

ANGLICAN DIOCESE OF GIPPSLAND

PROTOCOL FOR
RESPONDING TO CLAIMS
FOR REDRESS-
PROTOCOL 10.2

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1. POLICY STATEMENT

- 1.1. The **Diocese** acknowledges that there is a primary need to respond to allegations of all forms of harassment or abuse by **Church workers** for whom the **Diocese** is responsible whether the victim is a child or an adult with compassion and empathy, having regard to the situation of the person who has made a disclosure.
- 1.2. The **Diocese** particularly recognises that child abuse, sexual abuse or sexual misconduct (whether involving a child or an adult) has a tragic impact on a person's life. In addition, making an allegation is traumatic and takes great courage. It is the aim of The **Diocese** to ensure that the best possible care initiatives are extended to all claimants of child abuse, sexual abuse or sexual misconduct from the initial point of contact.
- 1.3. For the purposes of the remainder of this Protocol, a reference to "**harassment or abuse**" includes: -
- (a) physical, sexual, spiritual, financial or emotional abuse;
 - (b) harassment or assault;
 - (c) possession, making or distribution of child exploitation material;
 - (d) bullying;
 - (e) breach of a code of conduct;
 - (f) sexual misconduct;
 - (g) child sexual abuse;
 - (h) child abuse.
- 1.4. For the purposes of the remainder of this Protocol, a reference to "**Church worker**" includes: -
- (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.

2. PURPOSE

- 2.1. The **Diocese** has adopted this Policy to detail how The **Diocese** will respond and provide pastoral care initiatives to any claimant who discloses to the **Diocese** that they were the subject of **harassment or abuse**.
- 2.2. It is intended to provide claimants with appropriate pastoral care, a voluntary alternative to litigation and a choice to pursue a claim: -
- 2.2.1. outside the secular court process; and
 - 2.2.2. outside the National Redress Scheme which commenced on the 1st July 2018 and is available to claimants who experienced sexual abuse when a child (under 18 years of age) and: -
 - a. the abuse happened before 1 July 2018; and
 - b. an institution was responsible for bringing the claimant into contact with the person who abused the claimant; and
 - c. the claimant was born before 30 June 2010; and
 - d. the claimant is an Australian citizen or permanent resident.

More detailed information about the National Redress Scheme is available on the National Redress Scheme website.

3. SCOPE

- 3.1. This Policy applies to all claimants of **harassment or abuse**.

4. DIOCESAN COMMITMENT

- 4.1. The **Diocese** is committed to assisting all claimants of **harassment or abuse** in their journey of healing and to lessen the trauma caused by the **harassment or abuse** suffered. Redress may include:
- Pastoral Care.
 - Counselling
 - Acknowledgement and Apology from the **Bishop** of Gippsland
 - Financial Support.

5. RESPONDING TO COMPLAINTS

- 5.1. When an allegation of **harassment or abuse** is made, the Director of Professional Standards (**DPS**) will be informed as soon as possible to allow action to be taken in accordance with the *Professional Standards Act 2017* of the **Diocese of Gippsland** and the associated Protocol for responding to allegations of abuse.
- 5.2. As soon as practicable after receiving notice of an allegation, the **DPS** will: -
- Acknowledge the allegation and express care and concern on behalf of the **Diocese**;
 - Acknowledge that all **harassment or abuse** is grossly wrong and should never occur;
 - Enquire what needs have arisen for the claimant because of the **harassment or abuse**;
 - Enquire whether the **Diocese** can help in meeting those needs; and
 - Refer the matter to the **Professional Standards Committee (PSC)** which will consider each claim individually and make the appropriate recommendations based on the balance of probabilities that the abuse or misconduct occurred.
- 5.3. If the Claimant is a minor, the **DPS** and the **Diocese** will direct communications to the recognised Parent or Guardian.

6. DELAY IN RESPONDING TO COMPLAINTS

- 6.1. When an allegation of **harassment or abuse** has been made, it will not always be possible to immediately confirm the facts or extent of the claim. This could be due to: -
- The death of the alleged perpetrator; and
 - Incomplete or lack of records.

