

# *Towards Healing*

Principles and procedures in responding to  
complaints of abuse against personnel  
of the Catholic Church of Australia  
December 2000

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Australian Catholic Bishops' Conference & the  
Australian Conference of Leaders of Religious Institutes

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Principles and procedures in responding to  
complaints of abuse against personnel of the  
Catholic Church of Australia

Dialogue or comments about the principles and  
procedures in this document are invited and should  
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*National Committee for Professional Standards*

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## *Introduction*

As bishops and leaders of religious institutes of the Catholic Church in Australia, we acknowledge with deep sadness and regret that a number of clergy and religious have abused children, adolescents and adults who have been in their pastoral care. To these victims we offer our sincere apology.

In December 1996 we published a document, *Towards Healing*, setting out the principles that must form the basis of the Church's response to complaints of abuse and the procedures to be followed in responding to individual complaints. We stated that this document would be in force for only a limited time and was "intended as a means of seeking the comments of all interested persons in the community".

In accordance with this intention, Professor Patrick Parkinson, pro-Dean of the Faculty of Law at Sydney University and author of the book *Child Sexual Abuse and the Churches*, was asked to lead the process of revision of the document. This process included broad consultation with complainants, accused, church authorities, and the various persons who had a role in responding to complaints - contact persons, assessors etc. Consideration of the requirements of Canon Law was also part of the revision, so that decisions made through *Towards Healing* could be securely implemented.

As a result of the experience of the last four years and the feedback provided during the consultation, a number of changes have been made. The major change in the principles is the extension of abuse to include sexual, physical and emotional abuse, formalising a change that had already been accepted as experience unfolded. The more numerous changes to the procedures aim to clarify the steps to be taken and provide a document that is clear and able to be applied to the many and varied matters that can be brought forward. The goal of moving "towards healing" remains paramount.

Like the earlier document, this document establishes public criteria according to which the community may judge the resolve of Church leaders to address issues of abuse within the Church. If we do not follow the principles and procedures of this document, we will have failed according to our own criteria.

We express our gratitude to Professor Patrick Parkinson and to all who contributed to the process of revision.<sup>1</sup>

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1 The Archdiocese of Melbourne and the Society of Jesus have in place sets of procedures that are of similar intention to those set out in Part 2 of this document. Both sets of procedures are designed to meet the principles of Part 1. Accordingly it is acknowledged that the procedures of Part 2 do not apply to the Archdiocese of Melbourne and the Society of Jesus.

Part One

## 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, e.g. those in their parish, people seeking advice, 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.
3. Any form of sexual behaviour with a minor, whether child or adolescent, is always sexual abuse. It is both immoral and criminal.
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.

### PHYSICAL AND EMOTIONAL ABUSE

5. Physical and emotional cruelty also constitute an abuse of power. Where a priest, 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.

## TRUTH

13. The Church makes a commitment to seek to know the full extent of the problem of abuse and the causes of such behaviour within a community that professes the values of Jesus Christ.
14. Concealing the truth is unjust to victims, a disservice to offenders 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 must 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 clergyman, 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 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 facts are truly as stated, abuse must be named for what it is and victims assisted to move the blame from themselves to the offender. They 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 the second half 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.



#### ASSISTANCE TO OTHER PERSONS AFFECTED cont.

21. The effect on the family of the victim can be profound. Sometimes the disclosure is so terrible that the family would rather reject the victim than face the reality. 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.
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 be looking at them as 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 in these changes.
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 by due process. 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. 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 precepts of Canon Law or civil law which govern that person's position. Account will be taken of how serious was the breach of professional responsibility, the degree of harm caused, and whether there is a likelihood that such behaviour could be repeated. Serious offenders will not be given back the power they have abused. Those who have made the best response to treatment recognise this themselves and no longer claim a right to return to ministry.

A RESPONSE TO THOSE GUILTY OF ABUSE cont...

