

Information for respondents to a complaint

March 2019

Introduction

1. Church workers (including clergy) and lay people with a position of authority within the Church are expected to maintain high ethical standards and to meet the standards prescribed in diocesan codes of conduct in carrying out their duties. Unfortunately, sometimes these standards are not always upheld.
2. The Professional Standards Uniform Act 2016 (the Act) for each participating diocese is Church legislation which sets out how complaints of misconduct against Church workers are managed.
3. The Complaints Protocol made under the Act explains in more detail how Kooyoora Office of Professional Standards and the Church responds to complaints.
4. The person who makes a complaint is referred to as 'the complainant'. The person about whom a complaint is made is referred to as 'the respondent'. The 'Church authority' for clergy and authorized lay ministers is the Archbishop in the case of the Diocese of Melbourne and for other dioceses, the Bishop of the Diocese. The 'Church authority' for other Church workers is prescribed in s173 of the Act.
5. The Director and Deputy Director of Professional Standards (the Director) who is employed by Kooyoora Ltd is responsible for making sure any complaint is handled in accordance with the Act. The Director may appoint a Carer to help you in your capacity as complainant. The Director may also as circumstances require appoint a Professional Support person to help you, such as a psychologist or counsellor. The Director will explain to you what happens and the roles of the people involved. The Protocol gives more details.
6. This Information Sheet provides a step-by-step guide about the process of making a complaint. If there is any inconsistency in the information you are given in this sheet and the Act and the Protocol, the Act and Protocol take precedence.

Summary of the process to deal with complaints

7. All complaints about Church workers are made to the Professional Standards Committee (the Committee) through the Director and Deputy Director: s21 of the Act.
8. It is the responsibility of the Director and Deputy Director to manage the complaints process. References to sections below are to the Act.
9. Before a complaint can proceed under the Act, the complainant is asked to consent in writing in the prescribed form to the complaint being handled in accordance with the Act: s22.

KOOYOORA LTD

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'Kooyoora' means 'Mountain of Light' in the Djadja Wurrung language of Central Victoria

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10. If the complainant has given that written consent, the Director will provide a copy of the complaint to you as the respondent and will expect a written response within 3 weeks (or such longer period as the Director may allow in writing): Protocol [8.9].
11. The Committee will consider the matter and may without investigation dismiss the complaint without referral or take no action on the complaint: s27. If it does that, the Committee must give the complainant and you as the respondent written notice of the outcome including the reasons for the outcome: s28.
12. Otherwise the matter will be investigated with the authority of the Committee. If the complaint is of a kind that is amenable to alternative dispute resolution such as conciliation or mediation, the Committee will consider that option.
13. If the Committee believes that your conduct, if established, would call into question your fitness to hold a particular or any role office or position in the Church either unconditionally or subject to any condition, it must refer the matter to the Professional Standards Board for determination: s69.
14. The Committee must give the complainant and you as the respondent a copy of the written report in support of the referral: s72. The complainant is not a party to the proceeding and has no right to appear unless leave is granted (s98) but they are entitled to attend any hearing of the complaint: s99(1). Both you and the complainant will be advised of the determination of the Board: s118(1).
15. The Committee has the carriage of the matter before the Board: s73. The Board must determine whether the complaint is made out and the question of your fitness and may make recommendations as to what action should be taken by the Church authority: ss76 – 79.
16. The Secretary to the Board will advise you and the complainant of the determination and recommendations of the Board: s118.
17. If a recommendation is made in respect of you as respondent and either you or the Committee is aggrieved, either may within 30 days apply for a review of the decision by the Review Board: s89 of the Act.
18. The Director will give the complainant notice of any application by you or the PSC to the Review Board for review of a decision: Protocol, [16.4]. The complainant will be invited to communicate any comments they wish to make to the Director. The complainant is not a party to the proceeding: s98(2) of the Act but you and the complainant will be advised of the determination of the Review Board: s118(1).
19. The recommendation of the Board or, if there is a review, the Review Board, then goes to the Church authority.
20. On receiving a recommendation from the Board or the Review Board, the Church authority must give effect to the recommendation or any variation or modification that is consistent with the facts found and the substance of the determination: s119. The Church authority must send the complainant and you—
 - (a) their decision on any recommendation received in respect of a complaint;
 - (b) the steps to be taken or that have been taken to give effect to it; and
 - (c) the reasons for any variation or modification of a recommendation under s199: s120(1) of the Act.