

Review of Diocesan policy for dealing with allegations of unacceptable behaviour

(A report from the Standing Committee.)

Purpose

1. The purpose of this report is to inform the Synod of the Standing Committee's review and subsequent amendment of the *Diocesan policy for dealing with allegations of unacceptable behaviour* applying to clergy and church workers in parishes (**Policy**), in accordance with the request of Synod resolution 46/15.

Recommendation

2. Synod receive this report.

Background

3. By resolution 46/15, Synod requested the Standing Committee undertake a review of the Policy after a period of 5 years from its commencement (**Resolution**). The Policy commenced on 1 January 2016.
4. The Resolution authorises the Standing Committee to make amendments to the Policy, provided any amendments are reported to the next ordinary session of the Synod.

Changes to the Policy

5. The changes adopted by the Standing Committee seek to provide a viable alternative pathway for the resolution of complaints about unacceptable behaviour by clergy and church workers.
6. The Policy has received little use, while misconduct complaints to the Director of Professional Standards under the *Ministry Standards Ordinance 2017 (MSO)* appear to be increasing.
7. The MSO provides an important means for dealing with complaints about misconduct. However, it is a very time-consuming and resource intensive process. Undoubtedly, there are occasions (perhaps many) on which a complainant and respondent would prefer to access a faster and more flexible process to resolve the matters between them.
8. The changes to the Policy maintained the core aspects of the existing Policy while making the process more accessible and providing some avenues for information gathering and accountability so that those involved in the process can have confidence that it will lead to meaningful outcomes.
9. The changes uphold a person's right to make a complaint under the MSO at any time throughout the process. The amendments are not intended to remove options, but provide a pathway outside the MSO for suitable matters that may be more attractive to complainants and respondents than that set out in the present Policy.
10. The MSO continues to be the appropriate pathway for dealing with conduct that gives rise to questions about a person's fitness for ministry. The Policy does not deal with such conduct, and various safeguards have been built into the updated process to ensure that such matters are referred to the Director of Professional Standards.
11. The amendments address the following:
 - (a) Accessibility

The amendments seek to streamline the Policy, to enable a person to come to terms with the core elements of the process more quickly. The previous form of Policy contained considerable

detail that had to be absorbed in order to understand the process. While details are important, the changes have made the Policy more straightforward and moved certain content into appendices.

(b) Wider scope

Previously, allegations involving a breach of *Faithfulness in Service* where there is harm or a risk of harm could not be dealt with under the Policy. This covered a very wide range of conduct and seemed to preclude almost all forms of bullying from being addressed under the Policy.

The previous exclusion appeared to be based on clause 3.9 of *Faithfulness in Service* which requires knowledge of a breach of the Code resulting in harm or a risk of harm to be reported to the 'church authority' with responsibility for the member of clergy or church worker, or to the Director of Professional Standards.

However, the Code leaves open the possibility of reports to the Rector and the Regional Bishop if they are the 'church authority'. To provide greater flexibility, the changes allow these matters to be dealt with by the Rector or Regional Bishop under Steps 2 and 3 of the Policy (as applicable).

(c) Information gathering process

'Step 3 - Diocesan Resolution' in the Policy now includes an option for the Regional Bishop to appoint a person to gather information in relation to the alleged misbehaviour, to assist the Bishop to ascertain the relevant issues and identify appropriate approaches for resolution.

It is expected that the Regional Bishop will, in the usual course, appoint the Parish HR Partner (Ms Vikki Napier) or the Dispute Resolution Consultant for the PSU (Ms Elenne Ford) to undertake the task of gathering information regarding the allegation and producing a report. However, it is also open to the Bishop to appoint the Regional Archdeacon or any other suitable person.

The report will not make any findings or recommendations in relation to the allegations. It will simply disclose and summarise the factual information that has been obtained by the Bishop's appointee. The Bishop will review the report with a representative from the PSU to determine if the matter may be dealt with under the Policy or should be referred to the PSU.

The information gathering process is an important step to provide accountability and ensure the whole process is not simply about making concessions to appease an aggrieved person.

(d) Removing references to 'regional conciliators'

Previously, the Policy enabled the Regional Bishop to refer matters to 'regional conciliators', who were appointees trained in conflict resolution by Peacewise. However so few matters arose under the Policy that the regional conciliators had little opportunity to implement the training.

It was not considered worthwhile to appoint people as regional conciliators. Instead, it would be preferable to offer the Regional Bishop greater flexibility to appoint a person of his own choosing or to conduct the conciliation himself. Importantly, the parties must agree to the person conducting the conciliation, which provides a check and balance on the suitability of the conciliator.

