



Faithfulness in Service Investigations Committee Protocol

DOCUMENT NUMBER	SM006
TYPE	Protocol
SUBJECT	Protocol for providing recommendations to the Bishop in relation appropriate responses where there is information about alleged misconduct by church workers, including alleged breaches of Faithfulness in Service (FIS), when the allegation is not within the scope of the Professional Standards Ordinance.
AUTHORISED BY	Diocesan Council in accordance with Part 3 of the Professional Standards Ordinance
DATE AUTHORISED	Approved DC 13-11-2021. Active 01-12-202

SCOPE

This protocol describes the process to be followed by the Faithfulness in Service Investigation Committee ('**FISIC**') and/or Director of Professional Standards ('**DPS**') when there is information, concerns, allegations or disclosures in relation to *misconduct* that is:

- alleged to have been committed by a church worker (ordained and lay, paid and voluntary, licensed and unlicensed) who is, or was associated with the ministry of the Anglican Church in the Diocese of the Northern Territory
- current and/or historical.

However, this protocol is not applicable where:

- information or allegations concern sexual harassment, sexual assault or sexually inappropriate behaviour. In such cases refer to the *Professional Standards Ordinance (PSO)* and the *Protocol for Responding to Allegations of Sexually Misconduct*; or
- information relates to a grievance or conflict (as defined in *SM003 Grievance Protocol*).

It is important to note that nothing in this protocol prohibits any person from reporting alleged crime to the police. The Diocese will report all alleged criminal activity by church workers to the police.

COMMITMENT

The Diocese of the Northern Territory is committed to safe ministries. This means that Diocesan parishes, events, ministries and entities should be abuse-free and harm-free, person-valuing and respectful environments for ministry to God's glory. Accordingly, we are concerned to respond appropriately to concerns that church workers are not fit for service.

DEFINITIONS

All definitions in this protocol are set out in the Diocesan *Professional Standards Ordinance ('PSO')*, the Diocesan Code of Conduct: *Faithfulness in Service* and the Diocesan *Safe Ministry Policy*.

In addition, this protocol uses the following definitions:

"Director of Professional Standards" ('DPS') - appointed to implement this protocol, in addition to the Director of Professional Standards who has been appointed to implement the Professional Standards Ordinance. In the Diocese the PSO is implemented at a provincial level.

"Excluded conduct": for the purposes of this protocol, is any breach of faith, ritual or ceremony.

"Burden of proof": in the assessment of information, where there is no admission, the DPS shall ascertain whether the

allegations are more likely to have occurred than not (that is on the balance of probabilities).

“Faithfulness in Service” (FIS) is the Diocesan Code of Conduct for church workers, approved by the Diocesan Council.

“Information”: for the purposes of this protocol means information of whatever nature and from whatever source, whether about current or historical events, relating to:

- a) serious grievance causing harm
- b) misconduct by church workers
- c) intention or attempt to engage in *misconduct* by church workers;
- d) concerns about whether *misconduct* has occurred

“Misconduct” in this protocol, is in relation to a Church worker (lay and clergy) and means:

- a) abuse
- b) wilful violation of the Constitution or of a canon of the General Synod or of an ordinance of Provincial Synod or of the Diocesan Synod or of a synod of another diocese in which the church worker was at the time of the violation a member of the Anglican Church in that diocese
- c) any offence under the Offences Canon 1962¹ as amended and in force from time to time and as adopted by the Diocesan Synod, which is not covered under the PSO
- d) any offence under a law of the State or Territory or the Commonwealth for which the maximum penalty prescribed is imprisonment for at least 6 months
- e) any offence under an ordinance of another diocese in which the church worker was at the time of the offence a member of the Church in that diocese
- f) any significant breach Faithfulness in Service A significant breach is one that if admitted to or found to have occurred on the balance of probabilities, would lead to one or more of the following outcomes: referral to counselling, suspension from position, permanent removal from role/position, loss of licence, revocation of holy orders (clergy), referral to police, including but not limited to breaches of canonical oaths, breaches of the diocesan Code of Conduct: Faithfulness in Service, or other alleged criminal behaviour
- g) wilful or reckless failure to comply with a requirement of the Safe Ministry Policy and Protocols of the Diocese
- h) wilful or reckless failure to comply with a condition or determination imposed by the Church authority following a process
- i) any other conduct (other than excluded conduct) that is unbecoming or inappropriate to the role office or position of the church worker or their duties and functions by the person whenever occurring (whether before or after the commencement of this protocol) which, if established, would on its face call into question:
 - a. the fitness of the person to hold a role office or position, or to be or remain in Holy Orders
 - b. the fitness of the person, whether temporarily or permanently, to exercise ministry or perform any duty or function of the role office or position
 - whether, in the exercise of ministry or in the performance of any duty or function, the person should be subject to any condition or restriction.

