

NATIONAL COMMITTEE FOR PROFESSIONAL STANDARDS

A Committee of the Australian Catholic Bishops & the
Australian Leaders of Religious Institutes

ACBC VOL4/26

ISSUES PAPER NO 2

DATE: 31 JULY 1996

Regarding Procedures document version 23/06/96

The preamble

1.1 Begin with reference to the principles document. The procedures document should not be published separately from the principles document.

1.2 Then it should say that this document will be regularly developed and updated in the light of experience and this present document is a revision of the 1992 document.

1.3 It should also say that it is used with an awareness of the penal and procedures provisions of the Code of Canon Law.

1.4 It is intended to apply to all allegations of sexual abuse etc

General Observations

2.1 The Church MUST act quickly and prudently.

2.2 If the allegations involve a criminal offence church authorities will report the matter, if this has not already happened to the police. In cases where the complainant indicates that they do not wish the matter to be reported to the police, it must be pointed out to them that although they have every right to withhold information from the police the Church has no option in this matter.

2.3 Church authorities through the resource group in each State in Australia will reach an agreement with State police departments that the Church has an expectation that any reports made to the police about criminal matters will be acted upon within 48 hours. If State police fail to act upon a matter within the agreed time the Church will make its own interventions to ensure that other persons are not at risk of abuse in relation to the alleged offender.

2.4 It is not necessary to spell out the implications of sexual abuse in terms of its multi faceted components.

The procedures or decisions of one Church body or authority always have an impact on

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individuals and the Church as a whole. While nothing in these procedures is intended to override the rights of any individual or church authority it is in everyone's interest that this uniform approach be adopted.

2.5 It is not necessary to spell out the guiding principles as they are already stated in the principles document to which this document is annexed.

3. Definitions are adequate although it may be important to define the difference between a cleric/religious and "employee of the Church", in view of the implications of industrial laws in reference to the latter.

In this regard the document should make it clear that it is the Church's intent to override industrial laws and to face the consequences of such action. (in other words we are prepared to stand down and sack people even if this goes against existing industrial law, and we are prepared to face fines in necessary)

Structures and personnel

4. In relation to 4.1 the document needs to honestly state that the National Committee is no more than an advisory body to the ACLRI and the ACBC. The document should not intimate that the national committee has any deliberative power.

4.2 The professional resource groups also should be clearly defined as advisory groups to the bishops and or religious leaders operating in each province. In relation to the membership of these reference groups, it is imperative that a clear statement be made that a victim/survivor, or the representative of same, will be a member of each group. It needs also to be noted that the reference to a person skilled in "pastoral counselling" should be changed to "social sciences".

4.3 In relation to the respective roles within each resource group the following comments need to be borne in mind.

* the title 'convenor' is unclear and should be replaced with 'co ordinator'. Furthermore this coordinator should not be referred to as the contact person for the national committee as the contact person on the committee has a very different role. It would be better to say that the coordinator shall be responsible for 'liaising' with the national committee.

* The contact persons within the resource group may be only some of a broader network of contact persons within various dioceses and religious institutes. The role of the contact persons within the resource group would be to keep in regular communication with other contact persons. Furthermore the contact persons both within the resource group and in other places should be clearly defined as people whose names and points of contact are publicly known and easily accessible. It needs to be made clear that contact persons within the resource group or

nominated contact persons in dioceses or religious institutes are not to take disclosures from victims but refer the complainant to the delegate in the relevant diocese or religious institute who has the authority to take complaints and to act on them.

*Victims support persons must not be the victims therapists or counsellor. This person is essentially an advocate for the respective victims and must be in a position to give victims open and honest information and to enable them to obtain access to appropriate church authorities as deemed appropriate. This person needs also to be in a position to speak to victims freely and honestly about matters related to compensation. Hence, this person must have a good working relationship with those legal firms, mediation groups etc that are able to advise victims and be able to do this without prejudice.

(omit investigators... they now become delegates)

* Delegates have an authority from their bishop or congregational leader to receive complaints and to act upon them in accordance with the principles and procedures set out in this document.

* The accused support person must never be put in a position where she or he takes a disclosure from the accused person prior to such a disclosure being given to another person. This needs to be clearly spelt out. They too need to have a good working relationship with legal firms who can act on behalf of accused persons and work in close collaboration with the clinical director of the national treatment program.

4.5 Each resource group has already decided on the number of meeting and have their own procedures. There is no need for this document to be spelling out minimum times to meet.

