

AGENDA 14.1

Report: Review of the LCA NZ's Ecclesiastical Discipline, Adjudication and Appeals, and Provisions, Policies and Processes

PREFACE

Jesus said, *'Let the little children come to me, and do not hinder them, for the kingdom of heaven belongs to such as these'* Matthew 19:14 NIV.

It is a verse we are all no doubt familiar with, and an appropriate place to start this report. A viable church in the modern environment, and an effective ecclesiastical discipline system must at its core have in mind the principles enunciated by the quoted Bible verse. Our focus as a church needs to shift to one where the vulnerable in our care are protected and made to feel safe. It is also necessary for any system to stand up to scrutiny and effectively oversee complaints and discipline issues. If we fail to do so we are not only failing our secular requirements but also our mission.

Conducting this review has highlighted that we as a church have not always done things well. This will come as no surprise. Each of us fails each day and falls short, and the same can be said of us as a collective. It is not the fact that we fail that is important, but how we respond. Do we accept our failings and try to do better, or do we ignore them and hope that no-one will notice? It is our hope that we will accept that we have fallen short, be open to criticism and work towards making the system we have a robust, functioning one that stands up to scrutiny.

The writing of this report has not been an easy exercise and I am very thankful for those who have contributed. Many of the stories that have been shared were difficult and personal and I am grateful that members had enough trust to open up and talk about their experiences. Their willingness to do so has given insight into many difficulties and will hopefully assist in making the review more meaningful.

I am also very thankful for Rebecca Cronau, who was appointed as the project officer part way into the process. Rebecca moved into the role seamlessly and her untiring work has meant that we have been able to produce a significant body of work. Finally, I thank the other members of the team, Mal Hyde and Pastor Adam Eime, for all their work and involvement. We have shared many experiences and have learnt a great deal.

It is hoped that the review we have undertaken can assist the church into the future.

The review and its final report followed the terms of reference. Initially, the current practices and system are set out. This is followed by a section dealing with the submissions that were received. The report then moves onto areas that were researched. Finally, the report draws all the information together and provides a critique of the current system and provides recommendations for reform. This report to General Synod is based on a detailed report submitted to the General Church Board.

KIM BAUMELER

Chair, Ecclesiastical Discipline Review Team

June 2021

RECOMMENDATIONS

This report recommends the establishment of a new Discipline and Complaints System that will enable the church to address in a holistic way the challenges that are currently facing it. It will

enable the implementation of recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse and provide a robust mechanism of complaint and dispute handling that provides a clear framework of operation.

The recommended system holds firm to the biblical foundations of complaint and discipline handling, while also upholding society's expectations. It is a system that is intended to create certainty for all involved in the process. The intentions previously endorsed of trying to ensure that complaints are dealt with at the lowest level possible are enhanced by the recommended model. The recommendations allow for flexibility so that as expectations and needs change they can be accommodated.

The following recommendations have come about after significant research and consideration and are respectfully submitted for adoption.

The basis and rationale of the recommendations are expounded upon in the body of the report.

ECCLESIASTICAL DISCIPLINE

1. That the current system of ecclesiastical discipline be redesigned.
2. That a steering committee be established to oversee the implementation of the new Ecclesiastical Discipline System
3. That the system established encompasses the conceptual as well as structural reforms recommended
4. That an implementation team be established to
 - prepare for change
 - implement approved recommendations for reforms
 - ensure that ecclesiastical discipline can still be administered while the new system is implemented
5. That as part of the implementation process a panel/board be established to support the operation of the Ecclesiastical Discipline System and to ensure that the system remains fit for purpose

CONSTITUTIONAL AND PROCESS REFORM

6. That the Constitution as it relates to ecclesiastical discipline be redrafted to set out a clear framework for the establishment and operation of a discipline system
7. That any operational details of a discipline system be set out in supporting documentation such as policy and procedure documents or guidelines
8. That terminology specific to ecclesiastical discipline be given definition so that there can be consistent interpretation of such terms

THE OVERSEEING OF COMPLAINTS

9. That a position of bishop or other senior church official be created to oversee ecclesiastical discipline
10. That this position has a supervisory role over the judicial system of the church and any further bodies of the church created to administer and oversee ecclesiastical discipline