(e) Confidentiality

The PSU will receive minimal information about matters dealt with under the Policy. For an allegation dealt with under Step 3 of the process, the Regional Bishop will notify the PSU of the date of receipt of an allegation and the name of the person against whom it has been made.

As such, the PSU will have a record that an allegation has been made against the person. This will enable the PSU to identify any person who is the subject of repeat allegations, and to notify the Regional Bishop. Repeat allegations, particularly in relation to similar conduct, may indicate to the Bishop that the complaint should proceed under the MSO.

Although a PSU representative will review the information report with the Regional Bishop, the PSU will not retain a copy of the report nor maintain records in relation to the matter.

The Regional Bishop will keep confidential records of matters dealt with under the Policy.

(f) Availability of the information report for the MSO process

If the matter is referred to the Director of Professional Standards to be dealt with under the MSO, any report produced under the Policy in relation to the matter will not be made available for any investigation under the MSO. This ensures that the process under the Policy is kept separate from the MSO process. Furthermore, making use of the report as part of the MSO process would require an amendment to the MSO.

For and on behalf of the Standing Committee.

DANIEL GLYNN
Diocesan Secretary

7 April 2021

Diocesan Policy for Dealing with Allegations of Unacceptable Behaviour by Clergy and Church Workers in Parishes

OUR COMMITMENT

We are committed to ensuring that allegations of unacceptable behaviour by clergy or church workers are dealt with properly in accordance with a Bible-based process. Further detail concerning our commitment is set out in the Appendix.

PURPOSE OF THIS POLICY

The purpose of this policy is to facilitate the resolution of allegations of unacceptable behaviour relating to clergy and church workers in a wise, godly and timely way. It encourages people to seek reconciliation, with priorities of love, repentance and forgiveness where needed (Eph 4:31-32).

APPLICATION OF THIS POLICY

The policy applies to the handling of allegations of unacceptable behaviour by clergy or church workers in parishes. This means that an allegation made against someone else in the parish should not be dealt with under this policy (although the principles in the policy may still be helpful).

“Unacceptable behaviour” means any conduct which falls short of the standard of behaviour expected of clergy and church workers.

The following types of allegation must be referred by the complainant, rector or Regional Bishop (as applicable) to the Director of Professional Standards (or a Contact Person appointed by the Director):

- sexual misconduct and misconduct involving children, for the Director to determine whether action should be taken under the *Ministry Standards Ordinance 2017* rather than this policy; and
- criminal conduct or professional misconduct, for the Director will report such allegations to the police or relevant professional association, as appropriate.

Allegations of other conduct which breaches a standard in *Faithfulness in Service* where the person by or on whose behalf the allegation is made has suffered harm or is at risk of harm should be referred to the ‘church authority’ that has responsibility for the church worker or member of clergy (i.e., dealt with under Step 2 or Step 3 (as applicable) of the process set out in the flow chart in the Appendix). Alternatively allegations of this nature can also be referred to the Director of Professional Standards.

STANDARD OF BEHAVIOUR

The standard of behaviour expected of clergy and church workers in our Diocese should be understood by reference to –

- *Faithfulness in Service* as adopted by the Synod, which is the code of personal behaviour for clergy and church workers in our Diocese, and
- the *Ministry Standards Ordinance 2017*, which is an administrative process for dealing with allegations of misconduct by clergy and church workers that call the person’s fitness for ministry into question.

POLICY PRINCIPLES

1. **Raise issues early.** A concern about unacceptable behaviour by clergy or a church worker in a parish should be raised promptly. This can be a difficult step. The person who is concerned about the behaviour may want to seek advice from a wise Christian friend on a confidential basis first.

