

GUIDELINES
FOR DEALING WITH CASES OF SEXUAL
ABUSE
(Adapted from the Australian 2010 guidelines)



CEPAC
Episcopal Conference of the Pacific
2012

CEPAC

GUIDELINES

**FOR DEALING WITH CASES OF SEXUAL
ABUSE**

(Adapted from the Australian 2010 guidelines)

Approved by
CEPAC Permanent Council
15 March 2012

Contents

Part One: DEFINITIONS.....	4
Part Two: PRINCIPLES FOR DEALING WITH COMPLAINTS OF ABUSE.....	7
Sexual Abuse.....	7
Physical and Emotional Abuse.....	8
The Victims.....	8
The Offenders	9
The Response of the Church	9
Truth.....	9
Humility	10
Healing for the Victims	10
Assistance to Other Persons Affected	11
A Response to Those Accused.....	12
A Response to Those Guilty of Abuse.....	12
Prevention	13
Commitment.....	13
Part Three: PROCEDURES FOR DEALING WITH COMPLAINTS OF ABUSE	14
Notes	14
Structures and Personnel.....	15
Receiving a Complaint	18
Criminal Offences and the Reporting of Child Abuse.....	20
Responding to a Complaint.....	22
Selecting the Appropriate Process.....	26
Assessment	27
Outcomes Relating to the Victim	31
Outcomes Relating to the Accused.....	34
Outcomes Relating to Other Affected People and Communities.....	35
Review of Process and Findings	35
Preventative Strategies.....	38

Part One: DEFINITIONS.

'Abuse' means:

- Sexual assault, sexual harassment or any other conduct of a sexual nature that is inconsistent with the integrity of the relationship between Church personnel and those who are in their pastoral care.
- Intentional acts by a person with responsibility for a child or young person causing significant physical injury, or other behaviour which causes serious physical pain or mental anguish without any legitimate disciplinary purpose as judged by the standards of the time when the behaviour occurred.

'Accused' means:

- the person against whom a complaint of abuse is made.

'Assessor' means:

- a person appointed to investigate a complaint of abuse.

'Children and young people' refers to:

- those persons under the age of 18.

'Church Authority' includes:

- a bishop, a leader of a religious institute and the senior administrative authority of an autonomous lay organisation, and their authorised delegates, responsible for the Church body to which the accused person is or was connected at the time of the alleged abuse.

'Church body' includes:

- a diocese, religious institute and any other juridical person, body corporate, organisation or association, including autonomous lay organisation, that exercises pastoral ministry within, or on behalf of, the Catholic Church.

'Church personnel' includes:

- any cleric, member of a religious institute or other persons who are employed by the Church body, or appointed by a Church body to voluntary positions in which they work with children or young people, or engage in other forms of pastoral care.

‘Church procedure’ means:

- an assessment process under Clause 40 of these procedures, a disciplinary process in relation to a person who is employed by a Church body, or a penal process under canon law.

‘Civil authorities’ include:

- members of the police service as well as officials of the government departments responsible for child protection, for the administration of laws relating to complaints of sexual harassment, for the discipline of professions and for industrial relations.

‘Complainant’ means:

- the person who has alleged abuse against Church personnel. In most, but not all, cases the complainant will also be the person against whom it is alleged that the abuse was directed, and this is to be understood in this document unless the context suggests otherwise.

‘Inappropriate care practices’ in schools and children’s homes include:

- allegations of harsh or inappropriate disciplinary practices, bullying and deficiencies in providing care such as in the provision of food, clothing or medical attention, as judged by the standards of the time.

‘Offender’ means:

- a person who has admitted abuse or whose responsibility for abuse has been determined by a court of law or Church procedure.

‘Pastoral care’ means:

- the work involved or the situation which exists when one person has responsibility for the wellbeing of another or for a faith community of which the complainant is, or was, a part. It includes the provision of

spiritual advice and support, education, counselling, medical care, and assistance in times of need. All work involving the supervision or education of children and young people is a work of pastoral care.

'Pastoral relationship' is:

- a relationship involving pastoral care.

'Professional standards' are:

- the qualities essential for the ethical and safe practice of pastoral ministry.

'Professional Standards Resource Group' is:

- a group established to advise the Director of Professional Standards responsible for a given State or Territory, and the Church Authority as well.

'Religious' means:

- a member of an institute of consecrated life or a society of apostolic life.

'Religious institute' means:

- an institute of consecrated life or a society of apostolic life.

'Reparation' may take the form of:

- a monetary sum or some form of in-kind assistance that is directed to the provision of practical means of support in order to promote healing for the victim. It is provided by the Church Authority as a means of recognising the harm suffered by a victim of a criminal offence or civil wrong, and as a tangible expression of the Church Authority's regret that such abuse occurred. Reparation may be offered independently of whether the Church Authority is legally liable.

'Victim' means:

- the person against whom the abuse was directed.

‘Vulnerable person’ or ‘vulnerable adult’ means:

- a person who has recently suffered bereavement, marriage breakdown or other such adversity making them in particular need of pastoral support, or a person with an intellectual disability, mental illness or other impairment that makes it difficult for that person to protect themselves from abuse or exploitation.

Part Two: PRINCIPLES FOR DEALING WITH COMPLAINTS OF ABUSE

SEXUAL ABUSE

1. Clergy and religious are in a special position of trust and authority in relation to those who are in their pastoral care, for example, those in their parish, people seeking advice, or students at a Catholic school. Any attempt to sexualise a pastoral relationship is a breach of trust, an abuse of authority and professional misconduct. Such sexualisation may take the form not only of sexual relations, but also harassment, molestation, and any other conduct of a sexual nature which is inconsistent with the integrity of a pastoral relationship. Compliance by the other person does not necessarily imply meaningful consent. Even when the other person concerned is the one who seeks to sexualise the relationship, it is the professional responsibility of clergy or religious to guard the boundary against sexual contact.
2. Other people who are employed by an official agency of the Catholic Church or appointed to voluntary positions may also be in a pastoral role. This includes, for example, pastoral workers in parishes, teachers in Catholic schools, counsellors in Catholic welfare organisations, health care professionals, youth workers, staff in child care centres, and volunteers conducting religious education classes in schools or parishes. Any attempt to sexualise a pastoral relationship is professional misconduct.