TRIBUNAL

11. That the Tribunal be retained
12. That matters should be referred to the Tribunal only after other mechanisms of dispute resolution have failed
13. That the Tribunal system be utilised to assist in determining whether pastors are fit and proper to remain on the roll in situations where this has been questioned
14. That there be a consistency in approach to hearings. To that end, panel members should be provided with mandatory training as to the expectations of what is required of them

15. To assist in developing consistency consideration should be given to creating guideline definitions so that Tribunal panels can apply principles consistently regardless of membership

PROFESSIONAL STANDARDS

16. That the current Professional Standards Department role and functions be reviewed
17. That the current position of Professional Standard Officer be reviewed, with a view to the position becoming solely an investigative one
18. That Professional Standards becomes the intake point for all complaints received, and an appropriate framework be developed for complaints handling
19. That the teaching/training component currently undertaken by the Professional Standards Department be transferred to Australian Lutheran College (ALC)
20. That training packages become standardised throughout the LCANZ so that there can be a consistent approach to training
21. That the option of online training be made available
22. That the principles governing professional standards be embedded into the ALC training packages for pastors and church workers
23. That these principles are taught throughout pastor and church worker training and become an integral part of training, so that pastors and church workers understand and are familiar with professional standards requirements
24. That a new complaint handling process be developed that allows for all forms of dispute resolution
25. That Professional Standards becomes responsible for risk audits within the church and maintains records of training compliance
26. That Professional Standards maintains supervision of persons of concern and the development of management plans for them
27. That those involved in the assessment of persons of concern and preparation of risk management plans should be appropriately trained and qualified to make such assessments
28. That the definition of a person of concern be amended
29. That the Prevention of Harassment and Abuse Policy and Child Protection Policy be merged to form a Safeguarding Children and Vulnerable Adults Policy, with the Child Protection Procedure to be re-named.

RECONCILIATION MINISTRY

30. That the principles of reconciliation be embedded into the ALC training packages for pastors and church workers
31. That these principles are taught throughout training and become an integral part of training, so that pastors and church workers are familiar with the techniques employed and equipped to approach conflict in a reconciliatory manner on graduation
32. That case-based reconciliation ministry be outsourced to external organisations specifically qualified to carry out case work
33. That Reconciliation Ministry as it currently exists be disbanded.

PASTORS

34. Foundation training for pastors should include ethical standards and practical ways to avoid compromising conduct.
35. Suitable programs for promoting the wellbeing of pastors should be examined and implemented, including support programs.
36. Foundational documents clearly setting out expected standards of behaviour for pastors, such as call documents and a code of conduct, should be developed or enhanced, where appropriate, in a role-specific way.
37. Members in key positions in congregations should be educated on the standards of behaviour expected of their pastor.

38. There should be clear and timely advice available for congregations where there are concerns about the standard of behaviour of a pastor
39. The LCANZ should examine the terms and conditions of pastors to avoid undue work-related stress and ambiguity in roles and relationships, and implement appropriate changes.
40. A guild should be established to advise and assist pastors in disciplinary matters.

BACKGROUND

Since the establishment of the Lutheran Church of Australia in 1966, the environment in which the LCANZ exists, has changed significantly. Such change has influenced how the church approaches discipline processes and policies. A heightened regulatory environment has meant more time and energy (and finance) being invested into administration and compliance initiatives. At grassroots level, the regulatory obligations and oversight responsibilities have fallen to pastors, church workers, volunteers, and members of governance committees in local congregations. At District and Churchwide levels, these changes have meant significant operational and organisational change to support the implementation of policies and processes.

To keep pace with change, church processes and policies in this area have been reactionary. Consequently, the LCANZ's structure, processes and even its foundational documents often lack a consistent and linear approach, and/or no longer adequately reflect the environment and conditions they were created to address.

Increases in administration and compliance obligations has at times been met with some resistance from pastors, church workers, volunteers, and congregational governance groups, which has in turn led to antagonism between congregations, District and Churchwide entities and departments.

In response to these difficulties, the 2018 General Synod passed a motion seeking that there be a review of Ecclesiastical Discipline, Adjudication and Appeals provisions policies and procedures. Pursuant to that motion a review team was established.