These provisions do not affect the operation of the Canon Concerning Confessions 1989 of General Synod or any other canon or legislative instrument relating to confessions in force in the Diocese.

“Professional Standards Committee” (‘PSC’) – the Committee who have powers to implement the Diocesan Professional Standards Ordinance.

“Professional Standards Ordinance” (PSO) - the instrument in the Diocese by which information related to allegation of sexual misconduct and child abuse by church workers is processed. **“Safe Ministry Helpline”** -The Helpline provides

¹ Section 1 of the Offences Canon 1962–1998 provides

(1) A diocesan tribunal and a provincial tribunal in its original jurisdiction in addition to their respective powers under section 54(2) and section 55(3) of the Constitution may hear and determine charges made in respect of the following offences alleged to have been committed by a person who, at the time the charge is preferred, is licensed by the bishop of the diocese or is in holy orders resident in the diocese:

1. Unchastity.
2. Drunkenness.
3. Habitual and wilful neglect of ministerial duty after written admonition in respect thereof by the bishop of the diocese.
4. Wilful failure to pay just debts.
5. Conduct, whenever occurring,
 - (a) which would be disgraceful if committed by a member of the clergy, and
 - (b) which at the time the charge is preferred is productive, or if known publicly would be productive, of scandal or evil report.
6. Any other offence prescribed by an ordinance of the synod of the diocese.

advice regarding the implementation of relevant legislation, Diocesan protocols, including reporting any crime to the police and relevant statutory bodies as mandated by law in the NT or interstate, if relevant to the information provided

FAITHFULNESS IN SERVICE INVESTIGATIONS COMMITTEE (FISIC) and DIRECTOR OF PROFESSIONAL STANDARDS (DPS)

The FISIC is the group within the Diocese who provide advice to the Bishop regarding allegations of church worker misconduct under this protocol.

The members of the FISIC shall be appointed and shall hold office on such terms as may be determined by the Diocesan Council.

The FISIC shall have at least three members.

The membership of the FISIC shall be constituted, so as to collectively provide:

- a) experience in law;
- b) experience in ordained ministry; and
- c) experience and appropriate qualifications in counselling or psychology.

The membership of the FISIC shall include both lay and ordained persons and so far as reasonably practicable shall have an equal number of men and women. Members may be appointed from outside the membership of the Anglican church, so long as that person is an active member of another Christian church.

Members of the Professional Standards Committee (PSC) are eligible to be appointed to the FISIC.

The Diocesan Council may also appoint a DPS for the implementation of the Faithfulness in Service Investigation Protocol.

The DPS shall be part of the FISIC in addition to the three members.

The FISIC shall meet act as expeditiously as possible in coming to a response pathway recommendation, for the Bishop.

FISIC may conduct its business by telephone or electronic communication.

The DPS and or FISIC may suspend the initial assessment in cases where police, Government statutory bodies, or courts become involved until an outcome of any such process is known.

The DPS and or FISIC may refuse to make further enquires or provide a recommendation to the Bishop if as part of the Initial Assessment the information is:

- a) deemed by the DPS to be trivial, vexatious, misconceived,
- b) found to have been the subject to a previous investigation or process, or (c) is currently subject to an investigation as part of an equivalent body.

The FISIC and DPS shall:

- Act fairly, in good faith, without bias and in a dispassionate manner;
- Provide each party the opportunity of adequately stating their case and correcting or contradicting any relevant statement prejudicial to the person's case;
- Not receive information except as part of its information gathering and of assessment of the allegation;
- Ensure that a person called upon to answer an allegation shall be given in writing the particulars of the allegation being made;
- Ensure that each party has the opportunity to respond to further statements.

The matter is to be managed:

- *Without undue delay:* Acting as quickly as possible shall be a genuine recognition of the seriousness of the allegation. Care should be taken to avoid delays.
- *With clear communication:* All parties should be fully and speedily informed regarding decisions made, the reasons for the decisions and what processes are being used at all stages, particularly where there is any delay.
- *In a non-biased manner:* Disputed allegations will be investigated by persons who have no relationship (biological or other) to any party.
- *Considering conflicts of interest:* Disputed allegations will be investigated by persons who have no stake in benefiting from any particular outcome of the case.
- *So that evidence-based decisions are made:* Decisions made are to be fact-based. All disputed facts will be independently investigated. All outcomes will be based on the findings of the investigation.
- *With due consideration of all parties' privacy:* Every effort must be made to protect the privacy of all parties.

PROCEDURE

1. Notification

An allegation or information about misconduct of a church worker may be received by the Diocese, including another church worker, in any form: phone call, email, mail, or in conversation.

As soon as practical afterward, the person with the information, allegation, concern or disclosure is to notify the Diocesan Safe Ministry Helpline (Helpline) on 1800 070 511, who shall provide the details of the information to the DPS.