28. We accept that the community expects 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 in overcoming their problems, 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 hold out to them something more than the prospect of unending condemnation. 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 the risk of abuse by Church personnel. Special care shall be taken in relation to all 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 selection of candidates for priesthood and religious life and their ongoing formation. We commit ourselves to a process of community education and awareness in recognising and responding to abuse.

COMMITMENT

32. 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.

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TOWARDS HEALTHY DEVELOPMENT

Part Two

## PROCEDURES FOR DEALING WITH COMPLAINTS OF ABUSE

### 33. NOTES

- 33.1 This section of the document deals with the procedures to be applied where victims (or other complainants on their behalf) seek a response from the Church as a result of abuse. It is to be implemented in the context of the previous sections on principles.
- 33.2 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.
- 33.3 These procedures are intended to apply to all complaints of abuse by Church personnel, whether they be 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.
- 33.4 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

### 34. 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.
- Behaviour by a person with responsibility for a child or young person 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.

'Children and young people' refers to those persons under the age of 18.

## 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 adolescents 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, reinforcing their sense of guilt and shame.
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 force used, the threats used to compel secrecy, the degree of 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. In most cases of abuse free choices are made 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, and they can actually use this as an excuse for 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, an effective response to those who are accused, an effective response to those who are guilty of abuse and prevention of abuse.



34. DEFINITIONS cont...

'Church authority' includes a bishop, a leader of a religious institute and the senior administrative authority of an autonomous lay organisation, and their authorised representatives, responsible for the Church body to which the accused person is or was connected.

'Church body' includes a diocese, religious institute and any other juridical person, body corporate, organisation or association, including autonomous lay organisations, that exercise 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 a 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 a penal process under canon law, or a disciplinary process in relation to a person who is employed by a Church body, or an assessment process under Clause 40 of these procedures.

'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.

'Offender' means a person who has admitted abuse or whose responsibility for abuse has been determined by a court of law or by due process in accordance with canon law, or a disciplinary process in relation to a person who is employed by a Church body, or an assessment process under Clause 40 of these procedures.

'Pastoral care' means the work involved or the situation which exists when one person has responsibility for the wellbeing of another. This 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.

'Victim' means the person against whom the abuse was directed.

35. STRUCTURES AND PERSONNEL

35.1. The Australian Catholic Bishops' Conference and the Australian Conference of Leaders of Religious Institutes have jointly established a National Committee for Professional Standards (National Committee) to oversee 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 Australia have established and shall maintain a Professional Standards Resource Group (Resource Group) in each State and the Northern Territory.

35.2.1. The Resource Group shall consist of at least one priest and one religious and a suitable number of other persons (no more than ten), both men and women, of diverse backgrounds, 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 bishops and leaders of religious institutes.

35.2.2. The Resource Group shall act as adviser to all Church bodies in the State in matters concerning professional standards.

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 State as it sees fit.

35.3. The bishops and leaders of religious institutes for each State shall jointly be responsible for appointing a Director of Professional Standards in each State.

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

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

55. STRUCTURES AND PERSONNEL cont...

- 55.4 Each Resource Group shall appoint suitable persons from among its own members or otherwise to be available to fulfil the following roles:

**CONTACT PERSONS**, who shall be the usual persons to receive complaints of abuse and pass them on to the Director of Professional Standards. 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 and may assist, where appropriate, with communication between the complainant, assessors and the Church authority. The contact person is not a counsellor to the complainant and shall not be the complainant's therapist.

**ACCUSED'S SUPPORT PERSONS**, who shall represent the needs of the accused to the Church authority and 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.

- 55.5 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.

**FACILITATORS**, who shall facilitate processes by which agreements may be reached between a victim and the Church authority about what the Church body can and should do to assist the victim.

**REVIEWERS**, who shall, where appropriate, conduct a review of process. Reviewers must be independent and impartial. They should not have close associations either with the complainant or with the Church authority responsible for dealing with the complaint.

- 55.6 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.

- 55.7 The Group shall act in an advisory capacity to the Director of Professional Standards concerning any aspect of his or her work.

