

ANGLICAN DIOCESE OF GIPPSLAND

**PROTOCOL FOR
RESPONDING TO
COMPLAINTS OF ABUSE
AND HARRASSMENT-
PROTOCOL 10.1**

Table of Contents

1. <u>INTRODUCTION</u>	2
2. <u>COMMITMENT OF THE ANGLICAN DIOCESE OF GIPPSLAND</u>	5
3. <u>SCOPE</u>	6
4. <u>PROFESSIONAL STANDARDS COMMITTEE</u>	7
5. <u>DIRECTOR OF PROFESSIONAL STANDARDS</u>	8
6. <u>RECEIVING INFORMATION COMPLAINTS OF ALLEGED CHILD ABUSE OR MISCONDUCT</u>	8
7. <u>DISCONTINUANCE OF INVESTIGATION OF THE COMPLAINT</u>	11
8. <u>DISCLOSURES AND ALLEGATIONS OF SEXUAL ABUSE AND MISCONDUCT INVOLVING CHILDREN</u>	12
9. <u>ANGLICAN SCHOOLS AND OTHER ANGLICAN ENTITIES WITHIN THE DIOCESE</u>	13
10. <u>SUPPORT PERSONS</u>	14
11. <u>THE COMPLAINANT</u>	15
12. <u>THE RESPONDENT</u>	18
13. <u>APPOINTMENT OF AN INVESTIGATOR</u>	21
14. <u>ROLE AND DUTIES OF THE INVESTIGATOR</u>	22
15. <u>ACTIONS UPON RECEIPT OF INVESTIGATOR'S REPORT</u>	24
16. <u>ACTIONS UPON RECEIPT OF INVESTIGATOR'S REPORT</u>	25
17. <u>SAFETY OF THE DIRECTOR / INVESTIGATOR</u>	27
18. <u>DELAYS IN COMPLAINT RESOLUTION</u>	27
19. <u>MEDIA INTEREST</u>	28
<u>SCHEDULE 1 - DEFINITIONS</u>	29

1. INTRODUCTION

- 1.1 Abuse of power and breach of trust occur when one human being disregards, ignores or deliberately overbears the interests, wishes and feelings of another. Abuse and bullying result from one person treating another human being as an object rather a person with their own sensitivities and feelings. Abuse, and bullying is a denial of the dignity God gives to every created being. If abuse is perpetrated by a **Church worker**, it is a gross misuse of the trust expected of the spiritual role and professional status of an ordained person, or any person authorised to minister to another.
- 1.2 The damage caused by abuse never just goes away by itself. It may be pushed down and hidden for a time, but it festers and eventually resurfaces, often with damage multiplied and the pain intensified. We have seen this in the lives of victims of sexual abuse where the hurt wreaks havoc for decades, destroying the life of the individual concerned and distorting close relationships. The damage can even impact succeeding generations. What is true in the lives of individual victims is also true in the lives of institutions and parish communities. We can only move on if we face the hurtful reality of what has happened, extend care and support to those harmed, and take steps to ensure that as far as possible it never happens again.
- 1.3 It is acknowledged that the Church has not dealt effectively and, in some cases, not dealt at all with issues of child abuse, sexual harassment, harassment, sexual assault, assault and sexually inappropriate conduct involving **Church workers**. This failure of the Church has caused spiritual, mental, psychological and physical harm, pain and loss to many people; Complainants, Respondents, and secondary

victims. The Church deeply regrets the failure of the Church and the consequent effects. The Church unreservedly apologises to those who have been harmed. It is the resolve of the Diocese to do all in its power to avoid such failure and to avoid being the cause of such harm in the future.

- 1.4 All people should be able to live and work in an environment that is free from abuse. This “**Protocol for Responding to Abuse and Harassment within the Anglican Diocese of Gippsland**” [**Protocol 10.1**] is intended to outline the response process to all complaints of abuse – physical, sexual, spiritual, financial or emotional, including bullying - by **Church workers**. Through this **Protocol 10.1** and a process of screening **Church workers**, the Diocese is seeking to ensure the chance of future abuse occurring is minimized.
- 1.5 When it is alleged or reasonably suspected that a **Church worker** has engaged in conduct constituting abuse, harassment or inappropriate conduct or there has been a process failure in dealing with these matters, the Diocese will always take these concerns seriously.
- 1.6 *The Professional Standards Act 2017 (the PSA)* was enacted at the Diocesan Synod in May 2017. A requirement of Section 9 of the **PSA** was that the Anglican Diocese of Gippsland Administration Ltd (Gippsland **Corporation**) approve policies or protocols for the process of receiving information about and dealing with and resolving complaints and allegations about: -
- physical, sexual, spiritual, financial or emotional abuse;
 - harassment or assault;
 - possession, making or distribution of child exploitation material;

- bullying;
- breach of a code of conduct.¹

on the part of **Church workers** (clergy, ordination candidates, lay church officers and employees and those holding a position or performing a function with the actual or apparent authority of a **Church authority** or Church entity) or Church volunteers.