The Ecclesiastical Discipline Review Team (EDRT) was established to understand these dynamics and recommend a pathway forward for the LCANZ, in accordance with its terms of reference (see Appendix A: 'EDRT Terms of Reference').

To enable the LCANZ's ecclesiastical discipline, adjudication and appeals structures, policies, processes and procedures to meet the aspirations and responsibilities of the church and which are consistent with contemporary standards the review will:

1. Examine the LCANZ's Ecclesiastical Discipline, Adjudication and Appeals provisions, policies and procedures, including the role of the Professional Standards Department and Reconciliation Ministry
2. Call for and receive submissions from interested parties
3. Identify the relevant issues and concerns with the current arrangements and any anticipated issues
4. Where appropriate, identify and examine systems used in other organisations
5. Examine any other relevant matters; and
6. Make recommendations in a final report to the General Church Board.

This final report provides the findings of the review team and provides recommendations to address the issues identified while undertaking this work.

PROJECT APPROACH

The Ecclesiastical Discipline Review was structured in four phases:

PHASE 1: SUBMISSIONS

In early November 2019, the EDRT called for submissions focusing on the LCA NZ Tribunal, Professional Standards Department (PSD), and Reconciliation Ministries (RM). A submission paper was developed and distributed to all pastors (including bishops), all calling body chairpersons, district administrators, church leaders, and all Synod delegates. The submissions window closed on 31 January 2020.

PHASE 2: RESEARCH INTO COMPARABLE ORGANISATIONS AND EMPIRICAL PEER-REVIEWED BEST PRACTICE.

The EDRT conducted research into comparable organisations in Australia and across the world to learn and compare their approaches. The EDRT identified and examined the complaints handling, professional standards, judicial processes, preventative structures, best-practice conflict and discipline management strategies from 34 organisational entities.

PHASE 3: REVIEW OF LCA NZ POLICIES, PROCEDURES AND STRUCTURES

The EDRT conducted consultation interviews of key persons identified from submissions, and those directly involved in the LCA NZ's current discipline and judicial system. In addition, the EDRT has compared the LCA NZ policy, procedural documents, and structures with those identified during the research phase above.

PHASE 4: RECOMMENDATIONS TO GENERAL CHURCH BOARD

The submission by the EDRT of its report and recommendations to General Church Board and the LCA NZ to reform church practice, policy and structures based on the submissions, research and review phases of the project.

SECTION 1: CURRENT PRACTICE

1.1 GENERAL

The current structure and resource allocation of the LCA NZ complaints and judicial system are outlined in Figure 1 on the following page. The Professional Standards Department (PSD) and Reconciliation Ministry operate from the Office of the Bishop and report to the General Church Board (GCB). The Tribunal reports directly to the GCB.