3. Any form of sexual behaviour with a child or young person, is always sexual abuse. It is both immoral and criminal.

If a cleric admits to having sexually abused a minor (under the age of 18), or if an accusation is considered credible, the case must be referred to the Congregation of Doctrine for Faith

4. Sexual abuse by clergy, religious, or other Church personnel of adults in their pastoral care may be subject to provisions of civil or criminal law. Even when there are no grounds for legal action, we recognise that serious harm can be caused, including damage to a person's faith and trust in God.

PHYSICAL AND EMOTIONAL ABUSE

5. Physical and emotional cruelty also constitute an abuse of power. Where a cleric, religious or another person appointed to a position of pastoral care by an agency of the Church has acted towards a child or young person in a way which causes serious physical pain or mental anguish without any legitimate disciplinary purpose, as judged by the standards of the time when the incidents occurred, then this constitutes abuse.

THE VICTIMS

6. Victims of abuse can experience fear, shame, confusion and the violation of their person. They can feel guilty, blame themselves and take responsibility for what has happened. Children and young people can suffer distortions in the process of determining their identity as persons. They may find it difficult to trust those in positions of authority or pastoral care or to believe in or trust in God. Victims can go through a long period of silence, denial and repression. Other people can refuse to believe them, eroding their trust in others and in themselves.

7. The intensity of the effects of abuse on victims will vary. Some of the factors involved are the age and personality of the victim, the relationship with the offender, the duration and frequency of the abuse,

the particular form of the abuse, the degree of coercion used, the threats used to compel secrecy, the violation of trust and abuse of power involved and the reaction of those in whom the victim confides.

8. We recognise that responses to victims by the many Church Authorities vary greatly. We express regret and sorrow for the hurt caused whenever the response denies or minimises the pain that victims have experienced. Through this document we commit ourselves to principles and procedures that apply to all Church Authorities.

THE OFFENDERS

9. When abuse occurs, free choices are made by the offender and many serious and sacred obligations are violated. These very facts argue to a clear awareness by the offender of the wrong that is being done.

10. Offenders frequently present as respectable, good and caring people. They can be quite exemplary in their public life, while at the same time living a private life that contradicts their public image.

11. At the same time, a number of offenders are disturbed persons and some have serious psychological problems. A significant number were themselves victims of abuse in their earlier years.

THE RESPONSE OF THE CHURCH

12. The Church makes a firm commitment to strive for seven things in particular: truth, humility, healing for the victims, assistance to other persons affected, a just response to those who are accused, an effective response to those who are guilty of abuse and prevention of abuse.

TRUTH

13. The Church makes a commitment to seek to know and understand the full extent of the problem of abuse and the causes of such behaviour within a community that professes the values of Jesus Christ. It also

seeks to know the truth, so far as possible, about individual allegations of abuse.

14. Concealing the truth is unjust to victims, a disservice to accused people and damaging to the whole Church community.

HUMILITY

15. It is very humbling for a Christian Church to have to acknowledge that some of its clergy, religious and other Church personnel have committed abuse. We recognise that humility is essential if we are to care for victims and prevent abuse in the future.

HEALING FOR THE VICTIMS

16. Whenever the offender is a cleric, religious or another person appointed to a position of pastoral care by an agency of the Church, Church Authorities accept that they have a responsibility to seek to bring healing to those who have been victims of abuse.

17. A sensitive and compassionate response to the complainant must be the first priority in all cases of abuse.

18. This attitude must be present even at a time when it is not yet certain that the allegations are accurate. At the first interview complainants should be assured that, if the circumstances are truly as stated, abuse must be named for what it is and victims assisted to move the blame from themselves to the offender. Victims should be asked what needs to be done to ensure that they feel safe from further abuse. They should be offered whatever assistance is appropriate. These responses do not pass judgment on or prejudice the rights of the person accused, but they are part of the Christian response to the very possibility that the person present is a victim of abuse.

19. Whenever it is established, either by admission or by proof, that abuse did in fact take place, the Church Authority shall listen to victims

concerning their needs and ensure they are given such assistance as is demanded by justice and compassion.

Details concerning the procedures to be followed are contained in Part Three of this document.

ASSISTANCE TO OTHER PERSONS AFFECTED

20. We shall also strive to assist in the psychological and spiritual healing of those persons who, as well as the victims, have been seriously affected by incidents of abuse.

21. The effect on the family of the victim can be profound. Sometimes disclosure results in the rejection of the victim by the family. Parents can feel guilty that they did not protect their child more effectively.

22. The parish, school or other community in which the abuse occurred may be deeply affected. The more popular and respected the perpetrator, the greater will be the shock, grief and sense of betrayal.

23. The family and close friends of the offender may also be deeply hurt. They can find it difficult to know how to respond and how to act towards the offender.

24. When clergy or religious are found to have committed child abuse, then other clergy and religious are affected, and the thought that other people might perceive them to be potential child abusers can be a cause of personal stress. Clergy and religious have had to make changes in their manner of relating to all young people and some good things have been lost as a result.

25. The whole Church community has been affected by incidents of abuse, for all Catholic people have been dismayed by the stories they have heard. The reputation of the whole Church has been affected and the religious faith of many has been disturbed.

A RESPONSE TO THOSE ACCUSED

26. All persons are presumed innocent unless and until guilt is either admitted or determined in accordance with the requirements of the law governing their position. Proper consideration should be given to the importance of confidentiality in the handling of the complaint, particularly prior to the conclusion of an assessment. If Church personnel accused of abuse are asked to step aside from the office they hold while the matter is pending, it is to be clearly understood that they are on leave and that no admissions or guilt are implied by this fact. Every effort should be made to conclude inquiries as quickly as possible in relation to a person who has been asked to step aside from a position. Unless and until guilt has been admitted or proved, those accused should not be referred to as offenders or in any way treated as offenders.

