



**Churches of Christ  
in South Australia and Northern Territory Inc.  
ABN 72 700 201 397**

# **The Practice of Ministry**

## **Guidelines for Investigating Complaints Relating to Breaches of the Code of Ethics**

*Adopted by the State Board of the Churches of Christ  
in South Australia and Northern Territory  
29 November 2013*

**Evaluation, Review and Update**

The Practice of Ministry Procedure for Investigating Complaints Relating to Breaches of the Code of Ethics will be reviewed regularly. This document is clearly marked with the date of adoption by the Council of Churches of Christ in South Australia and Northern Territory Inc.

Evaluation of The Practice of Ministry Procedure for Investigating Complaints Relating to Breaches of the Code of Ethics will take place regularly with a view to making revisions or a decision about their usefulness on a five year cycle. More regular revision may take place if required. The State Board will provide opportunity for ministers or members of Affiliated churches to contribute to the review of this Procedure.

# Contents

<b>1. INTRODUCTION</b> .....	<b>4</b>
1.1. The Purpose of the Document .....	4
1.2. The Scope of this Document.....	4
1.3. General Introduction.....	4
1.4. Guiding Principles .....	4
1.5. Exceptional Circumstances.....	5
<b>2. DEFINITIONS</b> .....	<b>6</b>
2.1. Serious Misconduct .....	6
2.2. Sexual Harassment and Abuse.....	6
2.3. Financial Misconduct.....	6
2.4. Spiritual and Emotional Abuse.....	6
2.5. Other Definitions.....	7
<b>3. ESTABLISHMENT OF A MONITORING BODY</b> .....	<b>9</b>
3.1. Introduction.....	9
3.2. Composition of the MPSC .....	9
3.3. Appointment of MPSC .....	9
3.4. Assessment Team.....	9
3.5. Composition of PRSC.....	10
3.6. Discipline Committee.....	10
3.7. Pastoral Response Team.....	10
3.8. Removal of MPSC Members.....	10
3.9. Conflict of Interest .....	10
3.10. Confidentiality Undertaking .....	10
<b>PROCESS FLOWCHART – summary of steps</b> .....	<b>11</b>
<b>4. STAGE 1 – INITIAL RESPONSE AND ASSESSMENT</b> .....	<b>12</b>
4.1. Receiving a Complaint .....	12
4.2. The Assessment Team (AT).....	12
4.3. Role and Appointment of an Advisor.....	12
4.4. Preliminary Findings.....	12
4.5. Complaint not constituting Serious Misconduct.....	13
<b>5. STAGE 2 – INVESTIGATION</b> .....	<b>14</b>
5.1. Investigation by Police.....	14
5.2. Investigation by MPSC .....	14
<b>6. STAGE 3 – OUTCOMES</b> .....	<b>16</b>
6.1. Outcome 1 - The Complaint is Sustained .....	16
6.2. Outcome 2 - The Complaint is Not Sustained.....	17
6.3. Outcome 3 - There is No Clear Determination.....	17
6.4. Appeal Process.....	18
<b>7. FOLLOW UP</b> .....	<b>19</b>
7.1. Restoration or Reinstatement.....	19
7.2. Mediation .....	19
<b>8. RECORD KEEPING</b> .....	<b>20</b>
<b>APPENDICES</b>	
1. Guidelines for Assessment Teams.....	21
2. Privacy Policy – Breach in the Code of Ethics.....	24
3. Procedure for Investigating Complaints Briefing Note.....	26

## 1. INTRODUCTION

### 1.1. Purpose

This document establishes a procedure for dealing with complaints that breach the Ministry Practice—Code of Ethics by people in ministry within Churches of Christ in South Australia and Northern Territory Inc (CofCSA/NT). It describes the formation of the body—the Ministry Professional Standards Committee (MPSC)—that manages such matters within CofCSA/NT. The MPSC’s function is that of discernment and discipline rather than counselling or compensation.

### 1.2. Scope

These principles and procedures apply to: Ministers, Chaplains and employees of the Churches, Partner Departments and Agencies of CofCSA/NT (**whether ordained, endorsed, trained, student, locally appointed or lay**) who have formally recognised ministry positions within CofCSA/NT, its mission agencies, associated interchurch ministries and the like, as defined or listed within the CofCSA/NT Directory.

### 1.3. General Introduction

The Church is to be God’s instrument in restoring wholeness to creation. It is in this context that these principles and guidelines have been formed. It is hoped that rather than raising matters of concern that do not exist, the guidelines will provide a framework for establishing a just, compassionate and loving response to victim and perpetrator.

Our commitment to expressing the love of Christ leads us to the view that all people should be able to live and work in an environment that is free from abuse of any kind.

From a legal point of view, it should be noted that any church agency may be found to be liable for the consequences of abuse carried out by people who minister within them, or in their name. The church must take responsibility for providing a safe working environment for those being served.

Commonwealth Acts such as the Sex Discrimination Act, and State and Commonwealth Acts that deal with issues of discrimination and equal opportunity apply to the church. In some situations, both the person in ministry and the church may be found in breach of applicable legislation. It is important for the church to ensure that approved procedures to deal with Serious Misconduct are effectively implemented to avoid adverse findings being made against the CofCSA/NT and to prevent any accusations of a cover up being made.

Prior to the 1980s church leaders may have dealt with allegations of Serious Misconduct without defined procedures. The procedures in this document reaffirms a protocol whereby such complaints will be referred to a Ministry Professional Standards Committee of Churches of Christ in South Australia and Northern Territory for investigation, in addition to creating opportunities for pastoral counselling where possible. One of the reasons for this process is that initial complaints concerning abuse do not often reveal the full extent of the problem. Any case being considered within these guidelines may also be pursued by other appropriate legal procedures. The church does not intend that its procedures should protect people from the legal consequences of their actions or omissions; for example, child sexual abuse, sexual assault and harassment will be reported as the law demands.

Allegations of sexual harassment and abuse, and allegations of other Serious Misconduct that breach the Code of Ethics are serious. All cases have the potential for defamation procedures to be instituted if an allegation is found to be malicious in intent. Persons ignoring these procedures can put themselves at considerable personal and financial risk.

### 1.4. Guiding Principles

**1.4.1** People in ministry are expected to be examples and models of Christian living, and as such, this document is closely related to the document **The Practice of Ministry - Code of Ethics: Professional and Ethical Standards Applicable to People in Ministry in CofCSA/NT** and should be understood in the light of that document.

**1.4.2** This document has been prepared from the equally important perspective of expressing justice to those who have been victimised. The church must stand with those who have experienced abuse. This procedure seeks to treat both Complainants and alleged perpetrators justly while complaints are investigated. Throughout, the church stands in solidarity with those who have been victimised and does not seek to cause further suffering for a victim (Micah 6:8).