4.6 The resource group is an advisory body to the appropriate delegate in a diocese or religious institute. In developing its advise it will be necessary from time to time to seek further advise from other expert professionals beyond the membership of the resource group. The resource group should be free to access the advice of any professional they see fit and costs should be borne by the particular diocese or religious institute. As well, resource groups should be able to seek advise from victims support groups without prejudice.

4.7 There will be differing opinions from time to time regarding the advice to be provided by the resource group to the delegate. The resource group should operate on a consensus model of decision making and all opinions provided to the church authority for final decision.

4.8 All members of the resource group should be chosen for their commitment to the principles outlined in the principles document and particularly their ability to place the needs of victims as the first priority. 2

5. Complaints.

5.1 People wishing to make a complaint are to be referred to the delegate who will make proper arrangements to receive the complaint.

These procedures are intended to offer a framework for the Church's professional standards resource groups throughout the nation in responding to complaints of sexual abuse by church personnel. Different resource groups will need to also respond to local needs and conditions in ensuring that people making complaints are offered the most efficient and transparent process in order to bring complaints to the attention of Church authorities, and for Church authorities to act quickly and properly to complaints.

5.2 It is essential that there be wide access to information about not only the Church's process in responding to complaints but also who to contact in order to speak about a complaint. Information needs to be circulated widely throughout the community with the names and telephone numbers of authorised contact personnel.

5.3 All complaints of sexual abuse by Church personnel must be responded to within 24 hours of receipt of a complaint. If the complaint is of a criminal nature then 2.3 is to be implemented.

5.4 Only the Church personnel (delegates) who can act on a complaint should receive a complaint. Otherwise the person making the complaint can end up having to tell their story over and over again to people who can provide little assistance other than to pass on information. Contact persons should be trained to ascertain who is the appropriate person to receive the complaint. All other Church personnel who may be contacted by a complainant should refer the person to the appropriate delegate without further discussion of the details of incidents.

5.5 Once a delegate has received information from a person making a complaint the coordinator should be contacted immediately, the Church authority notified and the procedures put in place as quickly as possible in order to meet the needs of the complainant and to ensure that no children are not at risk.

5.6 Yes

5.7 Yes As already mentioned in 2.3 and 5.3 the Church makes a public commitment that civil authorities will be contacted within 24 hours of receipt of a complaint that relates to criminal behaviour. Regional resource groups need to establish proper procedures to ensure that this commitment is adhered to.

5.8 Delete as per 2.3, 5.3 and 5.7 Persons making complaints should be encouraged to take the matter to civil authorities and that the Church policy is to refer all criminal allegations to the police.

5.9 The delegate decides what interviews should take place regarding the complaint and shall implement procedures within 24 hours of receiving the complaint if the matter is not of a criminal nature or following action by civil authorities if the matter is of a criminal nature.

5.10 delete

5.10.1 delete

5.11 Anonymous complaints should be treated seriously and prudently considering that some complainants are so fearful as to preclude them coming forward to identify themselves.

6. Investigations.

6.1 Only the police and other civil authorities shall carry out investigations in criminal allegations against Church personnel unless such authorities decide to not proceed or conduct an investigation (interview). If the complaint is not about criminal behaviour the delegate must implement the established interview procedures.

6.2 delete

6.3 No internal interview shall ever take place in criminal matters until after civil investigations or in the event that civil authorities decide not to investigate. In matters other than criminal, interviews take place with the primary intention to ensure that no person is at further risk of abuse or potentially at risk. If alleged offenders need to be interviewed such interviews become subject to the procedures in the Code of Canon Law.

6.4 The delegate decides on the interview process. The Professional Standards Resource Group may advise the delegate regarding the most appropriate response to the complainant and the alleged offender.

6.4.1. People making complaints should be encouraged to have someone else present during their interviews with delegates. Such a victim support person can then provide both emotional support and can assist in clarification of issues.

6.4.2 During the process of responding to complaints both contact persons and delegates should actively encourage the complainant to provide information to the police or other civil authorities. At all times should the process clearly state that once information is given to delegates in criminal complaints there is an option but to inform the police or other civil authorities.

6.4.3 delete

6.4.4 delete

6.5 Interviews with persons accused of criminal behaviour will be undertaken by the police following referral of the complaint to the police. If the police do not intervene within 48 hours of receipt of the complaint of following police investigations further interviews are required by the delegate such interviews should only take place with the permission of the police.

