

# Anglican Church of Australia

## Professional Standards Commission

### Protocol for determining the responsibility of dioceses for disciplining Church workers for misconduct

#### Preamble

Recognising that:

1. The *Safe Ministry Policy Statement* adopted by the General Synod on 4 October 2004 Includes the following commitment:

“The Anglican Church of Australia is committed to the physical, emotional and spiritual welfare and safety of all people, particularly within its own community. To ensure the safety of children and vulnerable people in our communities, the Church will:

...

- respond promptly to each concern raised about the behaviour of its clergy and church workers;”

2. The *Charter for the safety of people within the churches of the Anglican Communion* adopted by the General Synod on 30 June 2014 Includes the following commitment:

***“Effective responses to abuse***

2. We will have and implement policies and procedures to respond properly to allegations of abuse against clergy and other church personnel that include:

...

- (c) the impartial determination of allegations of abuse against clergy and other church personnel, and assessment of their suitability for future ministry;”

3. The failure to discipline Church workers for misconduct may expose people to the risk of harm.
4. More than one diocese may have jurisdiction to discipline a Church worker for misconduct.
5. The guiding principle for determining which diocese should exercise its jurisdiction to discipline a Church worker for misconduct is the diocese in which the current risk of harm to people predominantly arises.

The responsibility of dioceses for disciplining Church workers for misconduct is to be determined in accordance with the provisions of this Protocol.

## **Operative provisions**

### ***Key terms***

1. In this Protocol:

**“Church”** means the Anglican Church of Australia;

**“Church authority”** means the person or body having administrative authority of or in a Church body to license, appoint, authorise, dismiss or suspend a Church worker;

**“Church body”** includes a parish, school, any body corporate, organization or association that exercises ministry within, or on behalf of, the Church;

**“Church worker”** means a person who is or who at any relevant time was:

- (a) a member of the clergy; or
- (b) a person employed by a Church body; or
- (c) a person holding a position or performing a function with the actual or apparent authority of a Church authority or Church body;

but excludes a bishop subject to the jurisdiction of the Special Tribunal of the Church;

**“Determiner”** means the person or body having power under the disciplinary or professional standards rules of a diocese to make findings or recommendations relating to the conduct of Church workers and may include the Diocesan Tribunal or the Professional Standards Board;

**“disciplinary action”** includes action taken under the disciplinary or professional standards rules of a diocese;

**“Investigator”** means the person or body having power under the disciplinary or professional standards rules of a diocese to investigate or cause to be investigated the conduct of Church workers and may include the Professional Standards Committee;

**“licensed”** means licensed or authorised by the bishop of a diocese of the Church;

**“misconduct”** means conduct or an omission wherever or whenever occurring which, if established, might:

- (a) constitute a breach of discipline or an ecclesiastical offence; or
- (b) call into question the fitness of a Church worker, whether temporarily or permanently, now or in the future to hold a particular or any office, licence or position of responsibility in the Church or to be or remain in Holy Orders or in the employment of a Church body; or
- (c) call into question whether, in the exercise of a Church worker’s ministry or employment, or in the performance of any function, the Church worker should be subject to certain conditions or restrictions.

**“National Register”** means the National Register established pursuant to the *National Register Canon 2007*.

2. For the purposes of this Protocol:

- (a) a person employed by a Church body; or
- (b) a person holding a position or performing a function with the actual or apparent authority of a Church authority or Church body;

will be taken to be engaged by a Church authority.

### ***Investigations***

3. Where misconduct is alleged against a Church worker who is:

- (a) licensed in a diocese; or
- (b) engaged by a Church authority in a diocese; or
- (c) resident, but not licensed or engaged by a Church authority, in a diocese;

and more than one diocese may have jurisdiction to take disciplinary action against the Church worker in respect of the alleged misconduct:

- (d) if the allegation is made under the disciplinary rules for Church workers of the diocese in which the Church worker is licensed, or predominantly undertakes ministry if licensed in more than one diocese, or is engaged or is resident, then the Investigator of that diocese should:
  - (i) investigate the alleged misconduct; and
  - (ii) if applicable, promptly notify the Director of Professional Standards of the diocese of the allegation to facilitate, if appropriate, the entry of information relating to the alleged misconduct on the National Register; and
  - (iii) promptly notify the Investigator of each other diocese that may have jurisdiction to take disciplinary action against the Church worker in respect of the alleged misconduct of the investigation of the alleged misconduct and its outcome, and the substance of the alleged misconduct; and
  - (iv) if satisfied that there is no jurisdiction to take disciplinary action against the Church worker in respect of the alleged misconduct, promptly disclose all relevant information obtained from the investigation to the Investigator of each other diocese that may have jurisdiction to take disciplinary action against the Church worker in respect of the alleged misconduct.
- (e) if the allegation is made under the disciplinary rules for Church workers of another diocese, then the Investigator of that diocese should refer the allegation to the Investigator of the diocese in which the Church worker is licensed or engaged or resident who should take the steps in subparagraphs 3(d)(i) to (iv) of this Protocol.

4. The Investigator of a diocese to whom a notification is made pursuant to subparagraph 3(d)(iii) of this Protocol should:
- (a) promptly disclose to the Investigator making the notification all known information that may be relevant to the investigation;
  - (b) provide, so far as practicable, any assistance which may be requested by the Investigator making the notification.

***Determinations***

5. Where an Investigator of the diocese following an investigation forms the opinion that there are proper grounds to take disciplinary action in respect of the alleged misconduct against the Church worker who is:

- (a) licensed in the diocese; or
- (b) engaged by a Church authority in the diocese; or
- (c) resident, but not licensed or engaged by a Church authority, in the diocese;

and more than one diocese may have jurisdiction to take disciplinary action against the Church worker in respect of the alleged misconduct, the Investigator should disclose all relevant information obtained in the investigation to the Determiner of the diocese who should:

- (d) unless satisfied that there is no jurisdiction to do so, take disciplinary action against the Church worker; and
- (e) promptly notify the Director of Professional Standards of the diocese of the outcome of the disciplinary action to facilitate, if appropriate, the entry of information relating to the outcome on the National Register; and
- (f) promptly notify the Investigator of each other diocese that may have jurisdiction to take disciplinary action against the Church worker in respect of the alleged misconduct of the taking of the disciplinary action and its outcome; and
- (g) if satisfied that there is no jurisdiction to take disciplinary action against the Church worker in respect of the alleged misconduct, promptly disclose all relevant information obtained from the Investigator to the Investigator of each other diocese that may have jurisdiction to take disciplinary action against the Church worker in respect of the alleged misconduct.

**Further investigations and determinations**

6. Where information is disclosed pursuant to subparagraph 3(d)(iv) or 5(g) of this Protocol, then:
- (a) the following Investigator should take the steps in subparagraphs 3(d)(i) to (iv) of this Protocol so far as applicable:
    - (i) where information is disclosed to the Investigator of one diocese, that Investigator;
    - (ii) where information is disclosed to the Investigator of more than one diocese:
      - (A) firstly, the Investigator of the diocese in which the Church worker resides;
      - (B) secondly, the Investigator of the diocese in which the misconduct is alleged to have occurred or substantially occurred;
      - (C) thirdly, the Investigator of any other diocese to whom the information has been disclosed;
  - (b) if the Investigator of a diocese following an investigation forms the opinion that there are proper grounds to take disciplinary action in respect of the alleged misconduct against the Church worker, then the Investigator should disclose all relevant information obtained in the investigation to the Determiner of that diocese, and that Determiner should take the steps in subparagraphs 5(d) to (g) of this Protocol.

**Costs**

7. Subject to paragraph 8 of this Protocol, the costs of a diocese taking steps under this Protocol should be met by that diocese, but this should not preclude any arrangement between that diocese and one or more other dioceses or Church bodies for the sharing of such costs. Generally, the diocese or dioceses in which the misconduct has occurred should contribute to the cost of investigating and taking disciplinary action against the church worker.

8. Where prior to a Church worker becoming licensed in a diocese or engaged by a Church authority in a diocese, a Church authority or Church body of another diocese was aware of the alleged misconduct of the Church worker and:

- (a) had provided information as to the standing of the Church worker in that diocese to a Church authority or Church body of the first mentioned diocese without disclosing the alleged misconduct; or
- (b) the Director of Professional Standards of that diocese, where required to do so, had failed to enter information relating to the misconduct on the National Register;

then that diocese should meet the costs of the first mentioned diocese in taking steps under this Protocol.