- 1.4.3 A Complainant may indicate to the Ministry Professional Standards Committee (MPSC) their preference about the way their complaint is handled, within these guidelines. Where possible, and to uphold natural justice, the MPSC will consider this in handling the complaint.
- 1.4.4 The anonymity of the Complainants must be maintained within the initial response stage.
- 1.4.5 A person in ministry has the right to know exactly what he/she is being accused of and by whom. Normally a complaint will not proceed unless the Complainant is willing to have their name and the details of the complaint referred to the person in ministry.
- 1.4.6 In exceptional circumstances the MPSC reserves the right to take up a complaint raised with an Assessment Team (AT). In such cases the Complainant's identity will remain confidential. The MPSC will advise the Complainant of any action taken and its outcome. The MPSC may choose to take up a complaint, even if the original Complainant withdraws from the process.
- 1.4.7 The principles of natural justice will be respected. For instance, the principle of "innocent until proven guilty" lies behind the development of the formal complaint procedures. However, it may be appropriate for a person in ministry to be stood down from active ministry on paid leave, pending the outcome of the formal complaint procedures, or of any criminal or civil action.
- 1.4.8 It is important to protect both the vulnerability of the Complainant and that of the person in ministry (by virtue of natural justice). The MPSC must deal with the collection and holding of information under "qualified privilege" which means that the MPSC will not divulge information obtained without first obtaining the permission of those whom it concerns unless disclosure is required by law. In some limited circumstances, the MPSC may determine that qualified privilege does not attach to the information obtained. For example, discretion not to hold to confidentiality in circumstances where there is a reasonable belief that the Complainant may harm him/herself or some other person, or where the alleged perpetrator may harm others or themselves.
- 1.4.9 Those listening to a person in ministry must be aware of the difference between remorse and repentance. Normally remorse is the initial expression of regret, pain, shame or sorrow in response to the matter being discovered. Repentance is the slow and deeply personal process of accepting responsibility for the consequences of his/her actions.
- 1.4.10 Those dealing with allegations of sexual abuse and harassment need to recognise that sometimes restoration and/or reconciliation appears improbable and may be impossible or unwise.
- 1.4.11 No person, who has offended, has the right to demand to be forgiven by a Complainant.
- 1.4.12 This document recognises that not all complaints will be genuine.
- 1.4.13 It is the responsibility of each person involved in this process to undertake their task with compassion, wisdom, justice and due attention to the protocols of confidentiality.
- 1.4.14 This document recognises that victims of abuse include not only those who have been directly subject to the impact of the abuse, but also includes secondary (or associate) victims who are directly or indirectly impacted by the abuse. Secondary victims may include the congregation as a whole, members of the Complainant's family, and members of the person in ministry's family. The impact of abuse on such secondary victims must be taken into account as part of an assessment of the impact of abuse. Pastoral care of secondary victims must also be acknowledged and planned.
- 1.4.15 It is essential to ensure that the Complainant is not put in the position of having to re-tell their story a number of times. Sensitivity to gender issues should be exercised when it comes to the telling of their story. At all times, and in all ways, the safety, care and pastoral support for the victims of ministerial abuse are of utmost concern.

### **1.5. Exceptional Circumstances**

In exceptional circumstances (for example, when Serious Misconduct is alleged against senior leaders such as the State Minister, members of State Board, the MPSC or a local Church leadership), necessary variation may be made by other senior leaders to these procedures to ensure a proper response.

## **2. DEFINITIONS**

### **2.1. Serious Misconduct**

Serious Misconduct contravenes God’s Word, harms other human beings and is unethical and unacceptable behaviour. Actions may be considered Serious Misconduct when they are unethical or immoral in nature and in breach of the Code of Ethics. The type of allegations this Procedure is envisaged to cover include those of financial misconduct, sexual harassment and abuse, spiritual, mental or emotional abuse, bullying and other forms of physical assault or harm. This Procedure is not intended to cover complaints of alleged behavior that may be considered professional failings or incompetence, personality issues or matters not relating to ethical standards of ministry. The MPSC reserves the right to determine whether a complaint falls within the above definition and any complaints that do not fall within the scope of the serious misconduct procedure will be referred to the State Minister for further action as appropriate.

### **2.2. Sexual Harassment and Abuse**

Sexual harassment and abuse contravenes God’s Word, harms other human beings and is unethical and unacceptable behaviour. Sexual harassment and abuse covers a range of unwelcome, unsolicited, manipulative and unreciprocated behaviours that constitute deliberate or unintentional verbal or physical conduct of a sexual nature. It extends from unwelcome actions such as gestures, display of offensive pictures, comments of a sexual nature, implicit or explicit demands or suggestions for sexual activities, through to physical contact such as patting, pinching, excessive use of hands, touch, caressing, inappropriate kissing and more hostile conduct. Harassment may be perpetrated by an individual, or by a group, toward any other person, including children. A sexual or sexualised relationship within the pastoral context (i.e. between a person in ministry and a recipient of ministry) is never acceptable and always constitutes unethical behaviour, whether the person is a willing participant or not. The term “sexual or sexualised relationship” is not restricted to sexual intercourse. It also includes any behaviour that has at its purpose some form of sexual self-gratification, or which may be construed by a reasonable person as having that purpose.

The abovementioned clauses do not preclude the possibility of an unmarried person in ministry forming a legitimate relationship with a member of the opposite sex of the congregation, provided the pastoral relationship is not compromised. In such instances, the relationship needs to be discussed with other leaders in the ministry context and other arrangements need to be made for the pastoral and spiritual care of the recipient of ministry.

### **2.3. Financial Misconduct**

Financial misconduct contravenes God’s Word, harms other human beings and is unethical and unacceptable behaviour. The abuse of the trust of a congregation (or other engaging body) in areas of finance may be present when there is a failure to give account of money entrusted to the person in ministry on behalf of an individual, group or congregation as a whole, or when individuals are being coerced into conforming to practices of giving that remove freedom of choice.

In many cases, instances of apparent financial misconduct are the result of poor communication rather than criminal intent. In others there may be legal ramifications following allegations of financial misappropriation. The MPSC reserves the right to determine whether a complaint falls within the above definition and any complaints that do not fall within the scope of the serious misconduct procedure may be referred to the State Minister for further action as appropriate.

### **2.4. Spiritual Abuse**

Spiritual Abuse is usually defined as verbal, emotional, spiritual, and/or physical harm done to recipients of ministry by the person in ministry or those in leadership. These leaders use their position of authority to coerce, manipulate, and control the recipient of ministry. This type of abuse can be subtle, complex, and hard to discern, and is sometimes not detected until the damage has already been done. However, sometimes it is more obvious, especially when the coercion, manipulation, and control are laced with anger and/or wrath.

A more detailed definition can be found in Appendix 3 of The Practice of Ministry—Code of Ethics.

## **2.5. Other Definitions**

### ***Adviser***

Both the Respondent and Complainant may each have an advisor appointed by the MPSC. The role of the advisor is to guide the relevant person as to the process that the investigation may take and their choices within the process outlined in this protocol. The advisor will ensure that those involved are aware of their rights and choices as described in this protocol.

### ***Complainant***

The person (or agency) who alleges a complaint against a Person in ministry.

### ***Contact Person***

A Contact Person is a person appointed by the MPSC and ratified by State Board to be the first point of contact with a person making or considering making a complaint.

### ***State Board***

State Board is the State Board of CofCSA/NT.

### ***Discipline Committee***

A sub-committee of the MPSC responsible for implementing its decisions with regards to the discipline of a person in ministry

### ***Duty of Care***

The responsibility of people in ministry to exercise their ministry within an ethical framework of accountability to both church and CofCSA/NT and recipients of such ministry. All people in ministry are to be accountable at a variety of levels for all those who come into their care.

### ***SM***

SM means the State Minister of CofCSA/NT.

### ***Assessment Team (AT)***

Members of the MPSC (or other appropriate people) who are appointed to hear the initial complaint and make a recommendation to the MPSC.

### ***Ministry Professional Standards Committee (MPSC)***

The group of people appointed by State Board to implement and monitor the Code of Ethics and the Procedure.

### ***Ministry Work Group***

The Work Group of State Board that oversees church and ministry activities.

### ***Respondent***

A Respondent is the person against whom such an allegation is directed.

### ***Pastoral Manner***

This term encapsulates the traditional pastoral tasks of guiding, healing, teaching, reconciling, advocating, nurturing and empowering. Those who take part in any process within this procedural document are called to act towards all parties with dignity, respect, sensitivity and understanding. This care should be spiritually affirming and justice-seeking.

### ***Pastoral Response Team (PRT)***

A group of people appointed by the MPSC to provide pastoral support to people impacted by the misconduct of a person in ministry.

### ***Person in ministry***

A minister, chaplain, employee, volunteer or others engaged by a Church, Partner Department or agency of CofCSA/NT, whether ordained, endorsed, trained, student, locally appointed or lay, who has a formally recognised position within CofCSA/NT or an associated interchurch agency, as defined or listed within the People in Ministry section of the CofCSA/NT Directory.

### ***Professional Standards Review Committee (PSRC)***

Members of the MPSC (or other appropriate people) who are appointed to formally investigate the complaint and make a recommendation to the MPSC.

### ***Recipient of ministry***

A person with whom a person in ministry has a pastoral relationship and towards whom the person in ministry is required to exercise a Duty of Care.

***The Code of Ethics***

The Practice of Ministry - Code of Ethics: Professional and Ethical Standards applicable to People in Ministry in CofCSA/NT, as may be amended or updated from time to time.