A RESPONSE TO THOSE GUILTY OF ABUSE

27. If guilt has been admitted or proved, the response must be appropriate to the gravity of what has happened, while being consistent with the civil law or canon law which governs that person's position. Account will be taken of how serious was the violation of the integrity of the pastoral relationship and whether there is a likelihood that such behaviour could be repeated. Serious offenders, in particular those who have been found responsible for sexually abusing a child or young person, or whose record of abuse of adult pastoral relationships indicates that they could well engage in further sexual exploitation of vulnerable adults, will not be given back the power they have abused. Those who have made the best response to treatment recognise this themselves and realise that they can no longer return to ministry.

28. We accept that the Church and the community expect of us a serious and ongoing role in seeking to ensure that offenders are held accountable for what they have done, come to a true appreciation of the enduring harm they have caused, seek professional help, and do whatever is in their power to make amends.

29. In order to carry out this responsibility, Church Authorities need to have some contact with offenders and some form of influence over their conduct. In order to achieve change, they need to be able to tell them that there can be forgiveness, by human beings as well as by God, and that change is possible.

PREVENTION

30. We commit ourselves to making every effort to reduce risk of abuse by Church personnel through education and the implementation of appropriate codes of conduct. Special care shall be taken in relation to all who work with children and young people. No person shall be permitted to work in a position if the Church Authority believes, on the basis of all the information available, that there is an unacceptable risk that children or young people may be abused.

31. We continue to review the processes for selection and training of candidates for clerical and religious life and for their ongoing formation. Procedures for those employed in Church ministry will include police checks, verified references from previous employers and induction processes. No-one should be selected for clerical or religious life if, on all the information available, they would pose an unacceptable risk to children, young people or vulnerable persons.

32. We commit ourselves to the education of Church personnel on the seriousness of abuse and its adverse effects, and to a program of community education and awareness in recognising and responding to abuse.

COMMITMENT

33. We commit ourselves to the principles presented in this document. We invite the whole Church to assist us in offering whatever healing is possible to victims of abuse and in preventing abuse in the future.

Part Three: PROCEDURES FOR DEALING WITH COMPLAINTS OF ABUSE

NOTES

34.1 This section of the document deals with the procedures to be applied where complainants (or others speaking on their behalf) seek a response from the Church as a result of alleged abuse by present or former Church personnel. It is to be implemented in the context of the previous sections on principles.

34.2 Information to make people aware that these procedures exist shall be widely circulated to the public and especially among Church counselling agencies, parishes and schools. The information shall set out as simply as possible the manner for making a complaint about abuse.

34.3 These procedures are a revised version of the document published by the Australian Catholic Bishops Conference and the Australian Conference of Leaders of Religious Institutes in 1996 and revised in 2000, adapted to fit the structures needed in the jurisdictions of CEPAC, keeping in mind the smallness of some of these jurisdictions, and the distances involved.

34.4 These procedures are intended to apply to all complaints of abuse by Church personnel within pastoral relationships, whether by clerics, religious personnel, lay employees or volunteers. In the case of current lay employees, the response of the Church Authority will be made in conjunction with the relevant body for employment relations in each State or Territory, or such other body as is set up for this purpose.

34.5 A complaint of abuse may raise medical, psychological, spiritual, legal and practical questions. An appropriate response may, therefore, need to be based on a team approach, subject to appropriate recognition of the needs for privacy and confidentiality.

34.6 In certain countries within CEPAC, Church Authorities are subject to laws concerning how to deal with complaints of abuse that may affect the operation of the procedures in this document. The procedures in this document must operate subject to the requirements of any such laws.

STRUCTURES AND PERSONNEL

35.1 Because of the diverse nature of countries in the CEPAC area, and the great distances both between counties and within those countries, each diocese must be responsible for overseeing the development of policy, principles and procedures in responding to complaints of abuse against Church personnel.

35.2 The bishops and leaders of religious institutes of the Catholic Church in the CEPAC area will establish and shall maintain a Professional Standards Resource Group (Resource Group) in each diocese. Smaller dioceses, missions sui iuris, and the prefecture apostolic may need to use the services of the Resource Group in their respective metropolitan sees if they cannot find the personnel to staff their own Resource Group. This should be done with the agreement of their metropolitan.

35.2.1 The Resource Group shall consist of at least one priest or religious and a suitable number of other persons (no more than ten), both men and women, of diverse backgrounds and faith traditions, skilled in areas such as child protection, the social sciences, civil and Church law and industrial relations. Members of the Resource Group shall be appointed by the bishop and leaders of religious institutes.

35.2.2 The Resource Group shall have an advisory role in matters concerning professional standards to all Church bodies in their diocese, or metropolitan province for those smaller jurisdictions that do not have their own Resource Group.

35.2.3 In addition to responding to requests for assistance, the Resource Group shall also act in a proactive manner. It shall be free to offer advice within its mandate to any Church body in the diocese.

35.3 The bishop and leaders of religious institutes shall jointly be responsible for appointing a Director of Professional Standards responsible for each diocese.

35.3.1 The Director shall manage the process in relation to specific complaints, appoint assessors and facilitators when required, convene and chair meetings of the Professional Standards Resource Group as required; liaise with other Resource Groups, and individual Church bodies and their professional advisers; have an overview of all matters dealt with under these procedures within the Director's responsibilities; and be responsible for the safe-keeping of all documentation connected with these procedures.

35.3.2 If a complaint of abuse is made against a bishop, the Church Authority for a suffragan, auxiliary or retired bishop shall be the Metropolitan; for the Metropolitan himself it shall be the suffragan bishop senior by promotion.

If a complaint of abuse is made against a leader of a religious institute the Church Authority is determined to be:

a) The diocesan bishop of the principal house (cf canon 595) for a major superior of an Institute of diocesan right;

or

b) The supreme moderator for a major superior of an institute of pontifical right; or

c) The Congregation for Institutes of Consecrated Life and Societies of Apostolic Life (CICLSAL) for the supreme moderator of an institute of pontifical right.

The general principle applies in all cases that the "supreme moderator" of any ecclesiastical group is subject to the authority of an appropriate ecclesiastical superior, although the latter may delegate that authority to another person.