36. RECEIVING A COMPLAINT

- 36.1 If a complaint of abuse comes to the notice of any Church personnel and the person who has made this complaint wishes to invoke the procedures outlined in this document, the Church personnel shall refer the matter to a Contact Person as soon as possible.
- 36.2 Information shall be widely circulated to the public, and especially among Church counselling agencies, parishes and schools, to make people aware that these procedures exist. The information shall set out as simply as possible the manner for making a complaint about abuse.
- 36.3 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 may be unable to act on the complaint under these procedures unless at some point the name of the complainant becomes known.
- 36.4 The 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.
- 36.5 The Contact Person shall either receive a written and signed complaint, or provide written notes of the details of the complaint and these notes are to be confirmed by the signature of the complainant. The complaint should have sufficient information about the nature of the complaint for the accused person to know what has been alleged against him or her.

37. CRIMINAL OFFENCES AND THE REPORTING OF CHILD ABUSE

- 37.1 When the complaint concerns an alleged crime or reportable child abuse, the Contact Person shall tell the complainant of the complainant's right to take the matter to the police or other civil authority and, if desired, provide assistance to do so. The Contact Person should also explain the requirements of the law of mandatory reporting.
- 37.2 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 or other civil authority, this should be recorded by the Contact Person and confirmed by the signature of the complainant.



37. CRIMINAL OFFENCES AND THE REPORTING OF CHILD ABUSE cont...

- 37.5 All Church personnel shall comply with the requirements for mandatory reporting of child abuse that exist in some States/Territories, and State or Territory law regarding the reporting of knowledge of a criminal offense must be observed. The appropriate Church authority shall also be notified of any such report.
- 37.4 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 they 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.
- 37.5 The Director of Professional Standards shall endeavour to establish a protocol with the police in each relevant State or Territory to ensure that church assessments do not compromise any police action.

38. 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, or the civil authorities have decided not to take further action under the criminal law or child protection legislation.
- 38.2 The Contact Person shall forward the report promptly to the Director of Professional Standards.
- 38.3 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 this procedure, or the behaviour complained of does not represent a serious breach of pastoral ethics and can properly be dealt with by correction and apology, he or she shall advise the complainant of other means of addressing the issue. This may include voluntary mediation or a complaint under *Integrity in Ministry*. The Director may assist in making the referral. The Director should advise the Church authority of the action taken.
- 38.4 Apart from matters dealt with under 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 vulnerable children and adults. The Director may also make recommendations concerning the funding of counselling or other such assistance for the complainant pending the outcome of the investigation.

38. RESPONDING TO A COMPLAINT cont...

38.4.1 In the event that a complaint of abuse is received against a bishop or leader of a religious institute, or the accused person is living overseas, the Director should consult with the Chairpersons of the National Committee for Professional Standards concerning how to deal with the complaint.

38.5 As soon as possible after receiving notice of the complaint, the Church authority or its representative shall inform the accused of the nature of the complaint if it is possible to do so. The accused needs to be given enough detail about the complaint, and the complainant, 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. The accused shall be offered a support person.

38.6 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.

38.7 Where there is a significant dispute about the facts, or the accused is unavailable to give a response, the matter shall be investigated in accordance with the procedures set out in this document.

38.8 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. The Church authority may seek the opinion of others involved in the matter before making a decision, and shall give the accused the opportunity to be heard on the matter. Where the accused is a priest or religious, the Church authority shall comply with canon 1722.1

38.8.1 If there is seen to be any significant risk of abuse of other persons, this advice must be given and acted upon by the Church authority at the earliest possible moment.

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1 This canon requires that the Ordinary shall consult with the promotor of justice and shall summon the accused to appear, before prohibiting the accused from exercising some ecclesiastical office or position.

58. RESPONDING TO A COMPLAINT CONT...

58.8.2 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 this fact. Accused persons who are clergy or religious shall, therefore, receive their normal remuneration and other entitlements while the matter is pending and they are standing aside. They shall be provided with an appropriate place to live. Where possible, they should be given some suitable activity. They shall not engage in any public ministry during this time.

