

PROFESSIONAL STANDARDS UNIFORM ACT 2016 (MELB)

CORE STANDARDS

A. *Wide coverage of persons*

1. The Church Professional Standards legislation or rules should cover -
 - All clergy and lay office holders and volunteers, all of whom are referred to as **Church workers**;
 - Deceased Church workers

[sch 1] Unless otherwise indicated, such a reference is to the Act.

2. Each Diocesan Bishop should be accountable under separate Church Episcopal Standards legislation or rules.
 - Duty to report harm or likely harm to the Director of Professional Standards (DPS)

Episcopal Standards Act 2015 (Melb), [s8]

3. The misconduct that is subject to the process should be at least child sexual abuse and 'process failure', meaning the failure to deal with a report or knowledge of an incident of the same. Definition of misconduct [s5].

B. *Universal adoption within the Institution of Codes of Conduct and legislation or rules*

4. Each diocese and religious institution should adopt uniform model codes of conduct for its Church workers that address child safety.
5. Each diocese and religious body within the overall institution should adopt uniform model governing Church legislation or rules, allowing for modifications that are not inconsistent with the core standards.

C. *Clear duties on Church workers*

6. Clergy and other Church workers including volunteers should be subject to specified duties-
 - Duty to be familiar with the code of conduct
 - Duty to report harm or likely harm to the Director of Professional Standards (DPS)

- Duty to report charges to the DPS
- Duty to co-operate in relation to a complaint made against them

[Ch 2].

D. *An independent Scheme Corporation to manage the process*

7. Each diocese and religious institution should appoint the independent Scheme Corporation, whose functions, through its Office of Professional Standards, will be –
- (a) to administer the complaints regime and refer issues of fitness to the adjudicating Board;
- The Scheme Corporation directors to appoint the DPS, the Executive Director, the Committee, the Board and Review Board, and the Ombudsman.
- (b) to administer the clearance regime referred to below and refer issues of fitness to the adjudicating Board;
- (c) to administer any applicable Church redress scheme under specified Terms of Reference.
- The Scheme Corporation directors to appoint the comparable office holders for the Redress Scheme.
- [Part 7.2]
8. All Complaints should go to the independent Professional Standards Committee (PSC) constituted by the directors of the Scheme Corporation. Participating Dioceses in the same region should share the same PSC.
- The complainant needs to give formal consent to the complaint being dealt with under the Church legislation or rules.
- [Part 3.1]
9. The Scheme should allow for summary determination by the PSC of certain classes of complaints, such as those frivolous and vexatious.
- The PSC to give reasons to a complainant for any dismissal of a complaint.
- [Part 3.2]
10. There should be provisions facilitating investigations. [Part 3.3]

E. Provisions for suspension

11. There should be a process for suspension of a Church worker if, pending final determination of a complaint, there is an unacceptable risk of harm to any person. [Part 3.5]

F. A clearance for ministry and for service regime

12. There should be a legislated regime for a clearance for ministry to be obtained by clergy and authorized lay ministers
- the clearance process should be managed exclusively by the Office of Professional Standards and the independent Professional Standards Board and Review Board;
 - Licensing or appointment by the Diocesan Bishop should be a separate function and would continue;
 - The Church legislation or rules should prohibit a person engaging in ministry without the clearance.
- [Part 4.1]

13. Likewise there should be a legislative regime requiring clearance for service to be obtained by certain prescribed lay office holders and volunteers –
- the clearance process should be managed exclusively by the Office of Professional Standards and the independent Professional Standards Board and Review Board.
 - Licensing or appointment by the Church authority (such as the Rector or Vicar) should be a separate function and would continue
 - The Church legislation or rules should prohibit a person engaging in service if they have been denied a clearance.
- [Part 4.2]

G. Independent and transparent adjudication of fitness issues

14. The Professional Standards Board should adjudicate on allegations of misconduct and any resulting questions of fitness for office or clearances which must be referred to the Board by the PSC
- The PSC should give notice of the referral to the complainant and the respondent
 - Board can recommend a range of outcomes relating to the Church worker
 - Board can direct issue or refusal of clearance for ministry or service

[Part 5.3]

15. The process should give the respondent and the PSC an opportunity for review by the Review Board. [Part 5.4]

16. There should be provisions governing the proceedings of the Board and Review Board

- Limited opportunity for cross examination [s98(3)]
- The level of proof should be on the balance of probabilities, but applying the Briginshaw test when appropriate. [s84]
- Requirement to give reasons and accord procedural fairness
- Private hearing with discretion for public hearing [s99]
- Reliance on decisions of a court or other body [s105]
- Board and Review Board should be required to give a copy of their determination and recommendations to specified persons including the complainant and the respondent. [s118]
- Board and Review Board should be required to release to the public an anonymised version. [s118]

[Part 5.5]

H. *Duty on the Church authority to give effect to the recommendations of the Board by a transparent process*

17. The Church authority (eg. Diocesan Bishop or Vicar or Rector) should be under a duty to give effect to the recommendation of the Board or Review Board or any modification consistent with the facts found and the substance of the recommendations.

[s119]

- The Church authority should be required to give notice of their decision to specified persons including the complainant and the respondent. [ss 46, 120]
- The Church authority should be required to release to the public an anonymised version of their decision. [ss 46, 120]

18. The Church authority for the purpose of the process should be the office holders charged with the appointment of the relevant Church workers-

- The Archbishop for clergy
- The Vicar or Rector or Priest in Charge for lay Church workers in parishes
- The Diocesan Corporation generally as to any systemic changes recommended.

[Part 7.9]

I. Joint register of information

19. The Scheme Corporation should be required to maintain a joint register of all data of participating dioceses in the Church.
- The joint register must be accessible for inspection by, and relevant information may be disclosed to the office holders and authorised staff in the Office of Professional Standards in respect of each participating diocese [Part 8.1]
 - Provisions authorizing disclosure of information to other non participating dioceses and to the Bishop to the Defence Force [Part 8.2]
20. The Scheme Corporation and its office holders and members of the Professional Standards Board and Review Board should be indemnified under the applicable legislation by each participating diocese in respect of their matters. [Part 8.3]

J. Independent oversight of the process

21. The Scheme should include a process for any grievance over procedure overseen by the Professional Standards Ombudsman. [Part 8.4]
22. The Church legislation or rules should require a biennial audit of the Scheme to be commissioned by the Scheme Directors [Part 8.5]

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