35.3. 3 The Director shall also be responsible for ensuring that the complainant, and the accused if he or she participates in the process, are kept informed of progress in investigating and addressing the complaint, and the reasons for any substantial delay in the process.

35.3.4 The Director shall also be responsible for drawing to the attention of the Church Authority where any inactivity on the Church Authority's part is leading to undue delay.

35.3.5 The bishops and leaders of religious institutes may nominate a Deputy Director who may exercise any of the responsibilities which are delegated to him or her by the Director.

35.4 Each Resource Group shall appoint suitable persons from among its own members or otherwise, as contact persons to receive complaints of abuse. Contact persons shall be skilled listeners, sensitive to the needs of complainants. After the initial complaint has been received, they may act as a support person for the complainant if the complainant so wishes, and assist, where appropriate, with communication between the complainant, assessors and the Church Authority. He or she should be available to the complainant from the beginning to the end of the process. The contact person is not a counsellor to the complainant and shall not be the complainant's therapist.

35.5 Each Resource Group shall maintain a list of suitable persons, not from its own members, to fulfil the following roles:

Assessors: who shall be responsible for investigating the complaint, examining the areas of dispute and advising the Director of their findings.

Facilitators: who shall facilitate a meeting between the victim and the Church Authority and endeavour to mediate an agreement between a victim and the Church Authority about what the Church body can and should do to assist the victim. The names of approved facilitators shall be made available publicly by the Director of Professional Standards.

35.6 All members of the Resource Group shall abide by the highest possible standards of professional conduct in all aspects of their work, including the maintenance of confidentiality.

35.7 The Resource Group shall act in an advisory capacity to the Director of Professional Standards and to the Church Authority.

35.9 The Professional Standards resource group in each diocese shall appoint a Review Panel drawn from the wider community to decide upon requests concerning a review of process or findings and to fulfil such other functions as are assigned to it.

35.9.1 The Review Panel shall consist of up to three independent members.

35.9.2 The Review Panel may deliberate in person, by exchange of letters, electronic mail or telephone, or by any other means.

RECEIVING A COMPLAINT

36.1 The process is commenced when the Church Authority or the Director of Professional Standards receives a written complaint, signed by the complainant, that includes his or her contact details, and the person making the complaint indicates that he or she wishes to invoke the procedures outlined in this document. There should be sufficient information about the nature of the complaint for the accused person to know what has been alleged against him or her.

36.2 Anonymous complaints are to be treated prudently. An anonymous complaint cannot have the full force of one made by an identified person, but anxiety and fear may persuade some complainants not to reveal their identity immediately. The Church Authority will be unable to act on the complaint under these procedures, other than to inform the police, unless at some point the name of the complainant becomes known.

36.3 A complaint may be received directly in writing by the Church Authority or by a Director of Professional Standards. Alternatively it may come verbally and be followed up by a contact person.

36.3.1 A contact person shall listen fully, honestly and compassionately to the person laying the complaint, both concerning the facts of the situation and its emotional, psychological and spiritual effects. The contact person shall explain the procedures for addressing the complaint and ensure that the complainant gives his or her consent to proceeding on the basis laid down in this document.

36.3.2 The contact person shall either receive a written and signed complaint, or assist the complainant by writing down the details of the complaint, to be confirmed by the signature of the complainant.

36.4 If a Church Authority receives a complaint directly, the complaint should be referred to the Director of Professional Standards to manage the process of responding to the complaint. In the event that a complaint is received by one Church Authority that ought to be dealt with by another, the complaint should be referred to the Director of Professional Standards to make the appropriate linkages.

36.5 If a complainant chooses to be represented by a lawyer in seeking compensation from the Church Authority, and is not seeking any form of pastoral support or other engagement with the Church, then the matter should proceed outside the process laid out in this document by the normal means appropriate to the resolution of civil claims. The Church Authority should nonetheless endeavour to act with a concern for the wellbeing of the complainant in seeking to resolve the civil claim.

36.6 If a matter proceeds outside of the process laid out in this document, the Director of Professional Standards must still be informed of the matter and should take any steps necessary to investigate the risk to children, young people or vulnerable adults, if the accused remains in

active ministry. The Director should seek the assistance of the complainant in any disciplinary investigation by the Church for the purposes of determining whether an accused person should remain in ministry.

36.7 In responding to the complaint, every effort should be made to minimise the number of times the complainant has to tell his or her story.

36.8 The process may involve the Director of Professional Standards arranging for the Church Authority (or his or her delegate) to meet with the complainant at an early stage of the process, to discuss how best to ensure the complainant can be supported in the interim.

CRIMINAL OFFENCES AND THE REPORTING OF CHILD ABUSE

37.1 When the complaint concerns an alleged crime in civil law, the contact person or Director of Professional Standards shall explain to the complainant that the Church has a strong preference that the allegation be referred to the police so that the case can be dealt with appropriately through the justice system. If desired, the complainant will be assisted to do this. Where it applies, the contact person shall also explain the requirements of the law of mandatory reporting.

37.2 If the complainant takes the matter to the police, the Director may make recommendations to the Church Authority concerning the funding of counselling or other such assistance for the complainant pending the outcome of the criminal justice process. The complainant should be advised that he or she may approach the Church again under the process detailed in this document when the criminal justice process has been concluded.

37.3 In all cases other than those in which reporting is mandatory, if the complainant indicates an intention not to take the matter to the police, this shall be recorded and confirmed by the signature of the

complainant. Unless and until the complainant signs this document, the matter cannot proceed to an assessment.

37.4 In the case of an alleged criminal offence, if the complainant does not want to take the matter to the police, all Church personnel should nonetheless pass details of the complaint to the Director of Professional Standards, who should provide information to the Police other than giving those details that could lead to the identification of the complainant.

37.5 Church personnel who are required by civil law to report suspected child abuse shall conscientiously comply with their obligations. The appropriate Church Authority shall also be notified of any such report.

37.6 No Church investigation shall be undertaken in such a manner as to interfere in any way with the proper processes of criminal or civil law, whether such processes are in progress or contemplated for the foreseeable future. However, where the complainant has chosen not to report the matter to the police or other civil authority, or the civil authorities have decided not to take further action under the criminal law or child protection legislation, the Church Authority must act on the complaint.