Alternatively, in the course of a PSO investigation being conducted by the PSC may have information outside the scope of the PSO, which falls under the scope of this protocol. In this case, the PSC shall report to the DPS

2. Initial Assessment

On receiving relevant information the DPS (or appointee) will conduct an initial assessment of the information to ascertain the nature, substance (including whether or not the allegations can be upheld on the balance of probabilities) and detail of the information, in order to provide the FiSIC with a report for their consideration towards their Response Pathway Recommendation in relation to the information.

The assessment may include interviews, review of correspondence, and holding meetings with involved parties to assist in the assessment.

The DPS may, as necessary also make pastoral and risk management recommendations to the Bishop (or delegate), for implementation during the Initial Assessment process.

This initial assessment will be undertaken as soon as practicable, in order to determine the pathway forward and avoid further harm, crime, loss or damage to persons or parishes through the continuation of any alleged misconduct.

3. FiSIC Pathway Recommendation

The DPS shall provide the FiSIC with the Initial Assessment report to assist with determining the most appropriate pathway or pathways for responding to the information.

The FiSIC will also undertake such enquiries as necessary to determine the resources that would be required for relevant pathways to response (this may include FiSIC seeking external expert advice).

FiSIC will convene a meeting of relevant members in order to make its Pathway Recommendation Report.

Following this meeting, the FiSIC will provide a Response Pathway Recommendation to the Bishop (or delegate).

4. Pathway Decision

Taking into account the recommendation of FiSIC, and any other advice or submissions made by involved parties, the Bishop, or his/her delegate, shall decide on the appropriate response pathway for responding to the information.

In determining the appropriate response pathway, the Bishop (or delegate), will also give due consideration to all the circumstances of the matter, including but not limited to whether involved parties are employed, stipendiary or volunteer church workers, and to the resources required for the best response, including assessment of where funding responsibilities for the response will lie.

Possible response pathways that may be implemented include, but are not limited to:

- 1) a determination to take no further action
- 2) counselling
- 3) conciliation
- 4) mediation
- 5) arbitration
- 6) implementation and/or referral to another relevant Diocesan Protocol or Ordinance
- 7) loss of licence (for lay people)
- 8) tribunal (if the allegation concerns a clergy person and is within the scope for a Tribunal)
- 9) referral or report to other Dioceses or Churches (both inside or outside Australia)
- 10) referral to law enforcement or other agencies.

Options 2), 3), 4), and 5) may be undertaken through an internal Diocesan process, or through accessing external professionals. It is to be noted that, dependent upon the issues involved, a decision and response pathway may take several meetings and some time to formulate.

The Bishop (or delegate), may meet with involved parties, or seek professional advice at any stage while determining the best response pathway.

5. Implementation and Communication

Once the response pathway has been decided upon, the Bishop, (or delegate), will communicate the steps or outcomes to all parties, and authorise implementation of the response steps.

The Bishop, or delegate, will monitor the situation to ensure that the response has been adequate and that resolution of all issues is underway. This may include communication to indirectly affected persons, if appropriate, such as communication to the parish where a whole church has been affected.

MORE INFORMATION:

Government Legislation:

- Work Health and Safety Act
- Work Health and Safety Regulations
- Care and Protection of Children Act
- Domestic and Family Violence Act

Church Legislation:

- Offences Canon
- Anglican National Register Canon
- Professional Standards Ordinance
- Clergy Appointment and Regulation Ordinance

Diocesan Documents:

- Diocesan Code of Conduct: Faithfulness in Service
- The Safe Ministry Policy of the Diocese
- Diocesan Due Diligence Appointment Protocol.
- Diocesan Grievance Protocol
- Protocol for Ministry with Persons of Concern.
- Clergy Tribunal Protocol

For completion when document supersedes an existing policy, procedure or protocol.

VERSION NUMBER OF THIS DOCUMENT	DATE OF PREVIOUS DOCUMENT	SUMMARY OF CHANGE	REASON FOR CHANGE
September 2021	June 2017	1. Change of name to Faithfulness in Service Investigation Committee Protocol (as this is the Protocol for the operation of FiSIC)	1. This protocol is about the operation of FiSIC beyond FIS investigations
		2. Addition of the role of the Director of Professional Standards who has been appointed to implement this protocol	2. The Diocesan Council appointed a Director of Professional Standards to implement this protocol
		3. Removal of the 30-day timeframe for initial assessment	3. In practice the 30 days did not allow for matter where police or other agencies were involved
		4. Separation of the 'operation and powers' of FiSIC from the Procedure section of the protocol	4. To clearly define the process as separate from the operation and powers of the FiSIC
		5. Addition of powers to the DPS & FiSIC in relation to suspension of process and reasons for ceasing a process	5. To take into account police and civil matters and also into account matters that are deemed to be vexatious, misconceived or trivial.