***The Procedure***

This Procedure, the Procedure for Investigating Complaints that Breach the Code of Ethics within CofCSA/NT as may be amended or updated from time to time.

### **3. ESTABLISHMENT OF A MONITORING BODY**

#### **3.1. Introduction**

The State Board will appoint a group of people with relevant capabilities known as the Ministry Professional Standards Committee (MPSC) for implementing and monitoring the Code of Ethics and the Procedure. The MPSC's function is that of discernment and discipline rather than counseling or compensation.

The Code of Ethics and the Procedure should ideally be included as an express term of the engagement contracts between the local church or other engaging body and people in ministry. Both parties will be provided with a copy of each.

A copy of the Code of Ethics and the Procedure will also be available at the local church or other engaging body and at the CofCSA/NT Centre.

#### **3.2. Composition of the MPSC**

The MPSC shall consist of no less than 5 people who have indicated a willingness to participate as a member of the MPSC (other than ex officio members).

A member of the MPSC shall normally possess the requisite knowledge, experience and skills that in the opinion of State Board will be of assistance in the function of the MPSC. This will include areas such as legal, investigative, human services, and the ability to show empathy. The MPSC will generally comprise the following:

- A nominee of State Board
- An Endorsed Minister nominated by Ministry Work Group
- A legal representative with an awareness of the issues
- Two (2) non-ministry people, nominated by State Board or Ministry Work Group
- A helping professional eligible for membership of the Australian Psychological Society (APS), Australian Association of Social Workers (AASW) or the Psychotherapy and Counselling Federation of Australia (PACFA)
- Up to three (3) other people, taking into account gender balance, and the need for relevant experience
- The SM, ex officio

If possible three of those nominated will be from outside CofCSA/NT.

Additional persons may be appointed by the State Board as the need arises.

#### **3.3. Appointment of MPSC**

The members of the MPSC shall be appointed by State Board and generally for a term of not more than three years. They will be eligible to be re-appointed.

The MPSC shall appoint a Chair and Deputy Chair (neither who are ex officio members), and also two MPSC Contact Persons (one female, one male) for complaints against people in ministry in CofCSA/NT arising under the Code of Ethics.

The SM shall present State Board with a list containing details of those appointed to the MPSC at the commencement of each year and advise them of any changes during the year as they occur.

#### **3.4. Assessment Team (AT)**

In the event of a complaint being made against a Person in ministry, an AT will be formed and appointed by the MPSC. It will generally comprise of:

- At least one (1) member of the MPSC
- A person with significant awareness of issues associated with misconduct
- A professional, eligible for membership of Australian Psychological Society, Australian Association of Social Workers or Psychotherapy and Counseling Federation of Australia.
- Where possible one member should be from outside CofCSA/NT.

The AT shall initially hear the complaint and make a recommendation to the MPSC as to whether the complaint has any merit and an investigation should commence as soon as possible. The MPSC may consider the appointment of the AT to complete the more formal investigation, and/or the appointment of an independent, professional investigator.

### **3.5. Composition of Professional Standards Review Committee (PSRC)**

A Professional Standards Review Committee may be appointed for the formal investigation of specific complaints. It will generally comprise the following and possibly include one member of the AT and a minimum of 3 and a maximum of 5 people according to the following criteria:

- A layperson.
- A minister.
- A professional, eligible for membership of APS, AASW or PACFA.
- A person with significant awareness of issues associated with misconduct.
- At least 1 of the committee should be from outside CofCSA/NT.

Any PSRC so appointed is accountable to, and will report (within the process outlined below) to the MPSC.

### **3.6. Discipline Committee**

The Discipline Committee is a sub-committee of the MPSC and may be formed when required by the MPSC to implement on its behalf recommendations regarding the future ministry of a person in ministry who is found to be in breach of the Code of Ethics. It meets as needed. It is formed from within the MPSC according to the specific needs of a particular matter and generally at least one of the members of the Discipline Committee will be from outside of CofCSA/NT.

### **3.7. Pastoral Response Team (PRT)**

A Pastoral Response Team shall be formed by the MPSC when needed to coordinate and oversee those aspects of the life of the congregation impacted by the misconduct. It will respond to concerns and questions that emerge from the congregation and leaders. The PRT will ensure that victims in the congregation are receiving the pastoral support needed and deal with other issues that may arise. It shall report to the MPSC.

The Team shall include a nominee of the MPSC, a nominee of the local church leadership, and a suitably qualified resource person. The PRT shall report to the MPSC and the local church leadership.

### **3.8. Removal of MPSC Members**

An MPSC member may be removed at the discretion of the SM or State Board temporarily or permanently, if the member's professional or ethical conduct is not of acceptable standards.

At a time of a MPSC membership review, and in order to ensure balance or appropriate skills in the composition of its membership, the SM may ask an MPSC member to vacate her/his position.

### **3.9. Conflict of Interest**

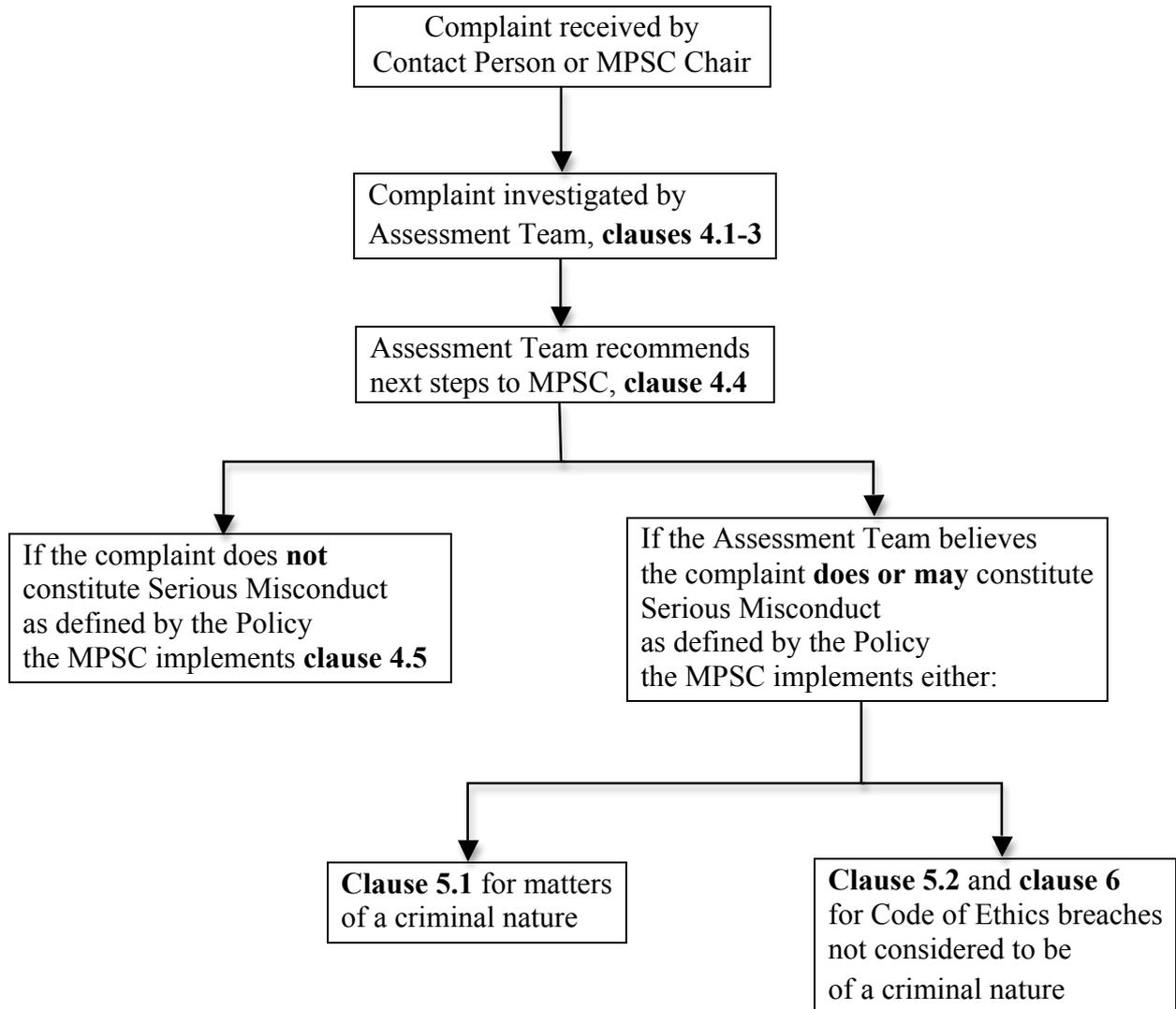
Members of a MPSC shall disclose a conflict of interest or an inability to remain impartial and may, in consultation with the other members of the MPSC, abstain from participating in any investigation of a particular complaint.