37.7 The Director of Professional Standards shall endeavour to establish a protocol with the police to ensure that assessments under these procedures do not compromise any police action.

37.8 Regarding the Church investigation of an accusation of sexual abuse of a minor (under the age of 18):

37.8.1 If an accusation seems true, a preliminary investigation should be carried out.

37.8.2 If, after a preliminary investigation, the accusation seems credible, or is admitted by the accused, the case must be referred to the Congregation for Doctrine of Faith (CDF)

37.8.3 Unless there are serious contrary indications, before a case is referred to the CDF the accused cleric should be informed of the accusation which has been made, and given the opportunity to respond to it.

37.8.4 The CDF will make the definitive judgement on the guilt of the cleric and his unsuitability for ministry, as well as the consequent imposition of a perpetual penalty.

37.8.5 The preliminary investigation, as well as the entire process, ought to be carried out with due respect for the privacy of the persons

RESPONDING TO A COMPLAINT

38.1 The following procedures apply only where the complaint does not concern a criminal matter, or where a complainant has chosen not to report the matter to the police or other civil authority and wants to proceed under the guidelines laid out in this document, or the civil authorities have decided not to take further action under the criminal law or child protection legislation.

2 When a complainant does not wish to go to the police or other appropriate authority and asks the Church to investigate an alleged crime, the complainant is required to sign the following statement before the Church takes any action:

"The Catholic Church has strongly urged me to take my complaint to the police or other civil authority. It has been carefully explained to me that any process the Church establishes will not have the same powers to investigate the matter and to test evidence as the courts have. A Church process cannot impose the same penalties as a criminal court. Aware of these limitations, I still state that I do not wish to take my complaint to

the police or other civil authority at this time and I ask that a Church process be established.”

38.2 The Director of Professional Standards shall determine whether the complaint concerns conduct which could reasonably be considered to fall within the definition of abuse in this document. If the complaint does not concern a matter which is to be dealt with by the procedure, such as inappropriate care practices in children’s homes, he or she shall advise the complainant of other means of addressing the issue. The Director may assist in resolving the matter. The Director should advise the Church Authority of the action taken.

38.3 In cases where the behaviour complained of could reasonably be considered to fall within the definition of abuse in this document, but was not an alleged criminal offence, does not represent a serious breach of pastoral ethics and can properly be dealt with by correction and apology, the Director shall refer the matter to the Church Authority to be dealt with by counselling, voluntary mediation with the person against whom the complaint is made, or such other process as is appropriate to address the issue.

38.4 Apart from matters dealt with under 38.2 and 38.3, on receiving the complaint of abuse, the Director shall forward it to the appropriate Church Authority and may make a recommendation concerning any immediate action that needs to be taken in relation to the protection of children, young people and vulnerable adults. The Director may also make recommendations concerning the funding of counselling or other such assistance for the complainant pending the outcome of the process.

38.4.1 In situations where there is more than one Church Authority involved in relation to a complaint, the Director of Professional Standards should determine which Church Authority had the greatest involvement in the matter, and that Church Authority should be designated as the lead agency in responding to the complaint.

38.4.2 The lead agency, together with the Director of Professional Standards, shall liaise with any other Church Authority involved, in managing the process and in determining what response should be made to the complainant.

38.5 After receiving notice of the complaint, the Church Authority (or his or her delegate) shall, after consultation with the Director of Professional Standards, inform the accused of the nature of the complaint, unless through death, disappearance or disability it is not possible to do so. This should occur as soon as possible unless a delay in so doing is required by civil authorities. The accused needs to be given enough detail about the complaint, and the person who was allegedly abused, to be able to offer a response.

The Director of Professional Standards may be involved in such a process. The accused shall be entitled to information about his or her rights and about the process for dealing with the complaint.

38.6 The accused shall be advised that he or she has the right to obtain independent legal advice. The advice shall normally be at the accused's expense, although the Church Authority may exercise a discretion to make loans or to reimburse an accused for reasonable legal expenses if he or she is unable to afford legal assistance.

38.7 The accused shall be offered a support person to represent the needs of the accused to the Church Authority and to assist, where appropriate, with the care of the accused and with communication between the accused, assessors and the Church Authority. The accused's support person shall not be the accused's therapist.

38.8 The Church Authority (or his or her delegate) shall seek a response from the accused in order to determine whether the facts of the case are significantly disputed. If they are not, then the Church Authority shall proceed in accordance with Clause 42 of these procedures. There does

not need to be an assessment of the facts if the Church Authority is satisfied of the validity of the complaint.

38.9 Where there is a significant dispute or uncertainty about the facts the Director shall have the matter investigated in accordance with the procedures set out in this document to the extent that it is possible to do so.

38.10 At any time, the Director of Professional Standards may recommend to the Church Authority that the accused be asked to stand aside from a particular office or from all offices held in the Church, pending investigation, taking into account the gravity of the allegations and the risk of harm to others if the allegations are true. The Church Authority must seek the advice of the Professional Standards Resource Group before making a decision unless urgent action is required to address a significant risk of abuse, and shall give the accused the opportunity to be heard on the matter.

38.10.1 If there is seen to be any significant risk of abuse to other persons, the Church Authority must act at the earliest possible moment on the best advice available.

38.10.2 If accused persons are asked to stand aside from any office they hold while the matter is pending, it is to be clearly understood that they are on leave and that no admissions of any kind are implied by the fact. Accused persons shall, therefore, receive their normal remuneration and other entitlements while the matter is pending and they are standing aside. Where possible, they should be given some suitable activity. They shall not engage in any public ministry during this time.

38.11 The Church Authority should have regard to the support needs of the parish or other faith community in which the accused person has exercised pastoral ministry, in coming to terms with the allegations against the accused person.