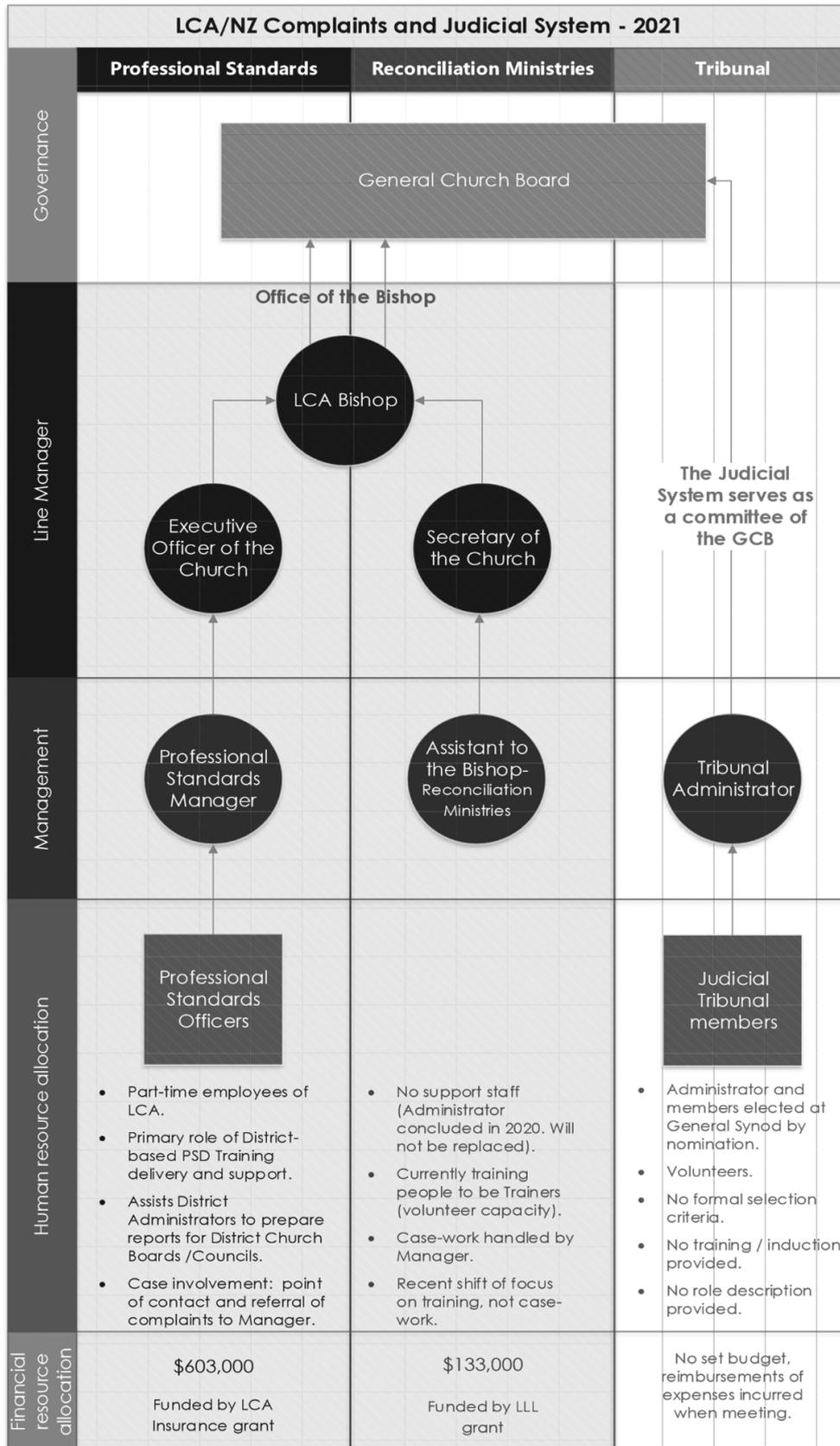


Figure 1

1.2 CONFLICTS AND COMPLAINTS

Conflicts and complaints are understood by EDRT as related to the same process. While arguably, RM is designed to address conflict situations, conflicts undeniably lead to complaints. Likewise, a complaint lodged to the PSD or the Tribunal is likely to involve conflict over the appropriateness of someone's behaviour as applied to the church's standards. As such, EDRT hold the view that all three entities are dealing with both conflicts and complaints, though on a case-by case application one of these may be more prevalent than the other.

1.3 DEVELOPMENT OF THE STRUCTURE

The Tribunal was established in 1966, at the commencement of the LCA. Its operation is governed by the LCA Constitution and By-laws, in particular Article 10 and Section 10, respectively. The intended purpose of the Tribunal is to be evangelical in nature, with the goal being to 'gain a member'.

The PSD evolved from the National Safe Place Committee which was established in the early 2000s as a response to legislative and societal expectations of organisational standards, particularly around the protection of minors. In February 2011, the General Church Council formed the Professional Standards Unit, which later changed its name to the Professional Standards Department. It was intended that there would also be a Professional Standards Advisory Committee, but to date this has not eventuated. The PSD has a legal and compliance focus.

Separate to the PSD, the GCB created the position of Child Protection Project Officer in November 2018 for what was originally expected to be a 12-month position. This position is currently on a rolling 12-month contract and is funded separately from the PSD. The Child Protection Project Officer reports directly to the Executive Officer of the Church (EOC). In addition, the EOC established the Child Protection Project Advisory Committee to support the project officer. The two main objectives of the advisory committee are to assist the LCA NZ in implementing the recommendations from the Royal Commission into Institutional Responses to Child Sexual Abuse; and provide advice to the LCA NZ regarding child protection matters including policy, project and practice development, strategic directions, and churchwide communications.