### **3.10. Confidentiality Undertaking**

MPSC members will be required to sign a confidentiality undertaking at the time of their appointment. This will include an express undertaking not to retain any documents in any format (including, without limitation, on their computers) after they conclude their term. The former member will be required to sign a confirmation at that time that all documents have been safely destroyed or handed to the SM for custody in accordance with clause 8.

# Code of Ethics – Procedure

## Process Flowchart



### Notes:

- An **Advisor** may be appointed to assist the Complainant with the AT or MPSC process, to attend investigation meetings with the Complainant, and to keep the Complainant informed regarding the progress of the process (process only, not content of the complaint).
- A **Contact Person** is a person appointed by the MPSC and ratified by the State Board to be the first point of contact with a person making or considering making a complaint.
- See **clause 6.4** for the **Appeal Process**
- See **clause 7** for **Follow up – Restoration and Reinstatement**
- See **clause 8** for **Record Keeping**

## **4. STAGE 1 – INITIAL RESPONSE AND ASSESSMENT**

### **4.1. Receiving a Complaint**

In most cases a complaint against a person in ministry will initially be made to a Contact Person by a Complainant, or a relative of the Complainant, or through other persons.

The person who receives the complaint is encouraged to maintain an open and approachable attitude. “Off the record” conversations and meetings should be avoided. The Complainant should be invited to put the initial complaint in writing if they have not already done so.

Details of any complaint should immediately be directed to the MPSC Chair or the SM (if not already involved) who will normally refer the complaint promptly to the MPSC for action.

In certain circumstances it will be necessary to immediately refer a matter to the appropriate Police Department.

If the MPSC Chair or SM decides that the complaint is not to be referred to the MPSC, then they must promptly inform the MPSC of the complaint and the rationale for not referring it. If the MPSC decides that the complaint should be dealt with under this Procedure, then the MPSC Chair or SM shall promptly refer the details of the complaint to the MPSC.

### **4.2. The Assessment Team (AT)**

Upon the receipt of a complaint an AT will be appointed and shall, as soon as possible, and preferably within seven days, meet with the Complainant to obtain full details of the complaint and obtain a signed statement from the Complainant where possible.

If it is not possible to obtain a signed statement from the Complainant, then the AT shall fully document the complaint and confirm that it accords with the Complainant’s version of events. The AT shall note this on the complaint.

The purpose of the initial interview should be to assess whether the alleged behaviour may constitute Serious Misconduct within the scope of this document. The AT shall report as soon as possible their preliminary findings to the MPSC, together with their recommendations on whether the complaint warrants further investigation. It is preferable that this should happen within seven days. The MPSC will decide whether further investigation is warranted (by it or an appointed PRSC), as soon as possible, and preferably within a further seven days. If it is not possible for the AT to determine if Serious Misconduct has or hasn’t occurred from the initial interview of the Complainant then the AT should investigate further which may include interviewing the Respondent.

### **4.3. Role and Appointment of an Advisor (see Definitions above)**

An Advisor will be appointed to assist the Complainant with the AT or MPSC process, to attend investigation meetings with the Complainant, and to keep the Complainant abreast of the progress of the process (procedures, timing etc., but not regarding content issues). An Adviser shall be appointed to assist the Respondent prior to any formal involvement between the MPSC investigation (or earlier if required) and the Respondent.

The Advisor shall:

- be a member of CofCSA/NT who is able to fulfill the liaison role, particularly with the purpose of establishing rapport with the Complainant.
- not be a member of the AT or MPSC or employed or otherwise engaged by CofCSA/NT.
- be appointed by the MPSC Chair upon receipt of a complaint, following consultation with the SM as to an appropriate person to fulfill this role.
- be required to sign a confidentiality undertaking at the time of their appointment.
- Recommend pastoral care for complainant/s and/or victim/s. and refer as required.

### **4.4. Preliminary Findings**

Upon consideration of the initial recommendations presented by the AT, the MPSC may make one of the following determinations:

#### **4.4.1 Further Investigation is Not Warranted -**

If the MPSC considers that the complaint does not constitute Serious Misconduct within the scope of the Practice of Ministry policies and that further investigation is not warranted, the Complainant shall be notified according to the procedure outlined at clause 4.5 Unsubstantiated Complaint.

The MPSC will ensure that a set of objective criteria is developed and reviewed from time to time for use to guide any decision not to investigate a complaint.

**4.4.2 *Police Investigation is Required -***

If the MPSC considers that the complaint is substantiated and could be a crime under the Criminal Code Act 1913 or under any other applicable legislation it shall, at the request of or with the agreement of the Complainant, refer the matter for investigation by the Police according to the procedure outlined at clause 5.1 - Investigation by Police.

If a child safe issue is involved then Mandatory Reporting guidelines are to be adhered to.

**4.4.3 *Further Investigation is Warranted -***

If the MPSC considers that the complaint is substantiated and could be in breach of the Code of Ethics (though not necessarily a criminal act) it shall undertake a formal investigation according to the procedure outlined at clause 5.2 – Investigation by MPSC.

**4.5. Complaint not constituting Serious Misconduct**

If, having considered the recommendations presented by the AT, the MPSC considers that the complaint does not constitute Serious Misconduct within the scope of the Practice of Ministry policies and that further investigation is not warranted, the following procedure shall be adopted:

- 4.5.1** The Complainant shall be informed of the outcome and given brief reasons why the MPSC considers the complaint is not substantiated. The Complainant shall be advised that they have the right of appeal to the MPSC and given details of the procedure in which an appeal may be made.
- 4.5.2** While the MPSC is a disciplinary and not a counseling body, it may, without liability for any associated costs<sup>1</sup>, make recommendations to the Complainant with regards to an appropriate professional for support and counseling. The Complainant may refuse such recommendation.
- 4.5.3** The outcome of the complaint, a record of all conversations, including the result of any appeal to the MPSC, and any other correspondence will be recorded on file.
- 4.5.4** The Respondent (and the church, or other engaging body, only if already involved or aware) will be notified in writing.
- 4.5.5** Mediation may be deemed appropriate and recommended to the parties involved.

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<sup>1</sup>Costs for counselling are the responsibility of the Respondent or the Respondent's employing body as deemed appropriate.

## 5. STAGE 2 – INVESTIGATION

If the MPSC considers that the complaint may constitute Serious Misconduct within the scope of the Code of Ethics and warrants further investigation, it must determine whether the matter is best investigated by the MPSC or the matter referred to the South Australian or Northern Territory Police. These options are outlined below.

### 5.1. Investigation by Police

If, having considered the recommendations presented by the AT, the MPSC considers that the complaint could be a crime under the Criminal Code or any applicable legislation, the MPSC shall, at the request of, or with the agreement of the Complainant refer the matter for investigation by the Police according to the following procedure:

- 5.1.1 The MPSC shall provide any assistance necessary (understanding any potential legal implications) for the Complainant to make a formal complaint to the Police.
- 5.1.2 The MPSC shall notify the church leaders, or other engaging body, and will usually recommend that the Person in ministry be stood down.
- 5.1.3 The MPSC shall monitor any criminal proceedings.
  - **No charges laid, no Conviction or complaint withdrawn:** If no charges are laid or no conviction is recorded or the complaint is withdrawn, after an appropriate time the MPSC will investigate the complaint according to the procedure outlined at clause 5.2 - Investigation by MPSC. The MPSC shall ensure that any investigation will not impede any subsequent investigation by the Police or other investigating body.
  - **Conviction:** In the event of a conviction, the MPSC will recommend any further action to the Ministry Work Group, including the option that it revoke the Respondent's position in their Churches. If a Respondent is convicted of a criminal offence, the MPSC shall follow the procedure outlined at clause 6.1 – Outcome 1.
- 5.1.4 The Respondent and the Complainant shall at all times have the right to seek independent legal advice at their own expense.