- 1.7 The **Diocese** has for several years followed a protocol referred to as “**Power and Trust in the Church**” in responding to abuse and harassment within the Church. As a consequence of enacting the **PSA** which came into operation in the **Diocese** on the 1st March 2018 Anglican Diocese Gippsland of Gippsland Administration Ltd. (**Gippsland Corporation**), the entity with overall responsibility for administering the **PSA** on behalf of the **Diocese**, has reviewed and replaced “**Power and Trust in the Church**” with this **Protocol 10.1**.
- 1.8 The **Director** Professional Standards (**Director**), the Professional Standards Committee (**PSC**), and the **Diocese** will be guided by the process set out in this **Protocol 10.1** for the management of complaints that involve misconduct, including abuse or inappropriate behaviour of a sexual nature.
- 1.9 Defined terms in this **Protocol 10.1** are in **bold italics** and have the same meaning as defined in the **PSA** if they are defined in the **PSA**. A list of the defined terms used in this **Protocol 10.1** is the attached **Schedule 1**.

Footnote:

1. The approved and adopted code of conduct for Church Workers, including Clergy, in the Diocese of Gippsland is **Faithfulness in Service**” and may be viewed and downloaded from the Anglican Diocese of Gippsland website.

2. COMMITMENT OF THE ANGLICAN DIOCESE OF GIPPSLAND

2.1 The ***Diocese*** is committed to a safe, supportive and ethical worshipping environment and regards any abuse, sexual or otherwise, or misconduct by a ***Church worker*** or Church volunteer as very serious. This **Protocol 10.1** reflects that commitment by providing a clear, consistent and obligatory process for responding to, managing and, where possible, a resolution to all complaints and allegations.

2.2 The utilisation of this **Protocol 10.1** makes certain that the ***Diocese*** will: -

- a. Ensure that complaints are responded to, investigated and managed with dignity, sensitivity, respect and confidentiality;
- b. Respond to the subject matter of a complaint in a timely, practical and pastoral manner and make every endeavour to bring matters to a timely conclusion;
- c. Provide support to survivors; Complainants, informants and their families; respondents and their families; and the faith community;
- d. Document the allegation, complaint or information and maintain accurate records;
- e. Thoroughly review and investigate the circumstances;
- f. Determine where possible the factual integrity of the matter;
- g. Evaluate the most effective action that should be taken to resolve the matter to prevent further harm and mitigate risk;
- h. Provide pastoral support and recovery strategies to faith communities affected by sexual abuse and misconduct; and
- i. Be accountable for the conduct for which this **Protocol 10.1** relates.

2.3 Whilst information is being investigated, the ***Church worker*** or Church volunteer is presumed innocent until proven otherwise by either a criminal court or appropriate

authority. In accordance with the principles of natural justice and procedural fairness the **Church worker** or Church volunteer shall be afforded fairness and an opportunity to be heard.

2.4 Whilst a matter which involves an allegation of **examinable conduct**² is under investigation, a recommendation may be made by the **PSC** pursuant to **Part 4** of the **PSA** to the **Professional Standards Board (PSB)** in respect of one or more of the following:

- a. That the Respondent should be suspended; or
- b. That a prohibition order be made against the Respondent.

2.5 *The Director of Professional Standards (DPS), as the executive officer of the PSC, will be open and accountable to all stakeholders throughout any investigation, subject however to the dictates of necessary and appropriate confidentiality and privacy.*

3. **SCOPE**

3.1 Nothing in this **Protocol 10.1** shall exclude the jurisdiction of the secular courts or tribunals or prevent any person from pursuing other actions and procedures which are available at law. It is not intended that this **Protocol 10.1** shall protect people from the law.

3.2 **Protocol 10.1** is primarily concerned with;

- the addressing of and investigation of complaints;
- resolving complaints; and

Footnote:

2. **Examinable conduct** is defined in **Schedule 1** and reflects the definition of that same term in the **PSA**

- when in the opinion of the **PSC**, a question arises as to the fitness of the Respondent, as outlined in section 44 of the **PSA**, the referral of the matter to the **Professional Standards Board (PSB)** for consideration on that aspect of the matter.

3.3 The outcome of a complaint made under this **Protocol 10.1** may result in redress for the Complainant.

3.4 The Diocese; the **Gippsland Corporation**; the **PSC** and the **DPS** recognise that there is some overlap and duplication with this **Protocol 10.1** and the redress **Protocol 10.2** which cannot be avoided, and both protocols may be applicable and relevant to some complaints.

4. PROFESSIONAL STANDARDS COMMITTEE

4.1 The **PSC** is an independent entity that provides recommendations and assistance to those who make complaints against **Church workers**. This **Protocol 10.1** focuses on the work of the **PSC** including the **PSC's** time frames and the timing of the work of the **Director**. **Protocol 10.1** will also help to provide additional information to guide **Church workers** in their conduct; their responsibilities and to assist the **PSC's** decision making about **Church workers** who are subject to allegations pertaining to misconduct, including sexual or other abuse towards a child or vulnerable person.