2. **Address locally.** Allegations of unacceptable behaviour should be dealt with as close as possible to their source (unless the nature of the allegation or the identity of the person about whom the allegation is made requires otherwise).
3. **Openness.** Anonymous allegations or allegations made by a person who wishes to remain anonymous cannot be dealt with under this policy.
4. **Fairness.** Allegations of unacceptable behaviour should be treated seriously and sensitively. They should be dealt with promptly, having due regard to procedural fairness. Procedural fairness includes the person about whom the allegation is made:
 - being informed of the allegations,
 - being provided with a reasonable opportunity to respond,
 - being treated without bias, and
 - being aware of progress in dealing with the allegation.
5. **Confidentiality.** This is important to safeguard the integrity of the process. Information or records relating to an allegation should be stored securely and only used for the purposes for which they were collected. However there are exceptions. If a matter is dealt with under Step 3 the Regional Bishop will notify the PSU of the date he receives the allegation and the name of the person against whom it is made, but nothing more. In this way the PSU will be able to see if a person is the subject of repeated allegations and notify the Regional Bishop accordingly. Serious allegations may need to be referred to the police or a government authority. Certain allegations or information may need to be referred to a professional body or the Professional Standards Unit of the Diocese. Further details are contained in the Notes in the Appendix.
6. **No victimisation.** No one making an allegation, or associated with an allegation or a person making an allegation, should be victimised.
7. **No trivial complaints.** Trivial, malicious or false allegations must not be made.
8. **Support.** Both parties to an allegation should receive appropriate information, support and assistance in resolving the matter.
9. **Bible-based principles.** Where possible and appropriate, allegations should be dealt with by discussion, cooperation and conciliation consistent with biblical principles. Conciliation aims to reach a mutually acceptable outcome which is fair and effective. It also aims to minimise the potential for on-going damage to relationships, and to help the ministry of the parish to continue effectively.
10. **Voluntary conciliation.** Conciliation is intended to be a non-legal alternative for dealing with allegations of unacceptable behaviour. It should only be used when both parties freely agree to conciliate without legal representation and to preserve the confidentiality of the conciliation process.
11. **Support persons.** At any meeting during a conciliation process, either or both parties may be accompanied by a support person. A support person may speak with the permission of the person they are supporting (unless the conciliator asks them not to speak, in order to facilitate the process).
12. **Reparation.** To resolve a matter meaningfully, sometimes an act of reparation (such as an apology) is needed from the person about whom the allegation is made. Sometimes, in the course of resolving a matter, the person making an allegation may understand better why certain actions were taken and accept that the actions were not unacceptable behaviour even if they don't agree with them.
13. **Protection.** It is not always appropriate to deal with an allegation by conciliation or solely by conciliation. For example, if an allegation raises questions about a person's fitness for ministry that are more properly handled under the *Ministry Standards Ordinance 2017* or there is concern that a conciliation process could give rise to a risk of harm to a participant. If so, other options for dealing appropriately with the allegation must be considered.

MODEL PROCEDURES

The model procedures (and accompanying notes) for dealing with allegations of unacceptable behaviour under this policy are set out in the Appendix.

A. STATEMENT OF COMMITMENT

The Bible says a lot about the responsibilities of Christian life and leadership, especially about grievances between Christians.

The Bible expects high standards of Christian leaders (Mark 10:42-45; 2 Timothy 2:14-26; Titus 1:5-9; James 3:1-2; 1 Peter 5:1-4). In particular, 1 Timothy 3:2-3 says –

Now the overseer is to be above reproach, faithful to his wife, temperate, self-controlled, respectable, hospitable, able to teach, not given to drunkenness, not violent but gentle, not quarrelsome, not a lover of money. (NIV)

Christians are to honour those God has placed in positions of authority (1 Timothy 5:17-20; Hebrews 13:7, 17). For example, 1 Thessalonians 5:12-13 says –

Now we ask you, brothers and sisters, to acknowledge those who work hard among you, who care for you in the Lord and who admonish you. Hold them in the highest regard in love because of their work. Live in peace with each other. (NIV)

Underlying all this – especially in the face of a grievance – are the priorities of love, repentance and forgiveness (Matthew 18:15-17; Galatians 5:22-6:4; Colossians 3:12-14; James 1:19-21). Ephesians 4:31-32 says –

Get rid of all bitterness, rage and anger, brawling and slander, along with every form of malice. Be kind and compassionate to one another, forgiving each other, just as in Christ God forgave you. (NIV)

Everyone in a position of leadership in our parishes is expected to exercise authority in a godly way. And we thank God for the godly leadership of both clergy and church workers in the Diocese.

But we also recognise that sometimes authority can be exercised in an unacceptable way.

This can cause significant damage to relationships, undermine ministry and ultimately bring the gospel of our Lord Jesus into disrepute.

