

**NATIONAL COMMITTEE FOR PROFESSIONAL STANDARDS**

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

11 November 1997

Father Michael McKenna  
Secretary  
Australian Catholic Bishops Conference  
BRADDON ACT.

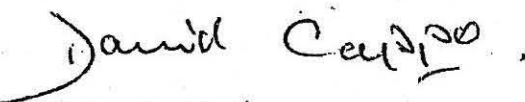
Dear Father Michael

Please find enclosed a copy of the draft Charter for the National Committee for Professional Standards and a copy of the draft process for 'transferring' clergy and religious.

Both documents need to be discussed and voted on at the November Conference.

Could both documents please be sent to all bishops in preparation for the Conference.

With kind regards

  
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## DRAFT PROCESS FOR 'TRANSFERRING' CLERGY AND RELIGIOUS

### Preamble

The purpose of this process is to ensure, as far as possible, that people are not at risk of being abused or subject to boundary violation by church personnel. A proper assessment needs to be made of such a risk. This can only happen if there is full and frank disclosure among the parties concerning any past incidents or other risk factors that might give rise to concern in the future.

It has been said that a church authority might be held to be liable for negligence in failing to inquire into the background of a person being employed in some church activity.

The criticism that ' the bishop/religious leader knew he had a problem but just transferred him elsewhere should be countered by a transparent process that would limit such a possibility.

There are three parties involved in the transfer:

- The transferor church authority
- The transferee church authority
- The person being transferred.

The transferor and the person being transferred have a duty to make an honest disclosure. The transferee has a duty to make a reasonable inquiry.

It is unacceptable to discriminate and suggest that only those with problems make a disclosure. The reason for this is that if there is no evidence that an inquiry was made it could be argued that this failure to enquire amounted to negligence.

As to the argument that this is intrusive one might consider the process at the Blood Bank for disclosure by potential donors. It is highly intrusive but gives a person the opportunity to self-refer out of the system. It may be that future transfer in a particular case will never be possible.

The policy should be mandatory and comprehensive and apply to transfers of religious and laity. As to employees, normal reference checks, including police checks if necessary, should be mandatory and address this issue.

It should be noted that criminal checks alone may be too limited. A problem might arise if a person has a known propensity to engage in non-criminal boundary violation and is employed in circumstances that give rise to an allegation of negligence on the part of either the present or past employer. A failure to enquire might constitute such negligence.

In all cases of transfer the person being transferred should disclose to the transferee church authority any matter that is reasonably likely to expose the transferee authority to future liability. The transferor authority, with the knowledge and consent of the person, shall make a similar disclosure. This is an act of justice by both towards the transferee. The transferee should assist the process by scrupulously insisting on such a disclosure.

#### Process

##### 1. Cases involving single transfers between diocese or religious institutes

A standard paragraph in the document (eg letter of appointment or request) for each of the transferor and person being transferred should be in terms similar to the following:

In accordance with the policy of the Australian Catholic Church relating to professional standards I [transferor authority] declare that I am not aware of any circumstances that might give rise to a complaint that [name] has or is likely to offend against accepted professional standards [except as follows - details provided].

The person being transferred would add to his or her letter of request for the transfer

In accordance with the policy of the Australian Church relating to professional standards I declare that I am not aware of any circumstances that might give rise to a complaint against me in relation to professional misconduct [except as follows - details provided].

##### 2. Cases involving multiple transfers of members of religious institutes

In the case of religious orders who transfer personnel among dioceses the following paragraph could be added to the letter informing the Ordinary of the appointments:

In accordance with the policy of the Australian Catholic Church relating to professional standards I [congregational leader] declare that I am not aware of any circumstances that might give rise to a complaint that those listed as being appointed to your Diocese have or are likely to offend against accepted professional standards.

In the event that there is a particular problem it could be the subject of separate correspondence.

3. Cases where a Diocese is making an appointment of a member of a religious Institute

Where a Diocese makes an appointment of a member of a religious order the Ordinary should obtain a statement from the congregational leader to the effect that he or she is not aware of any circumstance that might give rise to a complaint of professional misconduct.

4. Decisions by the transferee

The transferee must make a prudential judgement about the appropriateness of the transfer or appointment and it is important for his or her successor to have evidence that such a decision was conscientiously made.

The transferee church authority should note the file as follows

I have sought and received from [transferor and person] statements relating to possible circumstances giving rise to the likelihood that a complaint of professional misconduct might be made against [person] and I am satisfied, on the information provided, that I am properly able to accept the transfer of, or the appointment to ministry of [person] in this diocese.

In the event that either the transferor or the person makes some disclosure the details should be filed and a statement added giving the reasons why it was thought appropriate to make the transfer or appointment notwithstanding the disclosure.

5. Lay employees

In the case of lay employees or volunteers, in appropriate cases, it would be reasonable to ask each one to certify in their letter accepting appointment something to the following effect.

I am aware of the policy of the Catholic Church in Australia concerning professional standards and I confirm that I have not been convicted of any offence relating to sexual abuse nor have any circumstances arisen to my knowledge that might give rise to a complaint that I have violated acceptable professional standards nor render me a person who would be regarded as an unacceptable person to engage in an occupation involving the care of children.