Reconciliation Ministry was established in 2012, after a visitation from Ambassadors of Reconciliation to the LCA NZ in 2009. The focus of Reconciliation Ministry has been to enable teaching of biblical peacemaking methods to conflict within the wider church, to build a culture of biblical reconciliation in the LCA NZ, and to provide reconciliation mediation in specific situations of conflict in the church. However, in late 2019, the College of Bishops refocused Reconciliation Ministry to teaching-based objectives only.

The three entities are managed and operate independently. At present, they can all be contacted directly by a complainant to be involved in a complaint or conflict (with some stipulations). All three entities can refer individual complainants to approach another entity, but there is no official internal referral process for a complaint to be moved from one type of entity to another. Further, PSD, Reconciliation Ministry and the Tribunal do not have any type of escalation structure for a complaint.

1.4 PASTORS

The pastoral office is a unique role. The core responsibilities of pastoral ministers are to:

- preach the word of God
- teach the faith

- administer the sacraments
- conduct and oversee worship and ministry, and
- care for the spiritual wellbeing of those under their care.

While these core aspects of pastoral ministry remain constant, the role of the pastor has many competing obligations, tasks, and expectations, which did not exist 50 years ago when the LCA was established. Societal, technological, and regulatory changes have created a complex set of challenges and opportunities.

These changes mean that pastors and church workers are continually needing to adapt and upskill, and that more time needs to be given to administrative/compliance aspects of the office. In addition, pastors and church workers must also manage the various and at times competing expectations from congregation members, their family, and meeting their personal needs. The pressures on ministering seem to be increasing.

While work-related stress is not unique to those in pastoral ministry, research on the nature of pastoral stress suggests that clergy experience unique stressors because of less-defined roles, unclear/ uncommunicated expectations, and the boundary-ambiguity that exists between the 'work' and 'personal' domains of the pastor's life (Wells, Probst, McKeown, Mitchem, & Whiejong, 2016).

Research into the wellbeing of pastors has also shown that ill-defined roles and uncommunicated expectations can promote conflict and can lead to clergy misconduct. High professional and personal stress have been linked to behaviours such as:

- bullying, harassment, and abuse
- absenteeism
- not fulfilling the requirements of the role
- theft and fraud
- situational sexual abuse.

The Royal Commission's Final Report Volume 16 concerned religious institutions responses to child sexual abuse and made several recommendations with respect to the formational training and screening of pastoral candidates, and the wellbeing of clergy and church workers who currently serve. While the LCA was not directly investigated, the findings, conclusions and recommendations made to other major denominations, and to religious institutions generally, are still pertinent.

The Royal Commission links misconduct to:

- inadequate training in professional responsibilities
- inadequate training in professional ethics
- inadequate training in healthy boundaries between their personal and professional lives
- loneliness and social isolation
- inadequate middle management and oversight.

1.5 TRIBUNAL

1.5.1 Financial

There is no set budget for the Tribunal, nor is there any employed staff. Expenses for meetings (including travel) are covered by the LCA NZ.

1.5.2 Personnel

The Tribunal consists of volunteer panel members, a Tribunal administrator and a deputy Tribunal administrator. Documentation involving the workings of the Tribunal is confined to the LCA Constitution and By-laws (Section 10). The EDRT could find no supplementary documentation concerning the roles, training, or procedures for the Tribunal, the Tribunal administrator or the Tribunal panel members.

The Tribunal administrator and deputy Tribunal administrator are appointed by the GCB. There are no formal position descriptions, nor minimum qualification requirements.

Likewise, Tribunal panel members have no formal position description and members appointed are not provided with any form of training or induction. LCA By-laws Article 10.4 only make reference to a Tribunal panel member's role once they have been appointed in relation to a matter. The selection process is partially outlined in the By-laws. In practice, the LCA NZ invites nominations through the Districts, and the District offices seek to identify suitable candidates. The Districts' recommendations (by way of resolution of the respective District Church Council/Board or Council of Synod are forwarded to the Standing Committee on Nominations for review (to check eligibility requirements are met) and then submitted to GCB for appointment.