5. DIRECTOR OF PROFESSIONAL STANDARDS

5.1 The Director of Professional Standards (**DPS**) is appointed by the Gippsland Corporation and is the executive officer of the **PSC**. The **DPS** assists the **PSC** with its responsibilities under the **PSA** and is responsible for receiving complaints against **Church workers** and, in conjunction with the **PSC**, dealing with the complaints in

accordance this **Protocol 10.1** and the **PSA**. This includes making reports and recommendations to the **PSC** in relation to complaints.

- 5.2 The Deputy Director of Professional Standards (**DDPS**) is appointed by the Gippsland Corporation. The **DDPS** assists the **Director of Professional Standards** and deputises for the **Director of Professional Standards** as and when required and performs such other functions and duties as the **PSC** or the **Gippsland Corporation** shall from time to time determine.

6. RECEIVING INFORMATION COMPLAINTS OF ALLEGED CHILD ABUSE OR

MISCONDUCT

- 6.1 Any person may make a complaint or allegation against a Church worker to the Director or lodge an information (as defined by this Protocol) with the Director. The Director may of the Director's own accord investigate any information (as defined by Schedule of this Protocol) which comes to the Director's attention.
- 6.2 Allegations, complaints and information can be made and provided to the **Director** in any form – verbal, written, email or via the Diocese's website (**'www.gippsanglican.org.au'**) which sets out the appropriate contact details.
- A complaint or information may be received from outside the **Diocese** or from another faith-based organisation. **The Director** will be the first point of formal contact for disclosures of abuse by **Church workers**. All complaints and disclosures of abuse by **Church workers** must be immediately referred to the **Director**.
- 6.3 If the complaint is verbal, the **Director** shall assist the Complainant with a written record of events to ensure that appropriate processes are followed.
- 6.4 If an anonymous report is received, it will be investigated to the extent practicable. However, the value of the information may be lessened due to the anonymity.

- 6.5 Third party and anonymous disclosures received by the **Director** will be investigated to the extent reasonably practical;
- 6.6 The **Director** will respond to all allegations promptly, allocate a Case Number and commence a Case File Summary for each complaint.
- 6.7 **When the disclosure of a complaint or abuse occurs**, the matter remains confidential until and unless the **Director** has obtained informed consent from the Complainant or the Complainant's **Support Person** to provide information to other participants in the process, or the complaint has been found to be valid. Complaints or information will not be reported outside the **PSC** unless there is an enforceable legal obligation to do so and they have been sufficiently redacted to preserve the confidentiality of the Complainant.
- 6.8 If an adult Complainant indicates that they wish to report alleged child sexual abuse to the police, the **Director** will provide support and accompany the person to the Police Station, or the Sexual Offences and Child Abuse Investigation Team (**SOCIT**) of the Victoria Police, if requested to do so.
- 6.9 The **Director** and the **PSC** will co-operate with and assist the Police with their investigation. However: -
- a. The **Director** and **PSC** must ensure that their actions do not interfere with, influence or hinder a Police investigation;
 - b. Until such time that any investigation by Police is complete, the role of the **Director** and the **PSC** is to provide support to the Complainant and their family which includes counselling and a Pastoral **Support Person** (if requested);
- 6.10 It is not the role of the **Director** to provide counselling to any Complainant.

- 6.11 All case files are the property of the **PSC** and shall be kept secure in the office of the **Director** or such other facility as the **PSC** shall from time to time decide;
- 6.12 All complaints or information received, and action taken will be tabled as an agenda item at the next meeting of the **PSC** for action. The **PSC** may delegate to the **Director** the responsibility of investigating the complaint and reporting to the **PSC** in relation to the complaint. Alternatively, the **PSC** may delegate to a suitably qualified independent investigator the responsibility of investigating the complaint and reporting to the **Director**, who shall in turn report to the **PSC** in relation to the complaint;
- 6.13 All information provided to the **PSC** in electronic form will be password protected to maintain confidentiality;
- 6.14 If, in the opinion of the **Director**, the complaint or information received identifies risk to children or young people, the following may need to be actioned:
- a. Arrange an extra-ordinary **PSC** meeting to seek guidance on the information provided;
 - b. Consideration by the **PSC** of a recommendation to the **PSB** that the Respondent is suspended or removed from active ministry or from their office or position within the **Diocese**;
 - c. Seek direction from the Police.
- 6.15 If the **Director** considers that the **complaint is of such a serious nature** that the Complainant or others are in need of immediate protection or there appears to be a likelihood of a continuation of the alleged behaviour, or that there is other good reason, the **Director** shall immediately notify other relevant authorities as appropriate

and in accordance with the law (e.g. police or child protection authorities and co-operate fully with them).