SELECTING THE APPROPRIATE PROCESS

39.1 If the allegations concern a current employee of a Church body, other than a cleric or religious, then the Director should refer the complaint to the relevant body for employment relations to investigate in accordance with the applicable procedures of employment law (and any other relevant laws) in civil law or such other body as is set up for this purpose. When the investigation has been completed, the Director of Professional Standards should liaise with the relevant body concerning how to respond to the victim if the complaint is validated. The response to the victim should follow the principles and procedures outlined in this document.

39.1.1 The documents or other material arising from the investigation are to be kept in accordance with the practices of the employing authority and any relevant laws.

39.2 If a Church penal process under canon law is commenced, the Church Authority should liaise with the Director of Professional Standards concerning how to respond to the victim if the complaint is validated. The response to the victim should follow the principles and procedures outlined in this document.

39.3 In all other cases where the facts of a case are in dispute, the Director of Professional Standards shall act in accordance with Clause 40 of these procedures.

39.4 If in the course of a Church procedure, allegations emerge for the first time which indicate that a criminal offence may have been committed, the Church procedure shall cease immediately and the matter will be dealt with in accordance with 37.1-37.6. If the complainant indicates an intention not to take the matter to the police, this should be recorded and confirmed by the signature of the complainant before the Church procedure resumes.

39.5 With the written approval of the relevant Church the Director may depart from these processes if to do so would better accord with the principles in the special circumstances of the case.

ASSESSMENT

40.1 In all cases to which this Clause applies, the Director of Professional Standards shall appoint assessors. Two assessors shall be appointed unless the Director considers that in the circumstances one professional assessor is sufficient. A list of assessors shall be maintained by the Resource Group. The appointment of the assessors shall occur as soon as practicable.

40.1.1 The assessors chosen must be, and be seen to be, independent of the Church Authority, the complainant and the accused.

40.2 The purpose of an assessment is to investigate the facts of the case to the extent that it is possible to do so where there is a significant dispute or uncertainty as to the facts, or where there is a need for further information concerning the complaint.

40.3 The assessor or assessors shall arrange interviews with the complainant and the accused separately, and where feasible, such other persons as will aid the assessment process. Where there is more than one assessor, both should interview the complainant and the accused. The assessors should, at some stage of the process, put to the complainant the accused's version of events.

40.3.1 Where the complainant is not the victim, then the assessors shall not seek to interview the victim without first discussing the matter with the complainant and the Director of Professional Standards. If the facts are disputed, and it is not possible to interview the person who it is said has been victimised, then it may not be possible to proceed any further in dealing with the complaint unless other relevant information, such as a police record of interview, is available.

40.3.2 The complainant shall be invited to have a support person present at the interview.

40.3.3 Under no circumstances shall there be any attempt to intimidate a complainant or to dissuade a complainant from proceeding with a complaint.

40.3.4 No interview with a child or young person will take place if there is a risk that this will interfere with the proper process of civil or criminal law. No interview, either by a contact person or an assessor, shall be conducted with a child or young person without the express written authority of the parent or guardian. An interview with a child or young person shall as far as possible be conducted by personnel who are professionally recognised as skilled practitioners in interviewing children.

40.3.5 Special care shall also be taken in interviewing a person with an intellectual or psychiatric disability, and any such interview shall be conducted as far as possible by an appropriately qualified and experienced person.

40.3.6 The Director of Professional Standards has the discretion to close a matter if the complainant decides not to cooperate with an assessment process or in other respects does not cooperate with the Director in moving the process forward. The Church Authority should nonetheless take any steps necessary to investigate the matter, and to assess any risk to children, young people or vulnerable adults, if the accused remains in active ministry.

40.4 The assessor or assessors shall arrange an interview with the accused, if he or she is available and willing to speak to them. If the accused declines an interview, he or she should be given an opportunity to provide a written response to the complaint. If the accused does not wish to cooperate with the assessment, the assessment shall still proceed and the assessors shall endeavour to reach a conclusion

concerning the truth of the matter so that the Church Authority can make an appropriate response to the complainant.

40.4.1 Where an interview with the accused takes place, the assessor or assessors shall inform the accused that in both civil and Church law a person is presumed innocent until proven guilty.

40.4 .2 An accused person may be invited to admit to an offence but is not bound to do so, nor may an oath be administered.

40.5 The accused shall be invited to have a support person or legal adviser present during any interview.

40.6 The assessors should interview any other persons who could be of assistance.

40.7 Church Authorities shall comply with all reasonable requests made by assessors for access to documents which may assist them in their work, subject to any legal obligations of confidentiality.

40.8 A written or taped record shall be made of all interviews.

40.9 After the assessment is completed, the assessors shall provide a written report to the Church Authority and the Director of Professional Standards. The assessors shall review the evidence for the complaint, examine the areas of dispute and make findings about whether they consider the complaint to be true on the balance of probabilities, based upon the evidence available at that time.

40.9.1 The assessors must provide reasons for their findings. If they are unable to reach determination of the truth of the matter with a sufficient degree of certainty, they may nonetheless make recommendations to the Church Authority concerning its response to the complainant and this may include any matters that may be relevant

to a risk assessment concerning the continuation of a person in a particular kind of ministry.

40.9.2 Where the behaviour about which complaint has been made was not a criminal offence, the assessors may also comment on how serious was the violation of the integrity of the pastoral role.

40.9.3 The complainant is entitled to know promptly the findings of the assessment and the reasons for them. The accused is also entitled to know promptly the findings of the assessment and the reasons for them if he or she has participated in the assessment, or otherwise could be subjected to disciplinary action by the Church Authority as a consequence of it. The Director of Professional Standards is responsible for communicating the relevant findings to the complainant, the accused and the Church Authority.

40.10 The Church Authority shall discuss the findings and recommendations of the report with the Director of Professional Standards as quickly as possible. If the assessors consider the complaint to be sustained, then the Church Authority must consider what action needs to be taken under Clauses 41 and 42 of these procedures. The Church Authority must seek the advice of the Professional Standards Resource Group and may also call upon the Director of Professional Standards for advice on these matters.

40.11 Mindful that the assessment process is a difficult and trying time for all concerned, particularly the complainant and the accused, the process of the assessment shall be undertaken and concluded as quickly as possible and the process shall be as transparent as possible to all concerned. The Director of Professional Standards shall seek to ensure that all parties adhere to this principle.