7. EXCLUSIONS IN THIS POLICY

- 7.1. Apart from claimants of child abuse or child sexual abuse, other claimants of **harassment or abuse** will receive reasonable counselling and an apology but will not be eligible for financial support except in the most serious cases of **harassment or abuse**.
- 7.2. Although financial support is not available for families of those who have been abused the **Diocese** recognise that families of the claimant and the perpetrator are impacted by abuse and reasonable counselling will be offered.
- 7.3. If the **harassment or abuse** was perpetrated in a school operated as a legally independent Anglican School, or a legally independent Anglican Church Agency of the **Diocese**, the **DPS** will refer the complainant to the Anglican School or independent Anglican Church Agency to deal with the complaint in accordance with that institution's protocol for dealing with such complaints.

8. PASTORAL CARE

- 8.1. Any Claimant who indicates they would benefit from Pastoral care and support for the duration of their claim will have a suitable person appointed for this purpose.

9. COUNSELLING

- 9.1. Counselling is made available to any person who has suffered **harassment or abuse** by a **Church worker**. The **Diocese** will fund the cost of the first **eight (8)** sessions of counselling approved by the **DPS**. Funding of any additional counselling is subject to approval by the Anglican Diocese of Gippsland Administration Limited (**Gippsland Corporation**).
- 9.2. The options for counselling are a Psychologist or other treating practitioner to be approved by the **DPS**.
- 9.3. To ensure the privacy and confidentiality of each claimant is maintained, the treatment provider will be provided with a case reference number which is used for the purposes of accounting when invoices for payment are received at the Diocesan office.

- 9.4. After 8 sessions, a progress report will be sought by the **DPS** from the treatment provider that will be used in support of the claimant's application for Redress.
- 9.5. Counselling, while recommended, is optional. Psychological harm is a component of the assessment and the absence of a report may prevent a fair and accurate determination being made.

10. FINANCIAL SUPPORT AND ASSESSMENT PROCESS

- 10.1. Financial support alone cannot make amends for the harm caused by **harassment or abuse**. Rather, financial support is seen as a means by which the **Diocese** can acknowledge the harm caused by **harassment or abuse** and show compassion by providing some practical financial support to the claimant's present and future needs arising from the **harassment or abuse**.
- 10.2. Where a claim for financial support is made, the Claimant, or if the Claimant is a child the child's guardian, will be required to complete the attached **Pastoral Care Claim Form** to enable an assessment of the Claimant's needs arising from the **harassment or abuse** to be made. If requested, the **DPS** will assist the Claimant to complete the documentation and: -
- a. The **DPS** will arrange for the claim to be assessed by the Professional Standards Committee (**PSC**) of the **Diocese**.
 - b. Neither the **PSC** nor the **Bishop** nor the Registrar shall negotiate with the claimant about financial payments.
 - c. The **PSC** will make an assessment based on the information provided in the Claimants statement and Counselling report. Following assessment, the **PSC** will recommend an appropriate amount to be paid, in terms of the guidelines from time to time determined by the Anglican Diocese of Gippsland Administration Limited (**Gippsland Corporation**).
 - d. Where child abuse or child sexual abuse has been sustained, the **PSC** will assess and review all available documentation to determine the amount to be paid, in terms of the guidelines determined by the **Gippsland Corporation**.
 - e. When the **Gippsland Corporation** advises the **DPS** that approval has been given for the payment to be made, the **DPS** will advise the Claimant who may accept or decline the offer. However, as an acceptance of an offer will affect the legal rights of the claimant, a claimant will be informed to seek independent legal advice before acceptance of the offer.
 - f. Following approval for the payment to be made and agreement by the claimant to accept the payment, a Deed of Settlement and Release will be prepared releasing the **Diocese**, its employees, officers or agents from any claims, demands, or actions under statute or at common law, arising out of the complaint.
 - g. The Deed of Settlement and Release will not prevent claimants from "telling their story" and any confidentiality provisions in the deed will only refer to disclosure of the amount of financial support.
 - h. The **Diocese** shall be responsible for its own legal costs incurred with the preparation of the Deed of Settlement and Release.
 - i. The agreed financial assessment of the claimant's claim is subject to deduction of the amount of the Claimant's Medicare benefits assessed to be repaid to the Commonwealth Government in accordance with the Medicare Compensation Recovery Scheme.

11. INDEPENDENT PANEL

- 11.1. If the Claimant declines the offer of financial support made by the **PSC**, the Claimant may by written notice to the **DPS** request an assessment of the Claimant's claim be referred to the Independent Assessment Panel for re-assessment of the claim.
- 11.2. The procedures in relation to the assessment of the claim by the Independent Assessment Panel shall apply in the same manner as the initial claim to the **PSC** in accordance with clause 10 of this Protocol with the Independent Assessment Panel, being substituted for the **PSC**. The Independent Assessment Panel will not be bound by the guidelines determined by the Gippsland Corporation referred to in clause 10(d).