6.5.1 When delegates conduct internal interviews provisions set down in canon law apply. The person accused should have the opportunity to have a support person present and to have their own legal and or industrial representative present. If the matter is of a criminal nature then admissions should only be made to the proper civil authorities.

delete 6.5.2 already stated

6.5.3 and 6.5.4 leave

6.6 Interviews that are not of a criminal nature can be conducted by delegates with whatever witnesses can shed further information on the matter.

6.7 Leave

corrected numbering for the rest of number 6.

6.8 Leave

6.8.1 Leave

6.9 leave

6.9.1 leave. Issue of employment needs to be defined. Does 'the course of employment' apply to a priest or religious'?

6.9.2 Leave

6.10 The delegate would discuss the plan of action in response to the complainant and the alleged offender with the bishop or leader.

6.11 Change to delegate. Not only ongoing risk to children but also vulnerable adults.

6.12 delete

6.13 delete (leave this to local practice and decisions)

6.14 The delegate will make decisions in dialogue with the leader or bishop.

6.15 People making complaints want to feel that they are being listened to and believed. It is important that they are responded to with great dignity. This could mean that delegates indicate to the person not only their concern but their support and even their belief in their story. bishop or leader would then decide what action should be taken including the issue of an apology and compensation.

7. Outcomes relating to the complaint and /or victim.

7.1 It is important and respectful that the complainant and/or victim be kept informed of the process following the Church's receipt of the complaint. The victims support person on the resource groups should maintain regular contact and ensure that the person has all the available information during each step of the process.

7.2 Victims and their families are usually in need of specific counselling support during the process of the complaint and following some resolution of the matter. It is important that each diocese and religious institute have at their disposal and at their cost a range of appropriate professional counsellors and therapists both from Church agencies and from independent agencies from the Church who could provide such support.

7.2.1. It is important that the offering and provision of counselling support by the Church to a complainant, is neither presented nor enacted in any way, directly or indirectly in a form that would stop the matter being referred to the police for a criminal investigation. No counselling relationship should be set up by the Church or funded by the particular diocese or religious institute without the knowledge of the civil authorities involved.

7.2.2 The cost of appropriate counselling support offered by the Church after the matter has been resolved should be borne by the diocese or religious order concerned for an agreed length of time in order for proper therapeutic benefits to be gained.

7.3 delete

7.4 delete

7.5 The person making the complaint may decide upon advice that some form of mediation procedure is the most appropriate response desired. Mediation processes or any other process that assists the complainant need to be considered by the delegate. While professional and expert mediators can assist in avoiding the polarisation of the various persons in the complaint process, no such mediation process can shift the principle that criminal matters need to be investigated by the police or other civil authorities.

7.6 delete. The national committee should not assume such powers to itself.

8 Outcomes relating to the Accused/Offender

8.1 The delegate will inform the bishop or leader of what action needs to be taken in reference to the accused or the offender.

8.2 The delegate in responding to the accused must look to the needs of all involved but with particular reference to the protection of children and vulnerable adults. Such a response will be developed and given in the context of cooperation with a police investigation or other civil investigation in a criminal matter.

8.3 Considering the seriousness of the complaint and the position of vulnerable children or adults, the delegate in dialogue with the bishop or leader shall decide whether the accused person should be stood down from their position with full pay or a volunteer should be required to step aside until the matter is resolved. If such an action is not supported by the industrial law of the state then the Church must be prepared to accept this situation rather than break this principle that says all church personnel will be stood down upon the receipt of a criminal allegations upon the advice of the police.

8.4 same

8.4.1 same except refer to delegate.

8.4.2 The bishop or leader must also consider the issue of restitution for the victim considering the likelihood that the offender, particularly if he is a priest or religious, has few assets. While the diocese or institute may not be held liable in civil law, it is a matter of justice that such restitution occur.

8.5 If an accused person is found not guilty before a civil court the bishop or leader upon advice from the delegate and the Professional Standards resource group will need to examine ways of restoring the reputation of those individuals and communities involved.

8.6 delete

9. Preventive strategies

9.1 As well, Church personnel need to be provided with educational inputs on protective strategies in order to function at a high level professional standard.

9.2

9.3

9.4

9.5

10. Other Issues

10.1 delete

10.2 Engagement with, not management of the media.

10.3 delete

10.4 Put into 10.1

11. Conclusion

11.1 same

11.2 The publication of this document of principles and procedures should be undertaken widely both within the Church and in the general community. It is important that access to this publication should be free and unconditional.