deemed appropriate. Such matters, if wholly or partially sustained, are unlikely to lead to dismissal, final warning or a formal warning.

Please note: *During an investigation, information may arise which results in a Level Two matter being treated as a Level One matter.*

STEP 4 – Level One Investigation

Preparation

- 4.20 An investigation should be initiated and concluded as promptly as reasonably possible.

- 4.21 Where an investigation is initiated, an investigation panel is appointed by the relevant Director (and/or the relevant employer in the case of another Catholic School) and generally consists of the Principal and the Principal Consultant.

- 4.21.1 a risk assessment will be made including consideration of whether the PSOA should remain in their current position, be relocated, offered re-assignment of duties, be invited to take special leave or stood down with pay. Factors to be considered in making this decision include (reproduced with kind permission of NSW Ombudsman);

- the nature and seriousness of the allegation(s) particularly in the context of whether dismissal is a possible outcome if the allegation was to be sustained;
- vulnerability of the children and young people the employee would be in contact with at work and whether this could be alleviated through re-assigning duties or relocation of the PSOA;
- the nature of the position occupied by the PSOA and a consideration of the PSOA's health/well-being;
- the level of supervision available for the PSOA;
- the availability of support for the PSOA on a day to day basis if duties are unchanged;
- the PSOA's disciplinary history;
- the health/well-being of the person making the report or of the broader staff where they are significantly affected;

- advice from Families SA or SAPOL;
- other possible risks to the investigation or other compelling reasons.

Investigation

In conducting an investigation, the following document, where relevant, will be used as a guide:

'Investigating Complaints – A Manual for Investigators (NSW Ombudsman June 2004) (with kind permission) ref: <http://www.ombo.nsw.gov.au/>

Step 5 – Findings and Outcome

4.22 There are a number of possible findings following a Level One investigation:

- 4.22.1 the allegation was false (investigation found that the conduct did not occur);
- 4.22.2 the allegation was vexatious (investigation found that the allegation was made without substance and with the intent of being malicious or to cause distress to the PSOA);
- 4.22.3 the allegation was misconceived (investigation found that even though the allegation was made in good faith, it was based on a misunderstanding of what actually occurred);
- 4.22.4 the allegation was not sustained (investigation found that there was insufficient evidence to establish whether the alleged conduct did or did not occur);
- 4.22.5 the allegation was sustained (investigation found that the conduct did occur in whole or in part).

4.23 There are a number of possible outcomes for the PSOA following the findings:

- confirmation in writing that no action will be taken;
- verbal warning/counselling;
- formal warning/counselling;
- final warning/counselling;
- dismissal (for Diocesan schools, this requires permission from the Director. Other Catholic schools are advised to ensure that they have consulted with the relevant employer, where applicable).

Factors which may be taken into account in determining the type of outcome include:

- the nature and seriousness of the conduct;

- the PSOA's remorse and/or insight into the conduct;
- the impact of the conduct on others or on the organisation;
- previous disciplinary history;
- any mitigating factors;
- any extenuating factors.

STEP 6 - Level Two Investigations

Preparation

- 4.24 An investigation should be initiated and concluded as promptly as reasonably possible.
- 4.25 The Principal/Employer Representative decides whether they will conduct the investigation or delegate it to another senior member of staff.

Investigation

The Level Two Investigation process, where relevant, is guided by *'Investigating Complaints - A Manual for Investigators (NSW Ombudsman June 2004) (with kind permission)*. ref: <http://www.ombo.nsw.gov.au/>

- 4.26 The Principal verbally informs the PSOA of concerns or allegations and invites them to a meeting (PSOA can elect to be accompanied)
- 4.27 The Principal may decide to confirm the meeting arrangements in writing (email) unless a request from the PSOA to have the meeting immediately is agreed to.
- 4.28 At the meeting, details of the concerns or allegations are provided and the PSOA given an opportunity to respond, including the provision of any mitigating information.
- 4.29 The Principal assesses information received in the meeting and determines whether the matter can be concluded at that time, whether further investigations are required or whether the matter should be treated as Level One misconduct.
- 4.30 If the Principal determines that the matter can be concluded at that time, the meeting continues until the Principal has determined an appropriate outcome which may include:
- confirming that the matter is concluded without further action;
 - reminders / reinforcements of the school's expectations and directions have been made;
 - advice that similar future conduct may be treated as Level One misconduct;
 - support measures considered;

- referral to ACCESS Programs.