12. FURTHER INFORMATION REGARDING THE INDEPENDENT ASSESSMENT PANEL

- 12.1. The Panel shall be constituted by: -
- A psychiatrist, clinical social worker, mediator or clinical psychologist having current or recent clinical experience with patients who have suffered child abuse or child sexual abuse; and
 - A legal practitioner who has experience in medico-legal processes, criminal injury or risk management claims.
- 12.2. The Panel is not bound by the rules of evidence.
- 12.3. In advance of a recommendation, the claimant will be invited to address the Panel in person and may be accompanied by a support person.
- 12.4. If the Claimant is challenged geographically or unable to travel, arrangements will be made for a teleconference or skype call or other forms of communications as is available.
- 12.5. The recommendation of the Panel is final and there is no "appeal" from the assessment, however neither party is bound to accept the recommended assessment.

13. FURTHER INFORMATION REGARDING REDRESS

- 13.1. The **Diocese** recognises that an apology can assist the healing process of the claimant and can be provided by the following:
- Before the substance of an allegation has been established, a general acknowledgement and an empathetic expression of care and concern will be given by the **DPS** that all **harassment or abuse** is wrong and should never have occurred.
 - When the substance of an allegation has been established and the process is drawing to a close, a specific apology will be given to the claimant by the **Bishop** in a pastoral context where the claimant has been given the opportunity to tell the claimant's story or they can request a written letter of apology from the **Bishop** to be provided.

14. OTHER CARE AND ASSISTANCE

- 14.1. Where a claimant does not wish to pursue a claim for financial support, the claimant will be offered appropriate pastoral care, an apology and counselling. These measures are intended to provide practical support to help claimants address issues that have arisen as a result of the **harassment or abuse** and assist in their healing.
- 14.2. Where a claimant elects to pursue a claim for financial support: -
- a. as a claimant (Plaintiff) through the Victorian Court; or
 - b. as a claimant through the National Redress Scheme.

the **Diocese** will, if requested by the Complainant, provide to the Claimant other support contemplated by this Protocol.

15. CONTACT

- 15.1 Director of Professional Standards (**DPS**)
Anglican Diocese of Gippsland
 453 Raymond Street
 SALE VIC 3850

Phone: (03) 5633 1573 mobile 0407 563 313

Email: cherylrussell1@bigpond.com

Anglican Diocese of Gippsland

453 Raymond Street

SALE VIC 3850

PROTOCOL 10.2. PASTORAL CARE FORM

ANGLICAN DIOCESE OF GIPPSLAND ADMINISTRATION LTD.

Professional Standards

Application for Pastoral Care & Assistance

This form should be completed by any person applying (or if the applicant is a child by the child’s guardian) for financial assistance under Protocol 10.2 - Protocol for Responding to Claim for Redress. Once completed, this form should be returned directly to the Director of Professional Standards.

1. Personal Information

Surname:..... Date of Birth...../...../.....

Given Names.....

Preferred Postal Address:-.....

..... Postcode:-.....

Telephone contact details:-..... Mobile:-.....

Email:-.....

Medicare Number:-.....

Preferred method of payment:-

Cheque EFT

Bank Account Details:- BSB..... Account No.

Account name:-.....

Anglican Diocese of Gippsland

453 Raymond Street
SALE VIC 3850

PROTOCOL 10.2. PASTORAL CARE FORM

2. Details of Abuse

To ensure that the Professional Standards Committee makes a proper and fair evaluation, it is a requirement to provide a specific account of the abuse suffered.

*Please include physical and psychological harm done and the impact that this has had.
If you have previously submitted a statement to the Director of Professional Standards, please attach the documents to this application and mark this section "see attached".*

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3. Outline your expectations from the Anglican Church to assist your journey to recovery.

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Anglican Diocese of Gippsland

453 Raymond Street

SALE VIC 3850

PROTOCOL 10.2. PASTORAL CARE FORM

STATUTORY DECLARATION

I,

.....