If a child safe issue is involved then mandatory reporting guidelines are to be adhered to.

### 5.2. Investigation by MPSC

If, having considered the recommendations presented by the AT, the MPSC considers that the complaint could be in breach of the Code of Ethics (though not necessarily a criminal act) the MPSC shall undertake a formal investigation according to procedure outlined below<sup>2</sup>. Timing of the following steps, particularly notifications, should be decided on a case by case basis depending on the risk factors involved for the various parties and their knowledge of the events.

The MPSC shall undertake a formal investigation according to the following procedure<sup>3</sup>:

- 5.2.1 If not already actioned an Advisor will be appointed for the Respondent. The MPSC shall notify the Respondent, the appropriate leadership of the church, or other engaging body, and the Ministry Work Group of the substance of the complaint against the Respondent.
- 5.2.2 The MPSC will usually recommend that the Respondent be stood down, pending completion of the investigation. In this case the MPSC may recommend the leadership notify the congregation or other agency (if applicable) of the complaint against the Respondent.

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<sup>2</sup> The formal investigation may be carried out by the MPSC or an appointed PSRC. The MPSC, while acting through the AT or an appointed PSRC, will be responsible for the formal investigation and receive any recommendation/s and will make a determination of the matter. Care must be taken to ensure that the potential seriousness of the complaint is neither minimised nor inflated.

<sup>3</sup> See Appendix 1 for a more detailed outline of this process

- 5.2.3** The MPSC shall request that the Respondent submit a signed statement in response to the complaint against him/her. The Respondent may decline to provide a signed statement to the MPSC. If the Respondent declines to provide a signed statement, then the MPSC shall advise him/her that the investigation will proceed in any event and findings will be made accordingly.
- 5.2.4** The Respondent must be instructed not to conduct his/her own investigation into the complaint, or to approach the Complainant personally or through other agents.
- 5.2.5** Recommend pastoral care for complainant/s and/or victim/s. and refer as required.
- 5.2.6** The MPSC shall provide the Complainant, the Respondent and the appropriate leadership of the church, or other engaging body, with a description of the process of investigation (Appendix 3 -Briefing Note).
- 5.2.7** The MPSC may appoint a PSRC (this may be the same membership as appointed at clause 4.2 – The Assessment Team for the initial response) to investigate and report on the complaint (4).
- 5.2.8** The MPSC and PSRC will take into account that the Complainant may find the interview process difficult and distressing. Care should be taken to keep these to a minimum and meet with Complainant at this stage only if the AT interview results are insufficient to move forward. The MPSC (or PSRC) shall, where possible, meet with the Complainant within seven days after it has determined that further investigation is warranted. The Complainant may be accompanied by an Advisor and a person of their choice to give them support during the process. The Respondent will not be present at this meeting. The purpose of this meeting is to review the signed complaint and conduct a formal investigation with the Complainant. Additional persons may be interviewed or requested to make other statements as appropriate.
- 5.2.9** After the meeting outlined above, the MPSC (or PSRC) will meet with the Respondent where possible within seven days of meeting with the Complainant. The Respondent shall be given details of the complaint made against him/her so that he/she is able to prepare an answer to the complaint. The Respondent may be accompanied by a person of their choice to give them support during the process.  
The Complainant will not be present at this meeting. The purpose of this meeting is to review the Respondent's response to the complaint and conduct a formal investigation with the Respondent.  
Additional persons may be interviewed or requested to make other statements as appropriate.
- 5.2.10** During the investigation parties are not entitled to be legally represented, however this does not preclude a party from obtaining independent legal support or advice (at their own expense). This may include the presence of such legal support during the investigation, on the basis that the legal advisor cannot speak.
- 5.2.11** If a PSRC is appointed it will brief the MPSC on a monthly basis, or more frequently if required, to discuss (without any unnecessary disclosure of the personal details of the parties involved) and debrief the handling and progress of the complaint in order to enable the MPSC to provide guidance as appropriate.
- 5.2.12** At the conclusion of the investigation, the MPSC will assess the evidence, including any statements, and determine a response to the complaint. Where possible, the MPSC will form recommendations within 21 days of completing the investigation.  
Throughout the whole process it is vitally important that the Complainant and Respondent be consulted, involved and heard. The MPSC shall observe the principles of evidence and natural justice at all times during the course of an investigation.
- 5.2.13** The MPSC will ensure that both the Complainant and the Respondent receives an appropriate level of Pastoral Care.
- 5.2.14** Both the Complainant and the Respondent will be kept informed of the progress of the complaint.

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<sup>4</sup>The MPSC may invite the appointed AT to facilitate the next phase of the investigation process as outlined, and to act on the MPSC's behalf, or it may appoint a PSRC (see clause 3.5) to carry out this task, following the identical course of action.

## 6. STAGE 3 – OUTCOMES

After giving due consideration to all the available evidence, the MPSC will assess and decide its findings about the complaint, and form any necessary disciplinary actions within 21 days of completing the investigation. The MPSC may seek such advice as deemed necessary to help it determine whether or not a complaint is sustained.

The MPSC will present a report to the Ministry Work Group of its findings and its recommendations for further action as appropriate. The MPSC shall identify any proposed steps to be taken in regard to the future of the Respondent. Such further action may include a plan to respond to the complaint as identified by the MPSC. It will take into account the Complainant's statement. The plan may include a recommendation to dismiss the Respondent, or that he or she undertake appropriate professional help or counselling in conjunction with appropriate guidelines for ongoing pastoral contact within their ministry context.

The MPSC will make a determination and will finalise the complaint according to one of the following three outcomes. The MPSC will monitor compliance to any final decision in accordance with clause 7 – Follow Up.

### 6.1. Outcome 1 - The Complaint is Sustained

If, after giving due consideration to all the available evidence, on the balance of probabilities, the MPSC determines the complaint to be sustained, the following actions shall be taken:

- 6.1.1 The MPSC will advise the SM (and through the SM the Ministry Work Group as appropriate), the Respondent, Complainant and the church, or other engaging body, of the outcome in writing, with an appropriate level of detail.
- 6.1.2 The AT or the PSRC will have prepared a written report to the MPSC documenting the finding and recommendations. It will take into account the impact of the misconduct on the primary victim(s) and any secondary victim(s) involved.
  - 6.1.2.1 The report may include a recommendation to extend or conclude the leave of absence of the Respondent. It may make a recommendation through the MPSC to appropriate bodies for the dismissal of the Respondent.
  - 6.1.2.2 The report will be referred to the MPSC for acceptance before the recommendations are communicated to the Respondent or Complainant.
  - 6.1.2.3 Mediation may be considered as an appropriate means of addressing any issues deemed not to be subject to other direct intervention by the MPSC. It needs to be clearly understood in this instance that the decision to use mediation rests with the Complainant and that mediation needs to occur in a way that the Complainant is comfortable with.
  - 6.1.2.4 Appropriate parts of the report accepted by the MPSC will be made available to the Complainant and to the Respondent. Council, and the leaders of the area of ministry in which the misconduct occurred may receive a summary of the report, protecting the identity of the Complainant. The identity of the Respondent will be protected when recommended by the MPSC.
  - 6.1.2.5 The AT or the PSRC and/or the MPSC may make recommendations in regard to notification of churches or bodies that it believes need to be notified. The MPSC will be responsible for such notification.
  - 6.1.2.6 The MPSC will consider such matters as recommending to the Ministry Work Group the appointment of an Interim Ministry in the relevant setting of ministry. This may be taken into account if the allegations are found to be particularly serious.
  - 6.1.2.7 The congregation or engaging body affected by the matter and those the MPSC agrees need to be advised, may also be informed. The identity of the Complainant(s) will remain confidential.
- 6.1.3 In consultation with the PRT steps will be taken with an affected church (if applicable) to initiate the process of congregational healing (if relevant) as soon as possible.