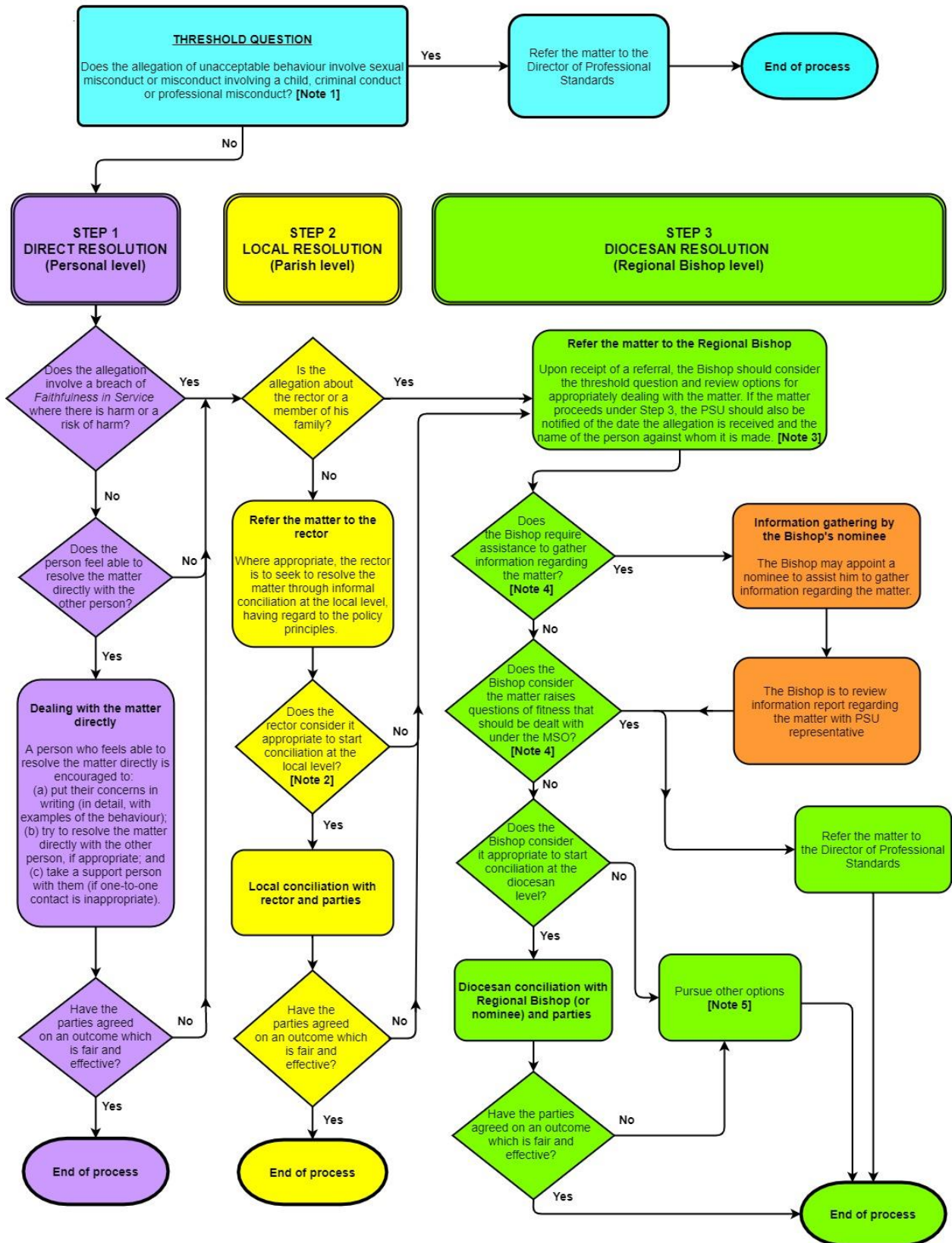
We are committed to ensuring that allegations of unacceptable behaviour are dealt with properly. An important part of this commitment is to have a process to encourage people to raise allegations of unacceptable behaviour by clergy and church workers in parishes, knowing that the allegations will be –

- treated seriously and sensitively, and
- dealt with promptly, fairly and effectively.

We affirm that faithful Christian leadership sometimes means clergy and church workers make decisions with which some people disagree or are offended by. Christian leadership like this can be a necessary part of growing our churches. In itself, it should not give rise to an allegation of unacceptable behaviour under this policy.

B. MODEL PROCEDURES FOR DEALING WITH ALLEGATIONS OF UNACCEPTABLE BEHAVIOUR

Parties should have regard to the policy principles in using these procedures. The 'notes' in the flowchart refer to the accompanying notes for these procedures at Appendix C. **Please note that the complainant may AT ANY TIME refer the matter to the Director of Professional Standards to be dealt with under the Ministry Standards Ordinance 2017.**



C. ACCOMPANYING NOTES FOR MODEL PROCEDURES FLOWCHART

Note 1. Threshold question

The complainant, rector or Regional Bishop (as applicable) must promptly notify the Director of Professional Standards if they consider that the allegation involves:

- (a) sexual misconduct or misconduct involving children; or
- (b) criminal conduct, including sexual abuse or child abuse, and allegations of professional misconduct.