40.12 During the assessment and, therefore, at a time when guilt has been neither admitted nor proven, the issue of guilt or the particular course of action that may follow assessment cannot be commented

upon. Any comment regarding these issues must always be referred to the Church Authority and its professional advisers.

40.13 The records of interview and all other documents or material associated with the assessment are to be treated as confidential. The Director of Professional Standards shall maintain a confidential record of all findings and any documents relevant to the suitability of the person for future ministry.

OUTCOMES RELATING TO THE VICTIM

41.1 In the event that the Church Authority is satisfied of the truth of the complaint, whether through admission of the offender, a finding of a court, a penal process under canon law, an assessment under these procedures or otherwise, the Church Authority shall respond to the needs of the victim in such ways as are demanded by justice and compassion. Responses may include the provision of an apology on behalf of the Church, the provision of counselling services or the payment of counselling costs.

Traditional cultural ceremonies may also be used by the Church Authority to help bring about healing and forgiveness.

41.1.1 Financial assistance or reparation may also be paid to victims of a criminal offence or civil wrong, even though the Church is not legally liable.

41.1.2 A bishop or leader must seek the advice of the Professional Standards Resource Group in determining how to respond to the complainant.

41.2 The Church Authority may seek such further information as it considers necessary to understand the needs of the victim, including a report from a suitably qualified and independent professional concerning the impact of the abuse on the victim. Such a report will be at the Church Authority's expense.

41.3 Facilitation shall be the normal means of addressing the needs of the victim.

41.4 The Church Authority and the victim shall endeavour to agree on a facilitator, either from the approved panel or otherwise a qualified mediator approved by the Director for Professional Standards, who is suited by reason of training and experience to understand the needs of victims of abuse. In the absence of agreement, the Director for Professional Standards shall appoint a facilitator.

41.4.1 The facilitator shall arrange and moderate a process for communication between the victim and Church Authority (or delegate with power to make binding decisions). This may involve a meeting, under the direction of the facilitator, in which apologies can be offered and unresolved problems addressed through mediation.

41.4.2 The victim may have a support person or adviser present at the meeting. The Church Authority or delegate may also have an adviser if required. The presence of any other persons accompanying either the victim or the Church Authority shall be subject to the agreement of the facilitator. The Director of Professional Standards should not normally participate in the facilitation process.

41.4.3 The facilitator shall seek to know the ongoing needs of the victim and the response of the Church Authority to these needs. In the event that there are unresolved issues concerning monetary reparation other than through the provision of counselling costs or meeting other needs of the victim, these should be dealt with by negotiation outside of the facilitation, in order to seek a resolution on this aspect of the matter.

41.4.4 The facilitator shall also seek to know the support needs of the victim's family and of the community in whose midst the abuse occurred if the abuse is publicly known.

41.4.5 The facilitator shall seek to identify any outstanding issues where the victim is not satisfied with the response from the Church Authority and shall explore with both parties the best means of dealing with such issues.

41.4.6 The facilitator shall ensure that there is a record of any agreement reached and of any outstanding areas of disagreement. If the complainant is not legally represented at the meeting, there should not be a lawyer for the Church Authority present either. The Director may participate in the facilitation if approval is given in accordance with 39.5

41.4.7 The facilitator shall inform the Director of Professional Standards of the outcome, and whether the facilitator considers that any other processes or actions would assist further in bringing the matter to a conclusion.

41.4.8 The Church Authority shall bear all ordinary and reasonable expenses of the process of facilitation.

41.4.9 The Church Authority should not require the victim to sign a Deed of Release unless the victim has had independent legal advice or has indicated in writing that he or she declines to seek legal advice.

41.4.10 The Church Authority shall pay for the reasonable costs involved in obtaining legal advice on a Deed of Release, and may pay a contribution towards the reasonable costs of other professional advice or assistance that have been incurred in the process of reaching an agreement.

41.5 Complainants shall not be required to give an undertaking which imposes upon them an obligation of silence concerning the circumstances which led them to make a complaint, as a condition of an agreement with the Church Authority.

OUTCOMES RELATING TO THE ACCUSED

42.1 A bishop or leader must seek the advice of the Professional Standards Resource Group in determining outcomes relating to the accused.

42.2 If either a police investigation, a civil process or a Church procedure makes it clear that the accused did not commit the alleged wrong, the Church Authority shall take whatever steps are necessary to restore the good reputation of the accused, in consultation with the accused.

42.3 If abuse is admitted, or an assessment under these procedures reaches the conclusion that on the basis of the findings of the assessment there are concerns about the person's suitability to be in a position of pastoral care, the Church Authority, in consultation with the Director of Professional Standards and the Professional Standards Resource Group, shall consider what action needs to be taken concerning the future ministry of the person, taking account of the degree of risk of further abuse and the seriousness of the violation of the integrity of the pastoral relationship. The Church Authority may commission such other professional reports or make other inquiries as are necessary to determine what action should be taken.

42.4 Where the offender is a current employee of the Church other than a cleric or religious, the offender's future must be determined in accordance with the applicable procedures of employment law.

42.5 If a cleric or religious has admitted to or been found guilty of abuse, the Church Authority shall, in person or through a delegate, meet with the offender to discuss honestly and openly the offender's future options. The offender may be accompanied by a support person and/or legal adviser. The discussion shall take into account the seriousness of the offence and all relevant circumstances. It is unfair to hold out to a serious offender any hope of a return to ministry when it is clear that this will not be possible. The decisions of the Church Authority as to

future ministry of a cleric or religious are to be made in a manner that is not inconsistent with the provisions of Church law.

42.6 In making decisions on the future of a person found guilty of abuse, the Church Authority shall take such action as the situation and the seriousness of the offence demand. In relation to child abuse, the Church Authority shall be guided by the principle that no-one should be permitted to exercise a public ministry if doing so presents an unacceptable risk of abuse to children and young people.

42.7 As far as it is within its power to do so, the Church Authority shall require the offender to address the issue of reparation to the victim and to the Church community.