39. SELECTING THE APPROPRIATE PROCESS

39.1 If the allegations concern a current employee of a Church body, other than a priest 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 that State or Territory. The Director of Professional Standards should liaise with the relevant body when the investigation has been completed, 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 the allegations concern a priest or religious, the Church authority shall consider whether a penal process should be commenced in accordance with Canon Law.<sup>2</sup> If a penal process is commenced, the Director of Professional Standards should liaise with the Church authority when the penal process has been completed, 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.

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<sup>2</sup> This may involve an administrative or a judicial procedure as laid down in canons 1/20-1/28. Canon 1341 provides that administrative or judicial procedures should be invoked only when pastoral approaches have failed.

39. SELECTING THE APPROPRIATE PROCESS CONT...

39.2.1 Where the accused is a priest or religious, the documents associated with the penal process shall be preserved in accordance with canon 1719 and canons 489-490 of the Code of Canon Law.<sup>5</sup>

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 offense may have been committed, the Church procedure shall cease immediately and the matter will be dealt with in accordance with 37.1-37.3. 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.

40. 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 where there is a significant dispute as to the facts, or where there is a need for further information concerning the complaint.

40.3 The assessor or assessors shall arrange an interview with the complainant. Where there is more than one assessor, both should interview the complainant and the accused.

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<sup>5</sup> Code 1719 requires that all documents which form part of the investigation process or which preceded the investigation, should be retained in the secret curial archive. Canons 489-490 govern the maintenance of this archive and issues about access to it.



## 40. ASSESSMENT cont...

- 40.5.1 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.
- 40.5.2 The complainant shall be invited to have another person present at the interview.
- 40.5.3 Under no circumstances shall there be any attempt to intimidate a complainant or to dissuade a complainant from proceeding with a complaint.
- 40.5.4 No interview with a child 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 without the express written authority and in the presence of the parent or guardian. An interview with a child shall only be conducted by personnel who are professionally recognised as skilled practitioners in interviewing children.
- 40.5.5 Special care shall also be taken in interviewing persons with an intellectual or psychiatric disability, and any such interview shall be conducted only by an appropriately qualified and experienced person.
- 40.5.6 The Director of Professional Standards has a discretion to close a matter if the complainant decides not to co-operate with an assessment process.
- 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 does not wish to co-operate 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 offense but is not bound to do so, nor may an oath be administered.<sup>4</sup>

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<sup>4</sup> Canon 1728, #2.

## 40. ASSESSMENT cont...

- 40.5 The accused has the right to obtain independent legal advice.
- 40.5.1 This advice shall 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.
- 40.6 The accused is entitled to have other persons present during any interviews (e.g. accused's support person or legal representative).
- 40.7 The assessors shall interview any other persons who could be of assistance. Decisions about who should be interviewed should be made after taking account of any wishes expressed by the complainant and the accused, and following consultation with the Director of Professional Standards. They may also need to put to the complainant the accused's version of events.
- 40.8 Church authorities shall comply with all reasonable requests made by assessors for access to documents which may assist them in their work. Church authorities are not required to disclose documents concerning which it has an obligation of confidentiality to the accused or to any other person.
- 40.9 A written or taped record shall be made of all interviews.
- 40.10 The contact person and the accused's support person shall have ready access to the assessors and shall have the responsibility of keeping the complainant and accused, respectively, informed of the progress of the assessment.
- 40.11 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 may advise the Church authority whether they consider the complaint to be true.
- 40.11.1 The assessors must provide reasons for their conclusions. If they are unable to reach a 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.
- 40.11.2 Where the behaviour about which complaint has been made was not a criminal offense, the assessors may also comment on how serious was the abuse of the pastoral role.