Unless the Director indicates that the matter may be dealt with under this policy, any further action in relation to the matter under this policy must cease.

Note 2. Local resolution – conciliation by the rector

The rector should not start or otherwise undertake conciliation of any matter at the local parish level if, having made due enquiry, the rector considers:

- (a) it is not appropriate to deal with the allegation this way, for example because of its seriousness, because of the relationship between the parties or due to having a conflict of interest;
- (b) there is no reasonable prospect of resolving the matter this way, for example because one party refuses to participate in a conciliation; or
- (c) the allegation is trivial, malicious or demonstrably false.

If the rector does not start (or otherwise ends) a conciliation process at the parish level, he should provide written reasons to the complainant and inform the complainant that they may refer the matter to the Regional Bishop. The rector should also store any records relating to the matter in a confidential file.

Note 3. Diocesan resolution – referral of matter to the Regional Bishop

If a matter is referred to the Regional Bishop, the Regional Bishop should reconsider the threshold question again and satisfy himself that the matter does not need to be referred to another body or person. If applicable, he should also consider whether the matter has been adequately considered under Steps 1 and 2. If the matter is to proceed under Step 3, the Regional Bishop should notify the PSU of the date he received the allegation and the name of the person against whom it is made, but nothing more. The Regional Bishop should then pursue appropriate options with the agreement of the complainant to assist in resolving the matter.

As the first step, the Regional Bishop should consider whether to engage the Parish HR Partner or appoint another nominee (e.g., the Regional Archdeacon) to undertake the task of gathering information regarding the allegation and producing a report. There may be reasons for not gathering information; for example, if the material facts are substantially agreed or if the Regional Bishop considers that time is of the essence in resolving the matter. The information report produced by the Parish HR Partner or other nominee will make only findings of fact regarding the matter. The report will not determine whether the allegation has been substantiated or make any recommendations to deal with the allegation.

Once the Regional Bishop receives the information report, he will review the report with a representative of the Professional Standards Unit and identify appropriate options to assist the complainant in resolving the matter. The PSU may note that a grievance has been raised against the church worker or member of clergy under the policy, but will not have access to the information report or keep other records concerning the matter even if the matter is referred for action under the *Ministry Standards Ordinance 2017*.

As part of the review, the Regional Bishop should consider whether the matter raises questions about the person's fitness for ministry. If so, the matter should not be resolved through conciliation (other than where it forms part of the process under the *Ministry Standards Ordinance 2017*). This is because in such instances the matter raises broader considerations than resolving a grievance between the parties and raises questions about whether the person's ministry should be made subject to limitations or otherwise regulated.

Note 4. Diocesan resolution – conciliation of matter

The Regional Bishop should seek to facilitate resolution between the parties by mutual agreement using a conciliation process unless he, having made due enquiry, considers that conciliation is not appropriate (see Note 3 above). As part of this, the Regional Bishop should confirm with the complainant that they do not wish to have their complaint dealt with under the *Ministry Standards Ordinance 2017*.

If the Regional Bishop does not start (or otherwise ends) a diocesan conciliation process, he should provide written reasons to the complainant and pursue other options for dealing with the matter, if appropriate. He should also store any records relating to the matter in a confidential file.

Diocesan conciliation process

The Regional Bishop may conciliate the matter (with the parties' agreement) or appoint another person with the agreement of the parties. Any conciliation process must be conducted in accordance with the principles contained in this policy.

Ending the diocesan conciliation process

At any time a complainant may refer their complaint to the Director of Professional Standards to be considered under the *Ministry Standards Ordinance 2017*. If this occurs, the processes under this policy will cease immediately and the complaint will be dealt with in accordance with the Ordinance.

The Regional Bishop should end a diocesan conciliation process if the matter has not been resolved within 3 months of the commencement of the process.

Any outcome agreed between the parties should be fair and effective. The outcome should be documented, signed and dated by each party, and the Regional Bishop. The outcome will usually include a review of the matter by the Bishop at a time or times after the matter has ended. A copy of the signed and dated outcome should be provided to both parties, and the Bishop (if he is not the conciliator).

Note 5. Diocesan resolution – pursue other options

If the Regional Bishop determines that use of the diocesan conciliation process is inappropriate or has not led to an outcome that is fair and effective in the circumstances, he should pursue other options to assist resolution of the matter. This may include, but is not limited to:

- (a) recommending that the respondent have “guidance or specialised help” (as per *Faithfulness in Service*); and
- (b) referring the matter to the Director of Professional Standards to deal with the matter under the *Ministry Standards Ordinance 2017* (with the agreement of the complainant).