1.6 THE CONSTITUTION

The LCA Constitution (Lutheran Church of Australia, 2018) states the following in regard to Ecclesiastical Discipline, Adjudication and Appeals (Article 10):

10.1 Ecclesiastical discipline shall be exercised in the Church.

- 10.1.1 by a congregation against any one of its members who
 - 10.1.1.1 departs from the Confession of the Church; or
 - 10.1.1.2 manifestly leads an ungodly life.

- 10.1.2 by those to whom such authority is given in the By-laws against a pastor, teacher or other church worker if the said pastor, teacher or church worker.
 - 10.1.2.1 departs from the Confession of the Church; or
 - 10.1.2.2 is manifestly guilty of ungodly actions or life; or
 - 10.1.2.3 persistently disregards the Constitution, rules or resolutions of the Church or of the respective District, parish or congregation; and

- 10.1.3 by those to whom such authority is given in the By-laws against a congregation if it.
 - 10.1.3.1 departs from the Confession of the Church;
 - 10.1.3.2 refuses to exercise discipline against any of its members, pastor, teacher or other church worker; or
 - 10.1.3.3 persistently disregards the Constitution, rules, or resolutions of the Church or of the respective District or parish.

The manner in which such ecclesiastical discipline shall be instituted, the action to be taken and the rights of appeal, shall be governed by scriptural principles, and shall be as laid down in the By-laws. As will be recommended, constitutional reform is needed.

1.7 JUDICIAL PROCESS FLOWCHARTS

In order to express the processes of the LCA NZ's Ecclesiastical Discipline, Adjudication and Appeals system as written in the By-laws, the EDRT reviewed them as flowcharts

SECTION 2: SUBMISSIONS

2.1 INTRODUCTION

In early November 2019, the EDRT called for submissions focusing on the LCA NZ Tribunal, Professional Standards Department (PSD), and Reconciliation Ministry in accordance with its terms of reference. The EDRT submission paper was developed and distributed to all pastors (including bishops), all calling body chairpersons, district administrators, church leaders, and all Synod delegates. Distribution was via e-news and other publications through the LCA NZ Communications Department. The submissions window closed on 31 January 2020. This section examines the results of this study.

2.2 THE DATA

Data consists of 92 submissions in total and show an adequate representative of the LCA NZ for the purposes of this review. EDRT received responses from all Districts, and various Churchwide departments and committees. Four submissions were found to discuss matters outside the EDRT's terms of reference, bringing the total sample to 88 submissions. Submissions were made by past and present pastors, governance representatives (at congregation, district and churchwide levels), church members, church workers, staff, bishops, and persons directly involved in the judicial process.

The Professional Standards Department was the focus in 48 percent (n=70) of submissions. The Tribunal system and Reconciliation Ministry represented 29 percent (n=43), and 23 percent (n=33) of responses, respectively.

Of the 88 remaining submissions 53 percent (n=47) provided general commentary on the LCA NZ judicial system, while 47 percent (n=41) were case-related. Within the latter group, there were instances of multiple submission authors referencing the same case.

2.3 ACKNOWLEDGEMENT OF METHODOLOGY LIMITATION

It is important to acknowledge that responses were received from people willing to make submissions, as opposed to a random sample method. This is most evident in the case-based submission responses (47% of submissions) with the data sample being 71% representative of respondents, and only 29% complainants in the cases referenced. This is counterbalanced to a degree by the 53% submissions that made no references to specific cases in their responses and were classified as 'general commentary'.

2.4 SUMMARY OF SUBMISSION VIEWS

The EDRT Submission Paper responses highlighted some significant challenges, issues, and tensions within the present ecclesiastical discipline system in its current expression of Tribunal, PSD and Reconciliation Ministry. Below is a summary of responses.