#### 40. ASSESSMENT cont...

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

40.12 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 true, then the Church authority must consider what action needs to be taken under Clauses 41 and 42 of these procedures. The Director of Professional Standards may be called upon by the Church authority for advice on these matters. If the Church authority decides to reject the complaint, then it must provide reasons for its decision to the complainant.

40.13 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.

40.14 During the assessment, and therefore, at a time when guilt has been neither admitted nor proven, the issue of guilt, liability 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.

40.15 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. The Director shall not retain any other documents or material for longer than five years following the completion of the assessment unless required to do so by law.

#### 41. 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 canon law process or a Church assessment, 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. Financial assistance or reparation may also be paid to victims of a criminal offense or civil wrong, even though the Church is not legally liable.

## 41. OUTCOMES RELATING TO THE VICTIM cont...

- 41.2 The Church authority may seek such further information as it considers necessary to understand the needs of the victim.
- 41.3 Facilitation shall be the normal means of addressing the needs of the victim. The Church authority and the victim shall mutually agree on a Facilitator from the approved panel.
- 41.3.1 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.
- 41.3.2 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 participate in the facilitation process.
- 41.3.3 The Facilitator shall seek to know the ongoing needs of the victim and the response of the Church authority to these needs.
- 41.3.4 The Facilitator shall also seek to know the needs of the victim's family and of the community in whose midst the abuse occurred.
- 41.3.5 The Facilitator shall seek to identify any outstanding issues where the victim is not satisfied with the response received and shall explore with both parties the best means of dealing with such issues.
- 41.3.6 Issues concerning reparation may either be dealt with in a facilitation, addressed through a compensation panel or dealt with through some other such process in order to reach a resolution on this aspect of the matter.
- 41.3.7 The Facilitator shall ensure that there is a record of any agreement reached and of any outstanding areas of disagreement.
- 41.3.8 The Director of Professional Standards shall be informed of the outcome, and whether the Facilitator considers that any other processes or actions would assist further in bringing the matter to a conclusion.
- 41.3.9 The Church authority shall bear all ordinary and reasonable expenses of the process of facilitation.

41. OUTCOMES RELATING TO THE VICTIM cont..

- 41.4 No complainant shall 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.
- 41.5 If the victim remains of the view that the response of the Church authority is unsatisfactory, the victim shall be informed about access to a review of process.

42. OUTCOMES RELATING TO THE ACCUSED

- 42.1 If either a police investigation or a Church process 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.
- 42.2 If abuse is admitted, or a Church process 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 shall consider what action needs to be taken concerning the future ministry of the person. It may commission such other reports or inquiries as are necessary to determine what action should be taken.
- 42.3 Where the offender is a current employee of the Church other than a priest or religious, the offender's future must be determined in accordance with the applicable procedures of employment law.
- 42.4 The process of determining the future ministry of a priest or religious shall be consistent with the requirements of the Code of Canon Law.<sup>5</sup> If a cleric or religious has admitted to or been found guilty of abuse, the Church authority shall, in person or through a nominated representative, 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 representative. The discussion shall take into account the seriousness of the offense 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.

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5 Canon law provides a number of principles and procedures which may be relevant to determining the future of a priest or religious in cases of alleged abuse. In addition to an administrative or judicial procedure as laid down in canons 1720-1728, there is the procedure for the removal of a parish priest under canons 1740-1747. Reliance may also be placed upon Canons 1041 and 1044 if it is considered that the priest or religious is incapable of fulfilling ministry due to psychological infirmity. In some cases it will be appropriate to commence a formal penal process even where guilt is admitted in order to reach a judgment in accordance with canon law.



## 42. OUTCOMES RELATING TO THE ACCUSED cont...

- 42.5 In making decisions on the future of a person found guilty of abuse, Church authorities shall take such action as the situation and the seriousness of the offense demand. In relation to child abuse, Church authorities 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.
- 42.6 As far as it is within its power to do so, the Church authority shall require the offender to address the issue of restitution to the victim and to the Church community.
- 42.7 The Church authority shall promptly communicate the outcomes in relation to an offender to the Director of Professional Standards.