- 6.1.4 The outcome will be recorded in accordance with clause 8, and the Federal Coordinator of the Council of Churches of Christ in Australia (being the person appointed to hold and manage the national database) will also be notified.
- 6.1.5 If the MPSC has established a Discipline Committee (see 3.6) to oversee the implementation of its recommendations, the Discipline Committee will meet within 28 days of receiving the report. The Discipline Committee will consider the recommendations and plan an implementation process in relation to them.
  - 6.1.5.1 If a recommendation has been made in relation to therapeutic evaluation and/or treatment, the Discipline Committee may make some suggestions as to suitably qualified therapists for such counselling. The counselling entered into will be confidential to the Respondent and their choice of the therapist. Costs for counselling are the responsibility of the Respondent or the Respondent's employing body as deemed appropriate.
  - 6.1.5.2 Pastoral assistance and support may be offered to the spouse and family of the Respondent, as appropriate. Costs for counselling are the responsibility of the Respondent or the Respondent's employing body as deemed appropriate.
  - 6.1.5.3 Where limited ministerial function has been recommended and been agreed to, the Discipline Committee will provide for appropriate monitoring of the limited ministerial functions.
  - 6.1.5.4 The Discipline Committee will, after a period not exceeding 12 months, review the effectiveness of the restoration process.
  - 6.1.5.5 Any consideration of restoration, reinstatement and/or re-endorsement of the Respondent will depend upon satisfactory recommendations from the therapist, the MPSC on advice from the Discipline Committee, and the Ministry Work Group, concluding that the rehabilitation process has been successful.
  - 6.1.5.6 At the conclusion of the process the MPSC will communicate the satisfactory completion of the disciplinary process to relevant bodies such as the State Churches of Christ bodies responsible for ministry, and church leaders, interstate and/or overseas, who may have contact with the Respondent.
- 6.1.6 Other actions as the MPSC deems appropriate in their absolute discretion.

## **6.2. Outcome 2 - The Complaint is Not Sustained**

If, after giving due consideration to all the available evidence, the MPSC determines that the complaint is not sustained, the following actions shall be taken:

- 6.2.1 The MPSC will inform the SM (and through the SM the Ministry Work Group), the Respondent, Complainant and the church, or other engaging body, of the outcome in writing.
- 6.2.2 The MPSC shall recommend the reinstatement of the Respondent, if he/she has been stood down during the investigation.
- 6.2.3 The Respondent's church, or other engaging body, shall be notified, and where appropriate a service of reaffirmation or a similar process should be conducted as soon as possible. The MPSC will take other steps as necessary to ensure that the innocence of the Respondent is confirmed. The response needs to be shared as widely as the original allegation(s).
- 6.2.4 The outcome will be recorded in accordance with clause 8.
- 6.2.5 Mediation may be recommended if deemed appropriate.
- 6.2.6 Other actions as the MPSC deems appropriate in their absolute discretion.

## **6.3. Outcome 3 –There is No Clear Determination**

If there is no clear determination by the AT the matter is then referred to the MPSC. The MPSC is responsible for any further action in regard to the church, the Respondent and the Complainant (s).

## **6.4 Appeal Process**

Either the Complainant or the Respondent may appeal a decision made by the MPSC in relation to a complaint. The appeal must be made in writing, within 28 days of the decision being communicated to the relevant party.

- 6.4.1** The right to and the grounds of appeal will be set out in writing to the Respondent and the Complainant, and any necessary documentation attached.
- 6.4.2** The grounds of appeal must be clearly stated and relate to the specific decision made by the relevant committee. Grounds for appeal may include: the process as applied by the MPSC (or another committee), the interpretation of the Code of Ethics, or the nature of the disciplinary action proposed.
- 6.4.3** The Appeal Panel will consist of up to three persons with expertise in the evaluation of ethical issues and who have not been involved in earlier parts of the process. At least one person will be from outside of Churches of Christ.
- 6.4.4** The appeal will be heard within 28 days of the receipt of the written grounds of appeal being received.
- 6.4.5** The AT that met the complainant may be requested to provide a briefing.
- 6.4.6** The appeal panel will prepare a written report for tabling at a meeting of the MPSC.
- 6.4.7** The MPSC will receive and adopt the report and will communicate its decision to the appellant and others involved in the process within two weeks of the appeal being heard.

## **7. FOLLOW UP**

### **7.1. Restoration or Reinstatement**

Following determination that a complaint is sustained, the MPSC will assess and determine what steps should be taken in relation to recommendations regarding rehabilitation of the offending Respondent.

Consideration needs to be given to the following:

- 7.1.1** The MPSC may make a recommendation, without any liability for associated costs (5), that the offending Respondent seek professional help or counseling.
- 7.1.2** The Ministry Work Group, on advice from the MPSC, may recommend suspension or limitation of ministry of the offending Respondent during a process of rehabilitation. Where limited ministerial function is approved, the MPSC may arrange for frequent monitoring and supervision of the limited ministerial functions. In certain circumstances, and at the recommendation of the MPSC, Council may impose an ongoing, permanent limitation of ministry on the offending Respondent. The outcome will have been recorded in accordance with clause 8, and the Federal Coordinator of the Council of Churches of Christ in Australia notified.
- 7.1.3** The MPSC will, after a period not exceeding twelve (12) months, review the effectiveness of the rehabilitation process and make further recommendations to the Ministry Work Group using the principles outlined in this section. If rehabilitation is declined or not completed successfully, or the offending Respondent moves interstate or overseas, the SM shall advise, within 28 days, the relevant interstate or overseas body (if known).
- 7.1.4** Any consideration of reinstatement and/or re-endorsement of the Respondent will depend upon the advice of a professional counselor approved by the MPSC, and the MPSC advising the Ministry Work Group of a successful/unsuccessful conclusion of the rehabilitation process.

### **7.2. Mediation**

Mediation should be a voluntary process in which a mediator facilitates the negotiation of a solution between the Complainant and the Respondent. The mediator assists the parties by isolating the issues, exploring possible solutions and outcomes, and finally in reaching an agreement which accommodates their interests and needs. The following principles shall apply:

- 7.2.1** The mediator should conduct the process fairly, impartially, informally and swiftly.
- 7.2.2** Mediation is not to be used as an option to replace a formal investigation, but rather as a possible means of reconciliation following a determination by the MPSC.
- 7.2.3** If mediation is successful, all the relevant parties must be given written notification and the Respondent's future in the church, or other engaging body, will be determined in consultation with the Respondent, the church (or other) leadership and the MPSC.
- 7.2.4** If mediation is unsuccessful, the normal processes as outlined in this document will apply.

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<sup>5</sup>Costs for counseling are the responsibility of the Respondent or the Respondent's employing body as deemed appropriate.

## 8. RECORD KEEPING

Detailed records shall be kept of all parts of the process. Notes of telephone conversations, including dates and times, shall be kept along with all electronic media records pertinent to the investigation. These, along with records of each part of the process, will be placed in files. These will be clearly marked to easily identify the respondent, date and part of the process included (See Appendix 1 - Guidelines for Assessment Teams, Sections 4, 7, 8 and 9 for further detail). Records should be securely stored after an investigation, including if the preliminary finding resulted in no further investigation (in accordance with clause 6.2).

Records of the investigation, regardless of the outcome, should be kept indefinitely because:

- there may be an appeal by the Complainant over the conduct of the investigation into the complaint;
- there may be an appeal by the Respondent over the conduct of the investigation into the complaint;
- where a Respondent is cleared of the complaint, the records may be used to demonstrate that the complaint was fully investigated; or
- records may be required for legal purposes.