- 6.16 The **Director** may take such independent professional advice as the **Director** considers necessary when assessing and/or investigating a complaint. The professional advisors shall not be associated with any members of the **PSC**.

7 DISCONTINUANCE OF INVESTIGATION OF THE COMPLAINT

- 7.1 If the **Director** is of opinion that the complaint does not fall within the provisions of the **PSA** or that the behaviour or subject matter of the complaint does not represent a serious breach of a code of conduct for observance by **Church workers** approved by the **Diocese** under the **PSA (currently Faithfulness in Service)**, or can properly be dealt with by other means, the **Director** shall advise the **PSC** accordingly. The **PSC** shall request the **Director** to so inform the complainant and inform the Respondent, if applicable, of the reasons for refraining in the following circumstances: -

- a. Where the **PSC** forms the opinion that the allegations are false, vexatious or misconceived, or the subject matter of the allegations is trivial;
- b. the complaint or information is under investigation by the Police; or is the subject of legal proceedings; or is under investigation by some other competent body or person;
- c. where the complaint or information or part of the complaint or information is being dealt with by an equivalent body to the **PSC** in another **Diocese**;
- d. the person making the allegations about the conduct, or a person affected by the conduct which is the subject of the information, has

failed to provide further information requested to substantiate the complaint;

- e. the **PSC** has dismissed the complaint on the basis the **PSC** considers that there is insufficient reliable evidence to warrant an investigation or further investigation.

8 **DISCLOSURES AND ALLEGATIONS OF SEXUAL ABUSE and MISCONDUCT INVOLVING CHILDREN**

8.1 **Current:**

- a. All disclosures of current child sexual abuse **must** be reported to the Police.
- b. The **Director** will notify the **Bishop** (or the Administrator) and **Registrar** of all complaints of sexual abuse, by a **Church worker**.
- c. The **Registrar** will notify the Diocesan Insurer.
- d. The Child Protection Protocol provides further information involving disclosures of abuse.
- e. The **Director** and the **PSC** will co-operate with and assist the Police with their investigation; The **Director** and **PSC** must ensure that their actions do not interfere with, influence or hinder a Police investigation;
- f. The **Director** will provide support to the child and their family/ guardian which includes counselling and a Pastoral **Support Person** (if requested).

8.2 **Historical Child Sexual Abuse:**

- a. If a disclosure is made that identifies historical child sexual abuse, the Complainant should be encouraged to report the matter to the Sexual Offences and Child Abuse Investigation Team (**SOCIT**) of the Victoria Police;
- b. Third party disclosures of historical sexual abuse to the Police require the written

authority of the Complainant. Without this authority, no action or investigation will be undertaken by the Police;

- c. If the Complainant is seeking redress from the Diocese the Diocesan **Protocol 10.2** will be immediately implemented.

9. **ANGLICAN SCHOOLS AND OTHER ANGLICAN ENTITIES WITHIN THE DIOCESE**

9.1 If allegations are received of current or historic sex abuse or misconduct involving a child at any Anglican school or other Anglican entity within the **Diocese** which legally is a separate entity from the **Diocese**:

- a. The **Director** will refer the Complainant to the individual Anglican school or other entity to have the matter dealt with in accordance with the protocol for doing so of the school or other entity.
- b. The **Director** will notify the Bishop (or the Administrator) and the **Registrar** of the complaint; and
- c. The Complaint will be recorded, and the **Director** will use the **Director's** best endeavours to ensure the complaint is, in the interest of the Diocese, appropriately dealt with by the Anglican school or other Anglican entity.

9.2 Apart from the Anglican schools the only other separate legal entities in the Diocese of Gippsland are Clifton Waters Retirement Village and Anglican Earthcare Gippsland Inc. *{Gippsland Grammar has been a separate legal entity since 5th December 1973}*

10. **Support Persons**

10.1 In relation to information received by the **Director** concerning the behaviour of **Church workers** the **Director** will offer to engage suitably qualified professionals

(“**Support Persons**”) to aid Complainants, Respondents, **Church workers**, informants, and victims.

- 10.2 **Support Persons** will act in their individual personal capacity. Their duty is to the person, for whom they are providing support services, and they are required to always act in that person’s best interests even when there is a difference between that interest and their own personal interests or those of the **Diocese** or other parties involved in the matter.
- 10.3 **Support Persons** shall be independent of Diocesan organisations, structures, and office holders and not have any other role under the **Protocol 10.1** in respect of the current matter.
- 10.4 The Complainant’s **Support Person** will assist the Complainant: -
- a. by explaining the process and procedures;
 - b. by clarifying what outcomes are possible;
 - c. by explaining what redress, the Complainant may seek from disclosure of the information;
 - d. with communication between the Complainant and the **Director**;
 - e. by making recommendations to the **PSC** through the **Director** as to the provision of counselling or other care for the Complainant and the immediate family who have been affected by the alleged misconduct; and
 - f. if requested by the Complainant: -
 - i. by documenting their complaint;
 - ii. by providing acknowledgement to the **Director** of the Complainant’s informed consent to the process under this **Protocol 10.1** and the **PSA**.