4.31 The Principal summarises the meeting in writing, provides this to the PSOA and files a copy in the PSOA's file. The PSOA is invited to respond in writing should their account of the meeting differ from the information provided.

STEP 7 – Other considerations

Subsequent to the resolution of any misconduct matter, there will be a range of matters requiring further consideration. These matters relate to the pastoral needs of any victims, the PSOA and the broader school community and also any legislative or public interest implications.

4.32 The Media

The Catholic Education Office authorised person will respond to media requests to Diocesan schools.

4.33 Dismissed workplace participants – finalization of financial entitlements

The Catholic Education Office will provide advice regarding financial entitlements and their processing.

4.34 Resignation

If the PSOA resigns before, during or following allegations of misconduct, the acceptance of a resignation should be in writing, signed and dated.

Normally the acceptance letter would make reference to the allegations and the facts as the employer understands them in relation to any investigation. The Catholic Education Office should be contacted for further advice.

4.35 Teacher Registration Board notification

If the PSOA is a registered teacher (or has Special Authority to Teach) and is dismissed or resigns following allegations of unprofessional conduct as defined in *Teachers Registration and Standards Act 2004*, the employer is obliged to report the teacher to the Teacher Registration Board within 7 days (section 37(1) of the Act). For further advice contact the Catholic Education Office.

4.36 Broader School Community

Consideration should be given to whether a statement should be distributed to the staff and to the parent community, or a section of the parent community following allegations of misconduct. This is particularly relevant in cases where there may be other victims who have not been identified. In addition, consideration should be given to whether it is appropriate to contact school communities in schools where the employee has worked in the past. The Catholic Education Office should be contacted for further advice. (*refer to Managing Allegations of Sexual Misconduct in SA Education and Care Settings*)

4.37 Other Education Authorities

Contact should be made with the Catholic Education Office with regard to whether other education authorities should be informed.

4.38 Feedback to Complainant

The complainant should be given feedback about the progress and/or completion of the investigation or other action as appropriate.

4.39 Counselling

Consideration should be given to continue counselling for the complainant, the complainant's family, the PSOA and the PSOA'S family.

4.40 Storage of Documentation

All of the documentation relating to the allegation should be stored securely in a confidential file. Confidential and sensitive files must have secure archival protection and must only be opened by authorised persons. The files should be stored indefinitely and not destroyed.

5 Definitions

Key elements of the position of the Commission will be articulated clearly in this section. Dot points will be used where there a number of key points to our policy position. These points will be explicated and operationalised in a Procedure or other supporting document.

Key terms will be defined where necessary to convey how they are being used by the Commission.

5.1 Definitions of Dealing with Allegations of Misconduct

Another Catholic School means a Catholic school owned and governed by an authority other than the Archdiocese of Adelaide and the Diocese of Port Pirie.

Misconduct may be defined as conduct which is wrong, improper or unlawful. The types of conduct are not fixed; misconduct can take many forms. Misconduct may range from sexual, physical, psychological or emotional abuse to theft, abuse, assault or other types of improper or unprofessional conduct.

Others includes children and young people, contractors, volunteers, members of the School community or people outside of the School community.