## DRAFT CHARTER

### NATIONAL COMMITTEE FOR PROFESSIONAL STANDARDS

#### 1. Preamble

- 1.1 The Australian Catholic Bishops Conference (ACBC) and the Australian Conference of Leaders of Religious Institutes (ACLRI) wish to establish the National Committee for Professional Standards (NCPS), entrusted with responsibility to assist their respective members in their efforts to respond to and prevent violations of professional standards, including issues related to sexual and physical abuse, sexual harassment, and any other matter considered to be an issue of professional misconduct, of clergy, religious and other employees and volunteers of Church entities.
- 1.2 This Charter is designed to serve as a reference for ACBC and ACLRI, specifying matters pertaining to the governance and activity of NCPS.

#### 2. Establishment

- 2.1 ACBC and ACLRI shall establish NCPS as a Joint Committee.
- 2.2 Assets of NCPS, whether real or personal and including intellectual property, shall be jointly owned by ACBC and ACLRI in equal shares, which shall jointly in equal shares, but not severably, be responsible for all liabilities.
- 2.3 NCPS does not constitute a legal partnership between ACBC and ACLRI.
- 2.4 Any matters of dispute that may arise between ACBC and ACLRI concerning the NCPS or its activities shall be resolved by negotiation and failing such resolution by arbitration before an agreed arbitrator or one nominated by the President for the time being of the Law Society of New South Wales.
- 2.5 All agreements between ACBC and ACLRI and all directions to or policies established for NCPS shall be in writing under the hand of the President of ACBC and the president of ACLRI.

### 3. Membership

- 3.1 NCPS shall comprise twelve members who shall have equal status on the Committee whether they be clergy, religious or lay.
- 3.2 Membership of NCPS shall in the first instance consist of six persons being three bishops elected by ACBC, the president for the time being of ACLRI, and two other leaders of religious institutes nominated by ACLRI.
- 3.3 One Bishop nominated by ACBC and one religious shall be co-chairpersons of NCPS and shall rotate the exercise of that office in such manner as they agree.
- 3.4 The initial members of NCPS shall, after wide consultation among members of ACBC and ACLRI, nominate six other members.
- 3.5 The six other members shall be men and women, lay, clerical and religious, who have a proven experience in one or more of the following areas: child protection, counselling, education, social sciences, canon law and church administration and civil law.
- 3.6 Members nominated by ACBC and ACLRI shall be appointed for terms determined by ACBC and ACLRI respectively other members shall be appointed for terms not exceeding three years with a maximum of three terms.
- 3.7 Members shall be appointed on the understanding that this is a contribution they make in service of the Church and without expectation of remuneration other than reimbursement of agreed expenses.

### 4. Mandate

The NCPS shall undertake the following tasks:

- Provide advice to ACBC and ACLRI and their respective members and other Church entities on all aspects of the formulation of policy regarding Professional Standards and the implementation of such policies.
- Revise as necessary *Towards Healing* and present for consideration to ACBC and ACLRI other policy documents from time to time.
- Authorise, conduct and publish, research on aspects of professional standards relevant to the Catholic Church.
- Participate in consultations with similar committees in other places.
- Be the body to which the National Treatment Programme is accountable
- Undertake such specific tasks as may be assigned to it from time to time by ACBC and ACLRI.

- To provide inservice training and support to members of Resource Groups [as noted in 3.8 of *Towards Healing*]
- To implement *Towards Healing* and have oversight as to its operation.

## 5. Executive Officer

- 5.1 NCPS shall, if it considers it expedient, employ an executive officer.
- 5.2 The employment of an executive officer shall be on such terms and conditions as is necessary for the proper fulfilment of assigned tasks.
- 5.3 The executive officer shall fulfil the duties set out in the contract of employment which shall include: effective co-ordination of the activities of NCPS and its members and consultants; the maintenance of all documentation necessary for the efficient operation of NCPS; the formulation of an agreed budget and the management of funds; presentation of annual audited accounts, liaison between ACBC, ACLRI other Church entities and NCPS.
- 5.4 The initial appointment of an executive officer shall be for a term not exceeding five years and shall be the subject of a two yearly appraisal. An executive officer may be re-appointed for further terms.
- 5.5 In accordance with any directives of NCPS the executive officer shall be the usual public contact and media spokesperson for NCPS.

## 6. Accountability

- 6.1 NCPS shall provide a report to each plenary meeting of ACBC and ACLRI through their respective representatives and such other specific reports as may be required by ACBC or ACLRI from time to time.
- 6.2 NCPS shall propose an annual budget to ACBC and ACLRI which shall indicate all known and likely expenditure for the coming year. No commitments will be entered into by NCPS that are likely to give rise to any significant deviation from the budget without prior specific authorisation from ACBC and ACLRI.
- 6.3 Any revenue received by NCPS (eg by sale of publications) shall be disclosed and taken into account in the annual budget.
- 6.4 At least every four years ACBC and ACLRI shall commission an independent appraisal of NCPS and consider any changes that may be necessary to this charter.