Once an investigation is finalised, the records will be:

- placed in locked storage at the CofCSA/NT Centre; and
- kept sealed, with a clear instruction on the cover that the seal is only to be broken with the permission of the SM and MPSC chair.
- removal/deletion of all other copies of details, whether hard or soft copy, including emails, from the ownership of participants in the investigation, including deletion of back ups.<sup>6</sup>

The SM shall maintain a register of people in ministry under investigation or under discipline. The register shall record the name of the Respondent, whether the investigation has been concluded, details of any restrictions placed by Council on the Respondent and the duration of the discipline. Details contained in the Register may only be released by the SM and MPSC chair to any third parties, including prospective employers or engaging bodies, in accordance with the relevant CofCSA/NT Privacy policy (Appendix 2) and at the discretion of the SM. The Federal Coordinator of Churches of Christ in Australia will be informed of the names of all people in ministry under discipline.

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<sup>6</sup> See Appendix 1.9

## **Appendix 1**

### **GUIDELINES FOR ASSESSMENT TEAMS<sup>7</sup>**

1. In conducting the investigation, the AT should allow participation in the investigation to be explicitly voluntary, and clearly advise that (although it may not be a legal matter at the time) the information given may be called upon by the relevant authorities or either party in any subsequent legal proceedings. It is important to advise each of those against whom a complaint has been made, that they have the right to consider obtaining independent legal advice (especially if they are at all concerned that their evidence may in any way incriminate them).

The person(s) should be advised that if they initially decline to obtain legal advice and later change their mind during the course of the investigation, they will be given the opportunity to obtain legal advice at that time. The advice given should be documented together with the response.

2. AT members who bring to their work particular expertise are strongly advised not to indicate they are using that expertise in the AT proceedings. Members are simply acting as informed members of an AT.

#### **3.1. Responses to the Complainant(s)**

- 3.1.1 All contact with the Complainant must be carried out pastorally.
- 3.1.2 The Complainant must be affirmed in his/her right and freedom to have made the allegations.
- 3.1.3 The Complainant has the right to be kept informed of both the process being entered into and the possible outcomes.
- 3.1.4 Whilst the Complainant will be consulted in the process, the final determination will rest with those appointed to implement this procedure.
- 3.1.5 A suggestion that the Complainant enter into appropriate therapeutic counseling may be made. The MPSC may make some suggestions as to suitable qualified therapists for such counseling. The counseling entered into will be confidential to the Complainant and their choice of therapist.
- 3.1.6 Pastoral assistance and support may be made available to the spouse and family of the Complainant as appropriate. This will be initially offered by the AT, after the appointment of an appropriate pastoral support person.
- 3.1.7 Costs for counseling are the responsibility of the Respondent or the Respondent's employing body as deemed appropriate.

#### **3.2. Response to the Respondent**

- 3.2.1 Confronting a Respondent should be carried out with due regard to pastoral care.
- 3.2.2 The Respondent has the right to be kept informed of both the process being entered into and the possible outcomes.
- 3.2.3 Those providing pastoral care to the Respondent (separate to the Assessment process) must remind him/her, and be reminded themselves, of the depth of God's grace and the cost of God's forgiveness in Christ.
- 3.2.4 Genuine confession must be heard and honoured in appropriate places and at appropriate times. The healing power of confession is a gift of God. It can bring about the reality of forgiveness in even the most serious offence. Confession and/or acknowledgement of responsibility for abuse/manipulation by the Respondent to those impacted by the misconduct may be regarded as an important step in the possible restoration of a person in ministry to effective ministry or to a more pastorally-aware way of living.
- 3.2.5 It is important to distinguish between confession and forgiveness on the one hand, and restoration to pastoral ministry on the other hand. The nature of pastoral responsibilities and perceived authority combined with the intimate access of the person in ministry to vulnerable people facing emotional, mental and spiritual struggles, requires a high level of maturity and emotional health, especially in sexual matters.
- 3.2.6 A recommendation may be made that the Respondent enters into appropriate therapeutic counseling. The MPSC may make some suggestions as to suitable qualified therapists for such counseling. The counseling entered into will be confidential to the Respondent however if the Respondent subsequently wishes to be reinstated, then a written report from the counselor to the MPSC will be required.
- 3.2.7 Pastoral assistance and support separate to Assessment process may be made available to the spouse and family of the Respondent.

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<sup>7</sup>And for a PSRC, as appropriate.

- 3.2.8 A recommendation may be made that the Respondent make some form of restitution to victims of his/her abuse. The willingness of the Respondent to comply with such a recommendation will be taken into account when the MPSC considers a possible return to ministry.
- 3.2.9 Costs for counseling are the responsibility of the Respondent or the Respondent's employing body as deemed appropriate.
- 3.2.10 The MPSC will endeavour to assist the Respondent and his/her family (if applicable) to be integrated into an accepting congregation as a worshipping member of that congregation.

### **3.3. Response to the Congregation**

- 3.3.1 The MPSC may recommend the formation of a Pastoral Response Team to coordinate the follow-up and support of the congregation and primary and secondary victims including the oversight of Interim Ministry.
- 3.3.2 All contact with the congregation and its leaders, or the employing body and its leaders, should be carried out pastorally.
- 3.3.3 In any comment in relation to the matter of complaint, the Complainant must be affirmed in his/her right and freedom to make, and to have made, their allegations.
- 3.3.4 It may be recommended that an announcement of the results of the investigation be made to the congregation. Such announcement may include a statement regarding the nature of the abuse, the finding of the investigation, the outcome in so far as the Respondent's ongoing ministry is concerned, and an affirmation of the victim/s in the exercising of his/her right to complain.
- 3.3.5 The fact that a perpetrator of ministerial abuse confesses his/her wrong doing (in a manner, at a time and in a context deemed appropriate by the MPSC) must not be used as a means of silencing those who want to express anger, pain or confusion as a result of having been victimised.
- 3.3.6 The MPSC may assist the local church leadership in the engagement of an experienced person in ministry for a short-term intensive pastoral ministry.
- 3.3.7 It is recommended that a process of congregational healing be implemented. By the nature of congregational life and the nature of the event (for it is betrayal that creates the complexity), this task maybe complex and slow.

### **3.4. Response to Churches of Christ in SA/NT**

The MPSC will notify the Chair—Ministry Work Group of the nature of the abuse, the outcome of the investigation and the decisions made in regard to the Respondent's continuance in ministry and any recommended limitation of the ministry of the Respondent during a rehabilitation process. Similar communication will also be directed to State Board.

4. Accurate and clear notes should be kept of all interviews. It is extremely important that all notes are based only on first hand information (if any second or third hand allegations are revealed, these should be clearly noted as such), that they clearly state the person or persons making any allegations, the details of those allegations and the source of any information relevant to the allegations. Any notes resulting from an interview should preferably be signed on each page by the person who has been interviewed, any support person who is present and must be signed on each page by each AT member present. Should the person being interviewed refuse to sign the notes, then this should be clearly documented on the notes indicating that the person was afforded the opportunity to sign the notes but refused.

5. The Privacy policy (Appendix 2 to the Procedure) is to be complied with throughout.

6. The Briefing Note (Appendix 3) should be handed to each person being interviewed (whether the Complainant, the Respondent or other persons being interviewed in relation to the matter) prior to or at the commencement of the interview.

7. Upon completion of the investigation, all such notes are to be assembled and placed in secure storage in the Churches of Christ Centre by the relevant AT member. All such records will be retained indefinitely and the SM will be responsible for ensuring they are stored in accordance with clause 8 of the Procedure.

8. All electronic communication, including emails, will be sent under the subject heading 'Confidential—MPSC (first name of person who is the subject of the complaint).

9. All electronic information arising during the investigation shall be backed up onto discs and the discs stored in the CofCSA/NT State Office, with the original information removed from the computer or, for AT members, stored under password protection, during the course of an investigation, only for so long as the person remains a member of the AT.

**10.** Normally a nominated AT member, in consultation with the SM, will advise CofCSA/NT's professional indemnity insurer or public liability insurer, as the case requires, of the complaint, and seek any necessary direction from them. The AT and MPSC will be advised of any requirements advised by the insurer, and should comply with any of the insurer's requirements.

**11.** The MPSC will generally find it helpful to debrief together over the matter and the effectiveness of the process. The provision of professional debriefing may also be considered.