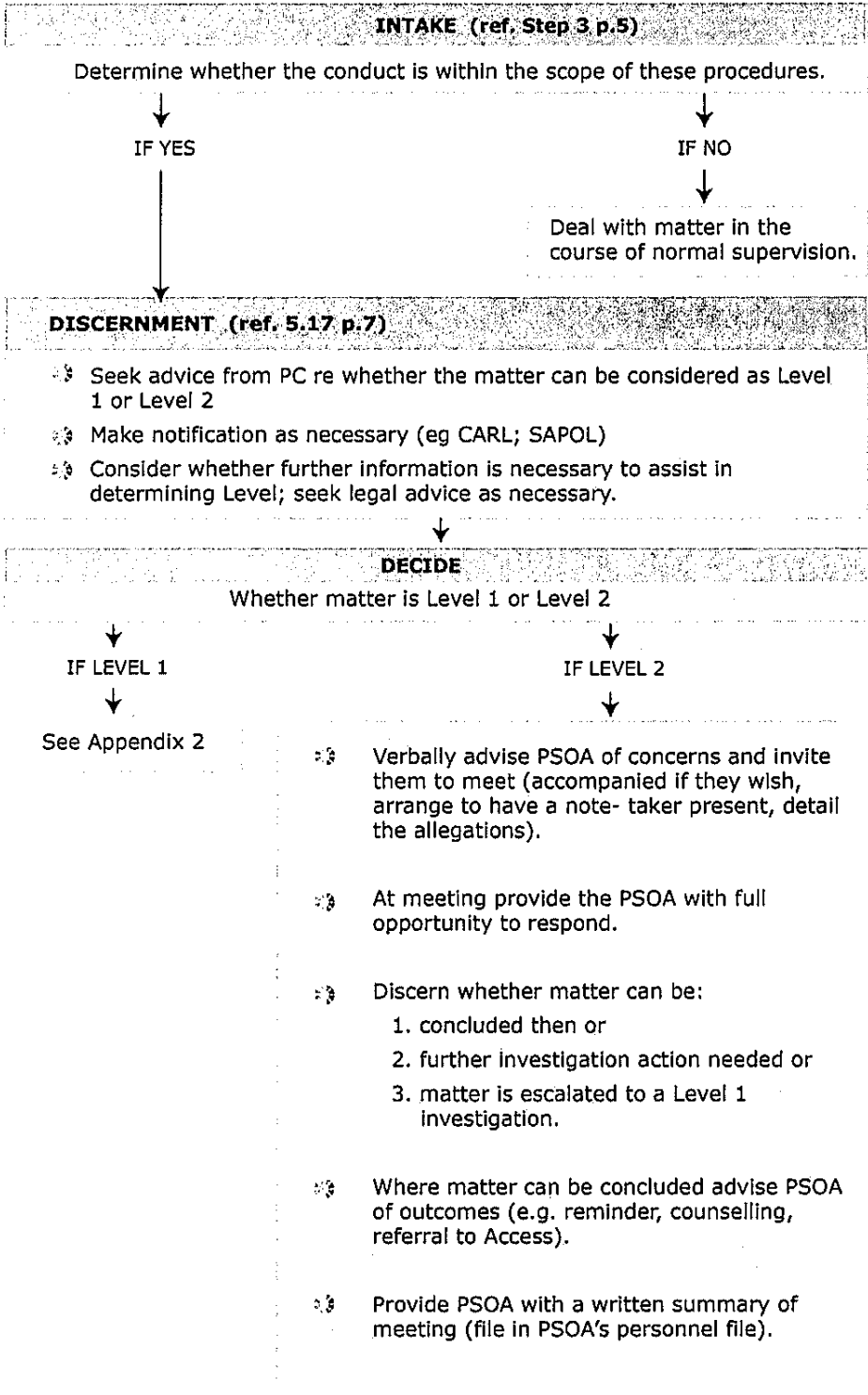
PSOA (*person subject to the allegations*) means the person against whom an allegation is made.