(name, address and occupation of person making declaration)

Do solemnly and sincerely declare: -

1. I apply for financial compensation for the **harassment/abuse** committed against me by a **Church worker** in the Anglican Diocese of Gippsland.
2. In making this application I understand and agree to the following: -
 - (a) The process is entered into by all parties on an informal basis and is not legally binding on anyone unless and until a separate deed of offer, acceptance and release is subsequently signed by me;
 - (b) A recommended amount of pastoral financial assistance (if any) will be determined by the Professional Standards Committee.
 - (c) The Professional Standards Committee will be provided with all documentation which I submit in my claim;
 - (d) I may be offered such an amount as may be recommended by the Professional Standards Committee and/or the Independent Assessment Panel. My acceptance of any offer will involve giving appropriate releases and discontinuing any relevant civil legal proceedings against any church body or office holder;
 - (e) If I reject the amount offered to me, I note that the Diocese acknowledges that any rights that I may have to: -
 - (i) commence or continue legal proceedings; or
 - (ii) seek redress from the National Redress Scheme;
 are unaffected by my application under the Diocesan Scheme;
 - (f) Neither I nor any person acting on my behalf, the Professional Standards Committee, the Independent Assessment Panel, nor the Diocese nor any person acting on behalf

of the Diocese or the Independent Assessment Panel will disclose to any person or rely or seek to rely in any arbitral or judicial proceeding (whether or not such proceeding relates to the subject matter of this application) on any communication, statement or information, whether oral or documentary, made or provided in the course of or in relation to the Professional Standards Committee or Independent Assessment Panel records or communications or anything done or omitted to be done by the Professional Standards Committee or Independent Assessment Panel records except;

- (i) As required by law;
 - (ii) Use of documents such as statements and third-party reports which exist independently of the scheme;
 - (iii) For the purpose of medical treatment;
 - (iv) For a church disciplinary proceeding; and
 - (v) To enable me the claimant to tell the story of the abuse which happened to me.
- (g) I will not call any member of the Professional Standards Committee or the panel as a witness or subpoena or demand the production of any records, notes or the like made by or for the Professional Standards Committee or the Independent Assessment Panel in the course of or in relation to any action done or omitted to be done by the member;
- (h) I irrevocably waive any rights that but for this provision I may have had to seek judicial review of any act or omission of the Professional Standards Committee or the Independent Assessment Panel or to take legal action against the members of the Professional Standards Committee or Independent Assessment Panel.
i.e. I cannot go to court about any dissatisfaction that I may have with what happens, does not happen or the outcome under the scheme.

3. The facts and statements set out in this application and the attached papers are true to the best of my knowledge and belief.

I acknowledge that this declaration is true and correct in every particular way and I make it in the belief that persons making a false declaration are liable to the penalties of perjury.

Declared atthis.....day of20.....

.....

Signature of person making the declaration

.....

Witness (any eligible witness as attached)

Who can witness a statutory declaration in Victoria?

Under the Evidence Act 1958, there are many people who may witness the signing of a statutory declaration in Victoria:

- a justice of the peace or a bail justice;
- a public notary;
- an Australian lawyer (within the meaning of the Legal Profession Act 2004);
- a clerk to an Australian lawyer;
- the prothonotary or a deputy prothonotary of the Supreme Court, the registrar or the deputy registrar of the County Court, the principal registrar of the Magistrates' Court or the registrar or the deputy registrar of the Magistrates' Court;
- the registrar of probates and the assistant registrar of probates;
- the associate to a judge of the Supreme Court or of the County Court;
- the secretary of a master of the Supreme Court or of the County Court;
- a person registered as a patent attorney under Chapter 20 of the Patents Act 1990 of the Commonwealth;
- a member of the police force;
- the sheriff or deputy sheriff;
- a member or a former member of either House of the Parliament of Victoria;
- a member or a former member of either House of the Parliament of the Commonwealth;
- a councillor of a municipality
- a senior officer of a council as defined in the Local Government Act 1989;
- a registered medical practitioner within the meaning of the Medical Practice Act 1994
- a registered dentist within the meaning of the Dental Practice Act 1999;
- a veterinary practitioner;
- a pharmacist;
- a principal in the (State) teaching service;
- the manager of a bank;
- a member of the Institute of Chartered Accountants in Australia or CPA or the National Institute of Accountants;
- the secretary of a building society;
- a minister of religion authorised to celebrate marriages (not a civil celebrant);
- a person employed under Part 3 of the Public Administration Act 2004 with a classification that is prescribed as a classification for statutory declarations, or who holds office in a statutory authority with such a classification;
- a fellow of the Institute of Legal Executives (Victoria)