- 10.5 A **Support Person** shall not provide services to, or receive information from, a Complainant and Respondent in the same matter.
- 10.6 The **Support Person** must not provide counselling services to the Complainant.
- 10.7 The Respondent will **not** be provided with identifiable information of the Complainant until the Complainant's safety and welfare has been assured.
- 10.8 When the identity of the Complainant is known, the Respondent will be advised not to make contact with the Complainant.

11. The Complainant

- 11.1 When information is reported or referred to the **Director**, the **Director** will contact the Complainant and seek to obtain preliminary information about their complaint.
- 11.2 The **Director** will advise the Complainant that the **Director** is required to keep a record of the name of the Respondent if the Respondent's name is provided.
- 11.3 The **Director** will also advise the Complainant that the matter is to be referred to the police if the information alleges that child abuse is currently occurring or any other serious criminal offence is disclosed.
- 11.4 The **Director** will **explain the processes** available through this **Protocol 10.1** and the **PSA** and obtain informed consent to proceed based on these processes. The **Director** will also explain the voluntary nature of the **Protocol 10.1** and the **PSA** as far as the Complainant is concerned and advise the Complainant of alternative avenues of formal and informal redress that are open to the Complainant (e.g. make a report to police ; complain to the Equal Opportunity Commission; or seek legal advice in relation to **redress which may be available through the State legal system**)

- 11.5 With **permission of the Complainant**, the **Director** may refer the Complainant to counselling services as appropriate and/or assistance from a **Support Person**, irrespective of whether a formal complaint is subsequently provided.
- 11.6 The **Support Person** will usually be the main contact person for the Complainant throughout the process. The **Support Person** will listen fully, honestly and compassionately to the person making the complaint or disclosure, both concerning the facts of the situation and its emotional psychological and spiritual effects.
- 11.7 The **Support Person** may assist the Complainant in deciding whether to make a formal complaint to the **Director** and whether there are other measures that can be provided by the Respondent or the **Diocese** to meet the needs of the Complainant.
- 11.8 As part of the process, the **Director** may receive a **written and signed formal complaint** or written notes of the details of the complaint confirmed by the Complainant's signature. The **Director** will make an initial assessment as to whether the written complaint discloses examinable conduct and whether the Respondent may be defined as a **Church worker** under this **Protocol 10.1** and the **PSA**.
- 11.9 If the **PSC** decides that the complaint does not concern **examinable conduct**, or the behaviour does not represent a serious breach of a code of conduct and can be properly dealt with by correction or an informal personal apology, the **Director**, or **Support Person**, will advise the Complainant of this and of other means to address the issue.
- 11.10 If the **PSC** decides that the complaint does not concern **examinable conduct**, or the behaviour does not represent a serious breach of a code of conduct and the **Director** assesses that **mediation** is likely to resolve the issues raised by the Complainant, the

Director will seek the parties consent to mediate the matter or refer the matter to an independent mediator for that purpose.

11.11 In cases arising from information received from **someone other than the direct victim** of the conduct complained about, the **Director** must advise the **PSC** as soon as it has been assessed by the **Director** that the matter should be investigated, and unless the **PSC** decides: -

- a. in the opinion of the **PSC**, the allegations the subject of information are false, vexatious or misconceived, or their subject matter is trivial;
- b. the subject matter is under investigation by some other competent person or body or is the subject of legal proceedings;
- c. in the opinion of the **PSC**, there is insufficient reliable evidence to warrant an investigation or further investigation;

the process shall be commenced as outlined in this document and the **Protocol** will be followed until the matter is finally determined.

11.12 No person should have any **contact with a Complainant** in the course of a resolution of a complaint except through or on the advice of the **Director** or the **PSC**.

11.13 Nothing should be done or said that the Complainant could reasonably interpret as **questioning the Complainant's capacity: -**

- a. **to make the complaint;**
- b. denying them their right to determine whether or not to speak publicly about their complaint or the Church's response to it;
- c. questioning their right to pursue alternative therapy or redress; or
- d. questioning or qualifying their ability to continue their active participation in the life of the Church.

11.14 The **PSC** or the **Director** will determine if, when, and to whom in the **Diocese**, the existence of a matter is made known.