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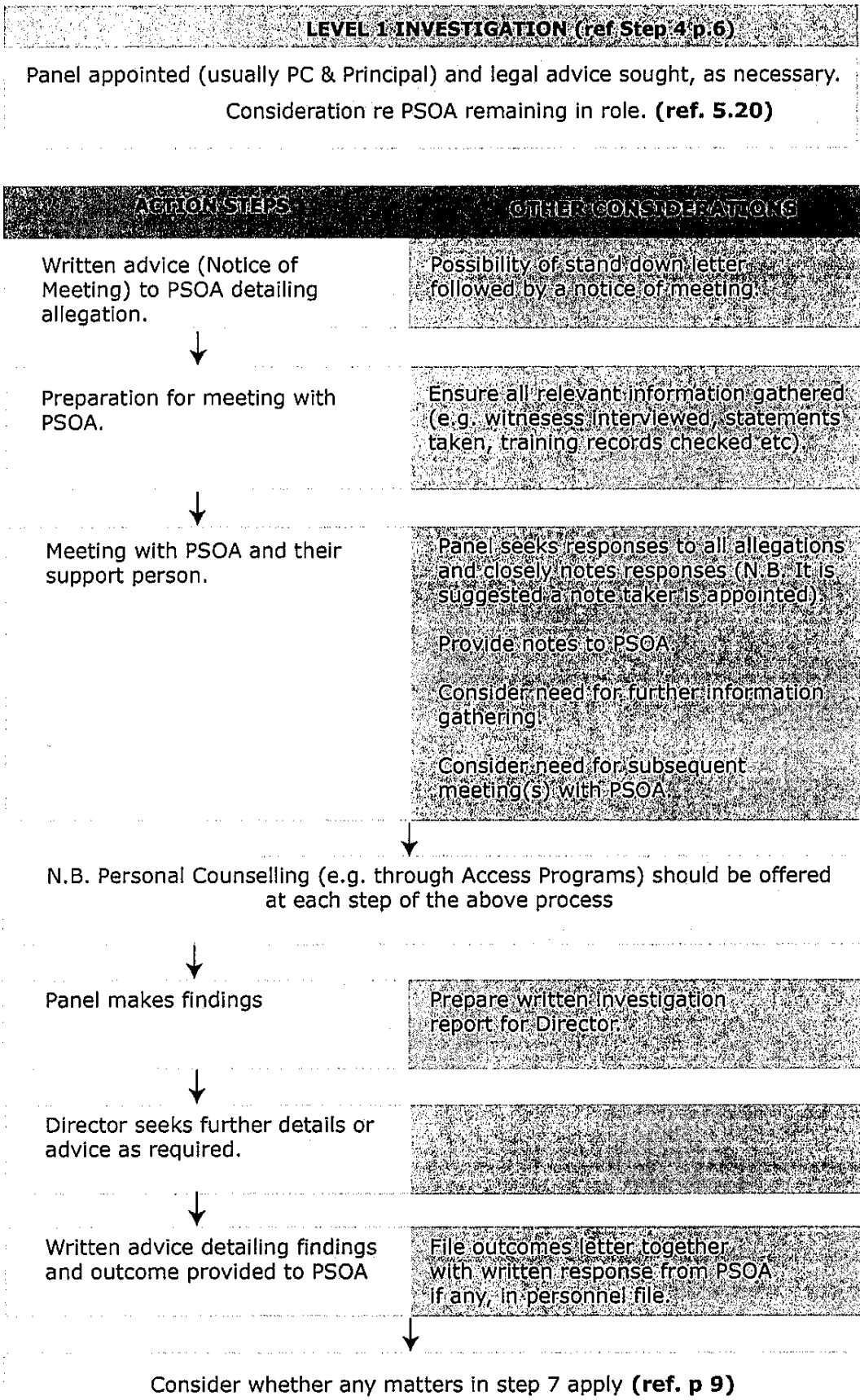
6 Revision Record

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APPENDIX 1: INVESTIGATION FLOWCHART



APPENDIX 2: LEVEL 1 INVESTIGATION



APPENDIX 3: CHECKLIST FOR PRINCIPALS

1. Have details of the allegation(s) been recorded?	Yes/No	Record PSOA's name, nature of the incident or concern, when occurred, where occurred, any other circumstances, any other person involved, any witnesses – Refer to Step 1 Reporting Allegations
2. Has the Principal Consultant in the Catholic Education Office been notified and advice sought regarding how to proceed? In the case of Congregation schools has the relevant authority been notified?	Yes/No	Refer to Step 1 Reporting Allegations
<ul style="list-style-type: none"> ▪ 3. Has the person making the report been informed: <ul style="list-style-type: none"> • that the allegation will be assessed and investigated if appropriate? • that he or she will receive feedback about the allegation? • of confidentiality considerations? • it may be necessary to interview further at a later date? • of support and counselling services? ▪ 3a is the person making the report safe? ▪ 3b if the person making the report is a student, has the parent been informed? 	Yes/No	Refer to Step 1 Reporting Allegations
4. Is this a case of suspected child abuse and/or have other agencies been notified as appropriate?	Yes/No	Refer to Step 2 Notification to Other Agencies Note: All reasonable suspicions must be reported to Families SA on 131 478 Note: Ask Families SA whether it intends to refer the matter to the police. If yes, contact the Catholic Education Office for advice. If police are involved, do not inform PSOA of allegations

		without police clearance. Note: It is imperative to adhere to all police and Families SA advice.
5. Has a decision been made about what action will be taken in response to the allegation?	Yes/No	Refer to Step 3 Assessment Is the alleged conduct encompassed by these procedures? If yes, will it be dealt with as a Level One or Level Two investigation? Should the PSOA be released from duties?
6. Other matters for consideration <ul style="list-style-type: none"> • Has counselling been offered where appropriate? • Ensure all media enquiries are referred to the Catholic Education Office (or relevant Congregation authority)? • How will confidentiality be maintained as appropriate? • How will documents be stored indefinitely, safely and confidentially? • Should this matter be communicated to staff and/or the broader school community? • How will the complainant receive feedback? • Is there a need to remind a teacher of their obligation to report relevant conduct to the Teachers Registration Board? 	Yes/No	Refer to Step 7 Other Considerations