## Appendix 2

### CofCSA/NT PRIVACY POLICY – BREACH IN THE CODE OF ETHICS GUIDELINES

On each occasion that a complaint of Serious Misconduct is made against ministers, chaplains, employees or those otherwise engaged by the Churches, Departments and Agencies of Churches of Christ in South Australia and Northern Territory (CofCSA/NT), whether ordained, endorsed, trained, student, locally appointed or lay, paid or voluntary who have formally recognised ministry positions within CofCSA/NT, CofCSA/NT will respond using the procedures described in its 'Procedure for Investigating Complaints that Breach the Code of Ethics'. Serious Misconduct is defined in that Procedure.

CofCSA/NT values all the people who associate with it in any way, and will treat all personal information with sensitivity and confidentiality.

#### Key Definitions

- **Personal Information** is information or an opinion (including within a database), regardless of its source, whether true or not and whether recorded in a material form or not, about a living individual whose identity is apparent, or can be reasonably ascertained, from the information or opinion.
- **Sensitive Information** is information about an individual's racial or ethnic origin, political opinions, membership of a political association, religious beliefs or affiliations, philosophical beliefs, membership of professional or trade association, membership of a trade union, sexual preferences or practices, criminal record or health information.

#### Policy Statement

CofCSA/NT may collect, store, use and disclose personal and sensitive information in the course of investigating, deliberating upon and reporting matters arising in the course of responding to a complaint of misconduct. This information may include names, addresses, email addresses, telephone/fax numbers, medical details, spouse/children/parent/guardian details, religious beliefs or associations, sexual practices, notes prepared in accordance with this procedure.

CofCSA/NT only collects, stores, uses and discloses such personal information arising from its application of this Procedure where permitted under the Privacy Act.

All such personal information collected by CofCSA/NT is held securely in the possession of the relevant MPSC members (if in electronic form, with password protection) during the course of any investigation. Upon completion of the investigation, reporting and debriefing activities outlined in the Procedure, all such personal information is securely stored in the CofCSA/NT Centre in accordance with clause 8 of the Procedure and access may only be granted by the SM. Access to such personal information, where permitted under the Privacy Act, will be provided within 14 working days by written request to the EO or the CofCSA/NT Privacy Contact Person.

The SM will maintain a register in which they shall record the name of the person in ministry against whom the complaint has been made, whether any investigation has been concluded, details of any restrictions placed by Council on the person in ministry and the duration of the discipline. Details contained in the Register may only be released by the SM to any third parties, including prospective employers or engaging bodies, at the discretion of the SM.

## **CofCSA/NT Privacy Contact Person**

The details of CofCSA/NT's Privacy Contact Person from time to time can be found on its website [www.churchesofchrist-sa.org.au](http://www.churchesofchrist-sa.org.au).

### **National Privacy Principles**

CofCSA/NT recognises its obligation to adhere to the Privacy Amendments (Private Sector) Act No 155, 2000 and the National Privacy Principles summarised below:

- 1. Collection** – only necessary personal information may be collected; it must be collected in a fair, lawful and not intrusive manner, from the individual where practicable; the purpose of the collection must be explained, and the consequences (if any) if an individual chooses not to give the information.
- 2. Use and disclosure** – personal information may only be used or disclosed for the purpose for which it was collected (or a reasonably expected, related purpose) or with the person's specific consent or as required by law; for sensitive information, further conditions apply.
- 3. Data quality** – reasonable steps must be taken to ensure personal information is accurate, complete and (where relevant) kept up-to-date.
- 4. Data security** - reasonable steps must be taken to ensure personal information is protected against misuse, loss or unauthorised access, use or disclosure.
- 5. Openness** – a policy on management of personal information (e.g. this Policy) must be documented and available to anyone on request.
- 6. Access and correction** – An individual must on request be given access to their own personal information (except, amongst other things, in the case of “the prevention, detection, investigation or remedying of serious improper conduct ..” NPP 6.1(j)(iv) or where providing access would be unlawful NPP 6.1(g)).
- 7. Identifiers** – Commonwealth government identifiers must not be adopted, used or disclosed by the CofCSA/NT. Government identifiers, for example, include tax file or Medicare numbers. Commonly available information, such as names or ABNs, may be used.
- 8. Anonymity** – a person must be given the option to not identify himself or herself, whenever it is lawful and practicable to do this.
- 9. Transborder data flows** – personal information may generally only be sent to a foreign country where it will have similar protection or with the person's consent.
- 10. Sensitive information** – sensitive information may generally only be collected where the individual has consented, it is required by law or it is necessary to prevent or lessen a serious and imminent threat to life or health of any individual.

### **Further Information**

This policy contains only a brief summary of the Privacy Act, National Privacy Principles, etc. for general awareness only and is not intended to be relied upon in isolation. Further information on the Act and Principles is available in the legislation itself or from the Office of the Federal Privacy Commissioner (GPO Box 5218, Sydney NSW 2001, Phone (02) 9284 9800, [privacy@privacy.gov.au](mailto:privacy@privacy.gov.au) or [www.privacy.gov.au](http://www.privacy.gov.au)).

## **Appendix 3**

### **CofCSA/NT PROCEDURE FOR INVESTIGATING COMPLAINTS THAT BREACH THE CODE OF ETHICS**

#### **BRIEFING NOTE**

Church leaders are, like all people, vulnerable to human weakness and may in some situations fail to act in a manner consistent with the standards of the Christian Church.

By the very nature of their responsible office, they are also more visible and more subject to pressure and criticism than many.

For the sake of each individual involved, as well as in the interest of the Church and the wider community, any complaint against a person in ministry must be dealt with promptly and carefully. At the same time as ensuring that any failures are addressed, care is also needed to protect an innocent person from possible false accusation.

#### **SERIOUS MISCONDUCT**

Serious Misconduct is understood to include financial misconduct, immoral, illegal and/or otherwise inappropriate action(s) by an individual or group. It could, for example, include:

- abuse of power
- adultery
- embezzlement
- spiritual and/or emotional abuse
- fraud
- inappropriate Christian leadership
- physical abuse
- serious breach of trust
- serious lack of Christian balance or orthodoxy, particularly in areas of theology and ministry practice
- sexual abuse
- substance abuse
- theft
- unethical behaviour

#### **MINISTRY PROFESSIONAL STANDARDS COMMITTEE**

CofCSA/NT have appointed a Ministry Professional Standards Committee (MPSC) to implement and monitor **The Practice of Ministry—Code of Ethics Applicable to People in Ministry** and **The Procedure for Investigating Complaints that Breach the Code of Ethics**.

#### **ASSESSMENT TEAM<sup>8</sup>**

For each complaint, an Assessment Team with a range of expertise relevant to the nature of the complaint is formed to investigate and report on the complaint.

An Assessment Team will (among other actions):

- carefully investigate the complaint and the alleged misconduct;
- draw conclusions as to the facts of the matter; and
- prepare finding(s) and recommend action(s) to the MPSC, and through it to the Council of Churches of Christ in SA/NT.

Participation in investigation interviews is voluntary. Although the interview is not part of legal proceedings, the information given may be called upon by the relevant authorities or either party in any subsequent legal proceedings. If the person in ministry against whom the complaint has been made refuses to participate in the investigation, then the Assessment Team and MPSC may still make an adverse (or other) finding based on the available evidence.

A support person may be present during any interview, but will not normally be permitted to take an active part in the interview. Legal representation during the investigation is not permitted for any party. However, you have the right to obtain independent legal advice at your own expense, if a complaint has been made against you (and especially if you are at all concerned that your evidence may in any way incriminate you). If you initially decline to obtain legal advice and later change your mind during the course of the investigation, you will be given the opportunity to obtain legal advice at that time.

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<sup>8</sup> Or PSRC, as appropriate

**Privacy Statement:** The personal information you provide is collected, stored, used and may be disclosed by the CofCSA/NT in accordance with the Privacy Act and the CofCSA/NT Privacy Policy – Breach in the Code of Ethics Guidelines only for the purpose of investigating, deliberating upon and reporting matters arising in the course of responding to a complaint of misconduct. It will not be used for any other purpose unless otherwise permitted by the CofCSA/NT Privacy Policy – Breach in the Code of Ethics Guidelines (as amended from time to time) or required by the National Privacy Principles or the Act.