12 The Respondent

- 12.1 When a formal complaint has been made and accepted as valid under the **Protocol 10.1**, and after obtaining informed consent from the Complainant, the **Director** will contact the Respondent within fourteen (14) days of receipt of the formal complaint or informed consent, whichever is the later.
- 12.2 The **Director** will provide the Respondent with a copy of the complaint and inform the Respondent of the Respondent's right to obtain independent legal or other professional advice, at the Respondent's cost, before responding to the complaint.
- 12.3 The Respondent shall be offered the services of a **Support Person** and professional counselling. If the **Support Person** and/or the professional counsellor is engaged by the **Director**, the reasonable costs for the service will be borne by the **Diocese**.
- 12.4 The **Director** will, in consultation with the Respondent, contact a relevant **Church worker** to select an appropriate **Respondent Carer**. The person selected will become the Respondent's Carer in respect of the matter before the **Director** and will liaise with the **Director**. The Respondent will be advised that a **Respondent Carer** has been engaged on their behalf, that the **Respondent Carer** will be provided with a copy of the complaint, and that the **Respondent Carer** will become the main contact person for the Respondent throughout the process.
- 12.5 The **Respondent Carer** will contact the Respondent within twenty-four (24) hours of accepting the role. The **Respondent Carer** will follow up on the initial advice provided regarding the availability of professional counselling support and if the Respondent seeks a **Support Person**, contact the **Director** to provide a referral. The **Respondent Carer** will also advise the Respondent that to determine whether the facts of the case are significantly disputed, a written response to the complaint is required to be

provided to the **Director**, through the **Respondent Carer**, within twenty-one (21) days of the Respondent being provided with a written copy of the complaint. The **Respondent Carer** will offer pastoral support and liaise with the **Director** as required.

- 12.6 If the Respondent chooses not to actively participate in the process, an unresolved matter will be maintained by the **Director** on a register and considered when the **Director** is next required to provide a clearance to any licensing or employing authority, whether for paid or voluntary work.
- 12.7 If both the Complainant and the Respondent have given their consent and, in the opinion of both the **Director** and the **Respondent Carer** (if a **Respondent Carer** has been appointed) and it is appropriate to do so, the **Director** will arrange:
- a. face-to-face meeting of the Complainant and the Respondent to facilitate the delivery of an apology to the Complainant; or
 - b. or written apology; or
 - c. mediation between the parties.
- 12.8 The **Director** should also consider whether there should be a recommendation to the **Church authority** that the Respondent be stood down from the Respondent's position in the **Diocese** until the process is complete.
- 12.9 The **Respondent Carer** will be in regular contact with the Respondent, and if appropriate with the **Support Person** assisting them, to inform them of how the matter is proceeding and of any actions that will involve or affect the Respondent.
- 12.10 The **Respondent Carer** must keep all information associated with the matter strictly confidential.

12.11 Throughout this process nothing should be done or said by the Respondent; the **Respondent Carer** or the Respondent's **Support Person** such that the Complainant could reasonably interpret as questioning the Complainant's capacity: -

- a. **to make the complaint;**
- b. denying the Complainant's right to determine whether to speak publicly about their complaint or the Church's response to it;
- c. questioning the Complainant's right to pursue alternative therapy or redress; or
- d. questioning or qualifying the Complainant's ability to continue the Complainant's active participation in the life of the Church.

13. APPOINTMENT OF AN INVESTIGATOR

13.1 Following receipt of information, the PSC can appoint the Director to investigate the matter or an independent case investigator on such terms, as the PSC deems necessary and appropriate.

13.2 The investigator cannot be the Support Person for either the Complainant or the Respondent.

13.3 Once appointed, the investigator will be provided with:

- 13.3.1 A copy of the complaint or information;
- 13.3.2 Any response from the Respondent, where applicable; and
- 13.3.3 Any other details relevant to the complaint or information.

13.4 The Complainant will be notified of the appointment of an investigator.

13.5 The Respondent will be notified of the appointment of an investigator.

- 13.6 If the investigator is an independent case investigator the investigator must comply with all sub-clauses of clause 6 of this **Protocol 10.1** as are relevant to the conduct of the investigation;
- 13.7 The Investigator will suspend the investigation in the following circumstances: -
- a. If the Investigator becomes aware that the conduct, the subject of the complaint or information or part of the complaint or information is under investigation by the Police or is the subject of legal proceedings;
 - b. Where the Investigator is informed that the complaint or information or part of the complaint or information is being dealt with by an equivalent body to the **PSC** in another **Diocese**; or
 - c. Where the Investigator has been requested to do so by the **PSC**.

14. ROLE AND DUTIES OF THE INVESTIGATOR

- 14.1 The role and duties of the investigator apply to both the **Director** when engaged by the **PSC** to investigate or another person engaged by the **PSC** to investigate to investigate.
- 14.2 The duties of the investigator are to: -
- a. investigate the complaint or information, or part of the complaint;
 - b. interview the Complainant if the Complainant is available and willing to speak to the investigator;
 - c. interview any other persons who may be of assistance in determining the facts of the alleged sexual misconduct, harassment or abuse;
 - d. Invite the Complainant to have the **Support Person** or another person present during the interview;