42.8 The Church Authority shall promptly communicate the outcomes in relation to an offender to the Director of Professional Standards.

OUTCOMES RELATING TO OTHER AFFECTED PEOPLE AND COMMUNITIES

43.1 Mindful that when a complaint of abuse is found to be true, or when people are wrongly accused of abuse, families and faith communities are affected, the Church Authority should consider what steps need to be taken to assist affected people through the provision of counselling or other pastoral support, following the conclusion of the process.

REVIEW OF PROCESS AND FINDINGS

44.1 A review of the process outlined in this document, and/or the findings of the assessment, is available to the complainant, the accused and the Church Authority.

44.1.1 A person requesting a review should make the request in writing to the Director of Professional Standards and should provide reasons for his or her dissatisfaction with the process or findings.

44.1.2 The Director of Professional Standards shall refer the request to the Chairperson of the Review Panel who shall arrange for a review to take place.

44.1.3 A review is available for accused persons only if they co-operated with the assessment process.

44.2 The review is an independent evaluation, not only of whether there is substance in any of the grounds for complaint, but also whether the principles established in the first part of the document have been adhered to. A review of process and findings is not a review of the outcomes determined under Parts 41 and 42 respectively.

44.3 A complainant may seek a review within three calendar months of the end of the facilitation or otherwise when the Church Authority gives its response to the complaint, or has failed to offer a response within three calendar months of the time when an assessment has been completed.

44.4 The accused and the Church Authority may seek a review within three calendar months of the time when the Director of Professional Standards has furnished the assessment report to the Church Authority.

44.5 The Chairperson of the Review Panel may allow a review outside of the three months' time limit if there are compelling reasons to accept a request for review.

44.6 The Reviewer shall determine the procedures for the conduct of the review. Where it is necessary to do so, this may involve speaking to the complainant, the accused person or any other person concerned with the case. The complainant or accused, as the case may be, who is not the

applicant for the review, should be made aware of grounds for the review that concern factual matters about which they may be able to provide further information

44.6.1 The Reviewer shall have access to all relevant documentation.

44.6.2 The Reviewer shall conduct the review expeditiously and certainly within three calendar months, unless the Review Panel provides for a further extension of time.

44.7 At the end of the review, the Reviewer shall provide a written report with recommendations to the Chairperson of Review Panel.

44.8 If the Reviewer considers that there has been a failure to observe the required processes, or identifies deficiency in the findings, the Chairperson shall discuss the case with the Reviewer and at least one member of the Professional Standards Resource Group. The Resource Group shall consider the Reviewer's report and make such recommendations as it sees fit to the Church Authority in relation to the complaint.

44.9 The Review Panel may substitute its own findings for those of the assessor or assessors, provided that it has all the information available to do so. The Panel may direct that a further assessment be undertaken.

44.10 A copy of the report and the Panel's recommendations shall also be given to each party, the Director of Professional Standards in the relevant State or Territory, and the Professional Standards Resource Group.

44.11 The Church Authority shall bear all ordinary and reasonable expenses of the review.

PREVENTATIVE STRATEGIES

45.1 Each Church Authority shall ensure that all Church personnel are made aware of the seriousness of abuse. They should be warned of behaviour that is inappropriate or which could be interpreted as involving improper behaviour. Clerics and religious shall also be given support in fulfilling a celibate vocation.

45.2 Each Church Authority shall ensure that those working with children and young people are made aware of the issue of child abuse and are given information concerning processes for reporting disclosures of abuse. They should also be given information on how to conduct children's and youth ministry in such a manner as to reduce the risk of child abuse occurring.

45.3 Church bodies, especially those involved in providing care for children and young persons, shall have in place procedures, consistent with good child protection and industrial relations practice, for verifying the suitability of persons for employment or for participation as volunteers. They shall obey all applicable laws concerning employment screening and the prohibition of certain convicted persons from employment involving children.

45.4 Whenever a Church Authority is concerned about the behaviour of any person connected with that Church body that is inappropriate and which might lead to an allegation of abuse, this fact should be brought to the attention of the person and appropriate steps taken to determine whether the behaviour is the symptom of a deeper problem requiring attention.

45.5 Church personnel who feel that they might be in danger of committing sexual abuse shall be offered opportunities to seek both spiritual and psychological assistance, and advice about remaining in their position, before the problem becomes unmanageable and they offend. Names of suitable therapists and treatment programs should be made available.

45.6 Whenever a cleric or religious is to transfer from one diocese or institute to another, or is to carry out a ministry or apostolate in another diocese or institute, the Church Authority to which the person is to be transferred shall ask for a written statement from the cleric or religious indicating whether there have been any substantiated complaints of abuse against him or her, or whether there are known circumstances that could lead to a complaint of abuse. Such statements shall be held as confidential documents by the Church Authority.

45.7 In these same circumstances the Church Authority in the diocese or institute where the cleric or religious previously lived and worked, shall provide a statement in writing to the new diocese or institute indicating whether such authority knows of any complaints of abuse which have been substantiated, or is aware of circumstances that could lead to a complaint of abuse, or whether it considers that there would be an unacceptable risk to children, young people or vulnerable adults if the person were to be allowed to engage in particular kinds of ministry. Where there has been a substantiated complaint, the Church Authority shall furnish all information necessary to evaluate the seriousness of the offence, and shall report on all treatment undertaken, and other measures employed to ensure that further offences do not occur. Such statements shall be held as confidential documents by the Church Authority.

45.8 Each Church Authority shall have in place procedures for verifying the suitability of candidates for seminaries or religious institutes. In particular, candidates must be asked to state in writing whether they have a criminal record, or any complaints of abuse have been made against them, or whether there are any known circumstances that could lead to a complaint of abuse against them.

45.9 Any proven incident of sexual assault or other serious abuse must lead to the dismissal of a seminarian from a seminary or a candidate from an institute's program of formation.

45.10 Church Authorities shall be honest and frank in references and shall not act in a way which would allow an offender to obtain employment in circumstances where others might be at risk.

45.11 In addition to the above requirements, Church Authorities shall comply with all requirements of civil law concerned with the employment of persons in work involving children and young people.

+++++