## 43. REVIEW OF PROCESS

- 43.1 A review of process of the procedures contained in Parts 40 and 41 is available for complainants who are not satisfied with the response of the relevant Church authority. A review of process of the procedures contained in Parts 40 and 42 is also available for accused persons if they co-operated with the assessment process.
- 43.2 A complainant or an accused person who is entitled to a review of process may request in writing to the Director of Professional Standards a review of process within 3 calendar months of the completion of the process. The process is complete in relation to the complainant when either the Church authority gives its response to the complaint or if the Church authority fails to offer a response within three calendar months of the time when an assessment has been completed or the facts otherwise established. The process is complete in relation to the accused when the Church authority has made its decision concerning the future ministry of the accused in response to the complaint of abuse.
- 43.3 If the request is accepted, the Director shall appoint one of the Reviewers named by the Resource Group.
- 43.3.1 If the request is to be denied, the Director must first consult the other members of the Resource Group.
- 43.3.2 If any party objects to the Reviewer named, the matter shall be considered at a meeting of the Resource Group which may nominate another Reviewer.
- 43.3.3 The Director shall inform the Church authority that a review of process has been requested and approved. He or she shall also ensure that the complainant or accused person as the case may be, is informed that a review has been requested and approved. This only applies to accused persons who have co-operated with the process.

43. REVIEW OF PROCESS cont...

43.4 The review of process is an independent evaluation, not only of whether the procedures set out in this document have been properly observed, but also of whether the principles established in the first part of the document have been adhered to. A review of process is not a review of outcomes unless the Church authority requests the reviewer to consider this aspect of the matter.

43.5 The Reviewer shall determine the procedures for the conduct of the review.

43.5.1 The Reviewer shall have authority to interview all Church personnel concerned and will have access to all relevant documentation.

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

43.6 At the end of the review, the Reviewer shall provide a written report with recommendations to the Resource Group. If the Reviewer considers that there has been a failure to observe the required processes, he or she shall indicate whether the decided outcomes ought to be called into question.

43.7 The Director shall provide a copy of the report to the person requesting the review and the Church authority. As soon as convenient, the Director (or delegate if appropriate) shall discuss with all parties the implementation of the recommendations.

43.8 The Church authority shall bear all ordinary and reasonable expenses of the review of process.

44. PREVENTIVE STRATEGIES

44.1 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 might be misunderstood as involving improper behaviour.

44.2 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.

44. PREVENTIVE STRATEGIES cont.

- 44.3 Church bodies, especially those involved in providing care for children, 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.
- 44.4 Whenever a Church authority is concerned about the behaviour of any person connected with that Church body which might lead to a complaint of abuse, this fact should be brought to the attention of that person and appropriate steps taken to determine whether the behaviour is the symptom of a deeper problem requiring attention.
- 44.5 Church personnel who feel that they might be in danger of committing abuse shall be offered opportunities to seek both spiritual and psychological assistance before the problem becomes unmanageable and they offend. Names of suitable therapists and treatment programs should be made available.
- 44.6 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 priest 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.
- 44.7 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. Where there has been a substantiated complaint, the Church authority shall furnish all information necessary to evaluate the seriousness of the offense, 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 authorities.
- 44.8 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.

44. PREVENTIVE STRATEGIES cont...

- 44.9 While due process must be observed, 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.
- 44.10 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. CONCLUDING STATEMENTS

- 45.1 All Church authorities shall take the necessary steps to conduct such in-service programs for Church personnel as may be necessary to inform them of the principles and procedures set down in this document.
- 45.2 While the distribution of this document is unrestricted, the publication of the document, its implementation, and all matters of interpretation are reserved to the National Committee for Professional Standards.
- 45.3 Abuse of both children and adults by Church personnel has done great harm to individuals and to the whole Church. Despite this, it can become an opportunity to create a better Church, but only if the response given by the leaders and all the members of the Church is humble, honest and thoroughly Christian.