- e. Interview the Respondent;
 - f. Invite the Respondent to have their **Support Person** or another person present during the interview;
- 14.3 If the Respondent declines to answer a question claiming the answer might tend to incriminate the person a written record shall be made of the question and of the ground of refusal.
- 14.4 The investigator will not make any threat, intimidation or inducement to any person intended to persuade the Complainant to withdraw the complaint or information or to persuade the Respondent to admit the complaint or information;
- 14.5 No person will be interviewed more than is necessary to complete the investigation;
- 14.6 The investigator will not interview a child without prior written authority. All interviews involving a child will be done in the presence of the parent or guardian and in consultation with an officer of Child Protection Services; Department of Health and Human Services Victoria. **This would only occur once the Police have completed all their investigations;**
- 14.7 The investigator will not interview a vulnerable person without the prior written authority and in the presence of a family member or guardian, nor without consultation with their treatment provider or any welfare agency engaged with the vulnerable person or their family;
- 14.8 The investigator will promptly advise the **PSC** where the Complainant has failed to co-operate with the investigation and the facts and circumstances of that failure;
- 14.9 An independent case investigator shall, at the conclusion of the investigation, provide a written report to the **DPS** unless the independent case investigator has been specifically requested to provide a written report directly to the **PSC**.

- 14.10 The report will contain all information relevant to the allegations and the report will contain the findings of the investigator. These findings will be based on the 'balance of probabilities. (i.e. based on all information provided, and taking into consideration the significance of the allegations, would a reasonable person believe that the alleged misconduct did or did not occur.)
- 14.11 All investigation reports remain the property of and confidential to the **PSC**, the **Director** and the Investigator and the parties shall be so advised prior to being interviewed by the investigator.

15. ACTIONS UPON RECEIPT OF INVESTIGATOR'S REPORT - No case to answer

- 15.1 Unless an independent case investigator has been requested to report directly to the **PSC** the **Director** will present the investigator's report to the **PSC**;
- 15.2 If the **PSC** declines to investigate or further investigate a complaint, or if the **PSC** has determined that the complaint should be dismissed, the **Director** will advise the **Church authority** of the PCS's determination forthwith;
- 15.3 The **Church authority** may accept the decision of the **PSC** and must notify the **Director** accordingly. The case will then be considered closed and the **Director** will inform both the Complainant and the Respondent of the outcome. The matter will be considered resolved and the file closed.
- 15.4 If the **Church authority** is not satisfied with the outcome, the **Church authority** may require further investigation be undertaken, and the above process may be repeated until the matter is considered resolved and the file closed.

16. ACTIONS UPON RECEIPT OF INVESTIGATOR'S REPORT – Case to answer

- 16.1 Unless an independent case investigator has been requested to report directly to the **PSC** the **Director** will present the investigator's report to the **PSC**;
- 16.2 If the **PSC** has determined that the Respondent does have a case to answer, the **Director** will inform both the Complainant and the Respondent of the outcome;
- 16.3 If the **PSC** has determined that the Respondent has a case to answer and if substantiated, on the balance of probabilities, would not bring into question the fitness of the Respondent to hold a particular office, licence or position of responsibility in the Church or to be or remain in Holy Orders; or whether in the exercise of a Church workers ministry or employment or in the performance of any function of the Church worker should be subject to certain conditions or restriction the **PSC** may make a recommendations directly to the Church authority which has the discretion as to whether the recommendations are to be actioned. The Church authority shall inform the PSC in writing within thirty (30) days whether the Church authority accepts the recommendations and, if accepted, when the recommendations will be actioned.
- 16.4 The **PSC** may recommend that the case be referred to the Professional Standards Board (**PSB**) to answer one or more of the following questions (as per Section 56 of the **PSA**):
- 16.4.1 The fitness of a **Church worker**, whether temporarily or permanently to hold a particular office, licence or position of responsibility in the Church or to be or remain in Holy Orders;

16.4.2 Whether in the exercise of a **Church worker's** ministry or employment or in the performance of any function the **Church worker** should be subject to certain conditions or restrictions.

16.4.3 The **PSC** or the **Director** may form the view that there is an unacceptable risk of harm to any person if the Respondent remains in their present office or position of responsibility pending the outcome of further investigation of the complaint or determination of the **PSB**. In such circumstances, the **PSC** may make recommendation direct to the **Bishop** or other relevant **Church authority** as to:

- a. the suspension of the Respondent;
- b. the requirement for the Respondent to enter into a written undertaking with the Bishop and/or other relevant **Church authority** concerning the future conduct of the Respondent or other matters relevant to the complaint; or
- c. such other action be taken as may be thought fit, including the temporary relocation of the Respondent from a rectory adjacent to a Church building.

16.5 Where the **PSC** determines that a recommendation is to be made against the Respondent, the **Director** will prepare a report outlining the complaint and questioning whether the Respondent is fit to hold any Church Office to the **PSB**. The Convenor of the **PSC** will endorse the report.

16.6 The **PSC**, via the **Director**, will inform the Complainant and the Respondent of the process.

- 16.7 The **PSB**, bound by Part 6 of the **PSA**, shall deal with any reference to it from the **PSC** as timely as possible.
- 16.8 After considering all the relevant material, the **PSB** will determine whether the Respondent is fit to hold office and whether the Respondent should be subject to restrictions and conditions.
- 16.9 The Respondent will have an opportunity to provide written submissions to the **PSB**.
- 16.10 If the **PSB** determines that the Respondent is unfit, it may make recommendations to the **Church authority** which has a discretion as to whether the recommendations are to be actioned.
- 16.11 The **PSB** will provide a copy of those recommendations to: -
- a. the **Church authority**;
 - b. the **Director** and the **PSC**;
 - c. the Respondent; and
 - d. the Complainant.
- 16.12 An investigation by the **PSC** is deemed to continue until:
- a. The matter is dismissed;
 - b. The **PSC** makes a recommendation;
 - c. The matter has been referred to the **PSB** for implementation of **Part 6** of the **PSA**;
 - d. Criminal proceedings are initiated.

17. SAFETY OF THE DIRECTOR / INVESTIGATOR

- 17.1 When allegations are received, it is appropriate for the **Director** to meet with the Complainant. The Diocese acknowledges that for any Complainant to meet with the **Director** in a church property could be a traumatic experience. However, the safety

of the **Director** or Investigator is paramount, and a suitable and safe place will be sourced for any such meeting.

17.2 The Director is encouraged not to meet in the private home of a Complainant whenever practical.

18. Delays in Complaint Resolution

18.1 Investigation of historical sexual abuse (including child sexual abuse) can be a lengthy process for several reasons including:

- a. Denial and non-compliance by the Respondent.
- b. Impaired memories / Dementia.
- c. Death of the Respondent.
- d. The Respondent cannot be traced due to relocation of the Respondent or a change of name by the Respondent.
- e. Insufficient or no records maintained.

18.2 While the **Director** will make every attempt to investigate the matter in a timely manner, delays may occur.

19 Media Interest

19.1 The **Director** will advise the **Bishop** and the **Registrar** of any allegations or complaints received that may be of interest to the media so that appropriate statements and responses can be provided.

SCHEDULE 1**DEFINITIONS**

Bishop means the Bishop of the Anglican Diocese of Gippsland or the Administrator;

Board means the Professional Standards Board;

child exploitation material means material that describes or depicts a person who is, or appears to be, a child –

(a) engaged in sexual activity; or

(b) in a sexual context; or

(c) as the subject of torture, cruelty or abuse (whether or not in a sexual context)—

in a way that a reasonable person would regard as being, in all the circumstances, offensive.

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

Church body includes a parish, school or any other entity that exercises ministry within, or on behalf of, the National Church;

Church worker means a person who is or who at any relevant time was—

(a) a member of the clergy; or

(b) a person employed by a Church body; or

(c) a person holding a position or performing a function with the actual or apparent authority of a **Church authority** or Church body—

Code of Conduct means a code of conduct to be observed by **Church workers** as approved from time to time by the **Diocese** in accordance with Section 7 of the **PSA**;

Director means the **Director** of Professional Standards and includes an acting **Director** of Professional Standards and a Deputy **Director** of Professional Standards;

Diocese means the Anglican Diocese of Gippsland;

examinable conduct means conduct, wherever or whenever occurring, the subject of information which, if established, might call into question—

14. the fitness of a **Church worker**, whether temporarily or permanently, now or in the future to hold a particular office, licence or position of responsibility in the National Church or to remain in Holy Orders or in the employment of a Church body; or
15. whether, in the exercise of a **Church worker's** ministry or employment, or in the performance of any function, the **Church worker** should be subject to certain conditions or restrictions;

Gippsland Corporation means the Anglican Diocese of Gippsland Administration Ltd;

information means information of whatever nature and from whatsoever source relating to alleged—

- (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;

Member of the clergy means a person in Holy Orders;

Professional Standards Act or **PSA** means the Professional Act 2017;

Professional Standards Board or **PSB** means the Professional Standards Board established by the **PSA**;

Professional Standards Committee or PSC means the Professional Standards

Committee established by the **PSA**;

prohibition order means an order prohibiting a **Church worker** from—

- (a) holding a specified position or office in, or being employed by, a Church body or **Church authority**; or
- (b) carrying out any specified functions in relation to an office or position in the diocese or in relation to employment by a Church body;

Registrar means the Registrar of the Anglican Diocese of Gippsland;

Respondent means a **Church worker** whose alleged conduct or omission is the subject of information;

Respondent carer means a person appointed or engaged to provide pastoral and spiritual care to a Respondent;

schedule means a schedule attached to this Protocol 10.1

sexual harassment or assault includes abusive behaviour—

- (a) by a person with a child for the sexual gratification of the person;
- (b) by a person in a position of authority over an adult for the sexual gratification of the person.

Support person means a person appointed or engaged to act as a support person for either a Complainant or a Respondent.

Vulnerable person means a person who is 18 years of age or over, and who is or may be in need of community care services by reason of intellectual or other disability, age or illness and who is or may be unable to take care of himself/herself, or unable to protect himself/herself against significant harm or serious exploitation.