Constitution and By-laws

- Language/terms need clarification or definition
- By-laws processes are 'clunky'

- Need to consider who can make a complaint, and who a complaint can be made against
- Context of ecclesiastical discipline has changed
- Two different complaints processes in the LCA NZ is confusing (ie By-laws Section 10, and Complaint Handling Policy 06.04)
- Current 'tests of misconduct' are too ambiguous, need definition and practical application

Pastors and Church Workers

- Ecclesiastical discipline concerns this group. However, lay workers and staff have the parameters of role descriptions and employment contracts that outline the expectations, terms, and conditions of the role. This is not the case for pastors.

Call Document

- Insufficient in its current form, requires other explanatory documents, and is not considered by some to be 'binding' on parties
- Most congregation members would be unaware of their obligations; document makes no reference to ecclesiastical discipline
- Clarity needed around processes to terminate a call

Jurisdiction and Authority

- Broad confusion over jurisdiction and authority in ecclesiastical discipline
- Clarity is needed around who has the ultimate authority to act/determine the outcome of a disciplinary process
- Clarity is needed around the role and jurisdiction of the District bishop
- Synodical system challenges of self-determination and autonomy of congregations, districts and churchwide entities
- Need clearly defined lines of jurisdiction and authority for ecclesiastical discipline, supported by training and communication across the LCA NZ

Tribunal Purpose and Theological Framework

- Purpose is restorative – 'to gain a member'
- The process is loosely based on the theological principles of Matthew 18:15-18
- An extension of the Office of the Keys?
- Consequences for sin/misconduct
- Lack of understanding of the Tribunal's purpose – especially by pastors

Tribunal Process

- Need a clear, well-documented complaint process with consistent guidelines for action and referral
- Comprehensive training of pastors, church workers, office-bearers, governance and leadership groups, and the general LCA NZ membership
- Complaint scrutiny:
 - Determine *prima facie* of the complaint
 - Determine if the relationship of the complainant and respondent is 'direct' enough
 - Complaint assessment and referral to other arms of the church, including PSD, Reconciliation Ministry, Tribunal, external counselling, etc. Possibly points to 'stop and reflect' during the process, to consider if the complainant wishes to continue the complaint process
- Complaint process considerations:
 - Communication to all parties at the beginning of the process what the desirable outcomes are, and what happens if the complaint escalates. Also, clear communication to all parties during the investigation stage.

- Timelines were seen as important for all involved.
- Need to uphold the principles of natural justice – all parties have the right to be heard, relevant submissions will be considered, and decision- maker is impartial. There is lack of ‘trust’ with the current judicial system.
- Intentional pastoral care of all parties is needed; develop an independent pastoral care resource for use of families, congregations, and supporting parish pastors effected by ecclesiastical discipline .
- Consider the suggestion that the Tribunal not be the ‘first’ option for a complainant, but that serious complaints can only be escalated to the Tribunal on the recommendation of a bishop or other senior church official or the College of Bishops
- Tribunal jurisdiction – the highest level of the judicial process?
 - The Tribunal should not handle criminal matters. If the Tribunal is to be retained, the EDRT needs to determine its place in the judicial system, and the process and scope of complaints it considers.
 - Tribunal authority not well understood by pastors, congregations, or even office-bearers. Also functions as a recommending body, not an ‘enacting’ one.

Tribunal Hearings

- Representation and support:
 - General agreement that support is needed for pastors and church workers, though there were concerns over this group needing clear terms of reference to ensure that the process did not become a quasi-court system and the group does not become a ‘power centre’
 - Look into the church’s EAP program as a point of support for people involved in the judicial process
- Tribunal members:
 - Varied skills/qualities suggested for Tribunal panel members; the skills/expertise required should be linked to the purpose of the Tribunal
 - Tribunal members need training in the process of the LCA NZ Tribunal purpose and process
 - Tribunal administrator needs to have a role description, and this should be supplied to all the parties of a complaint
 - Needs to be consistency of Tribunal members over the hearings of a case
 - Evidence – need better explanation of what ‘not bound by the rules of evidence’ means
- Disciplinary action:
 - Tribunal is ‘advisory only’ and makes recommendations to the ‘relevant authority’; this term is too ambiguous and needs clarification
 - Needs to be timeframes in place from the Tribunal’s recommendation to the enactment of the ‘relevant authority’ of those recommendations
 - Also needs clarification if the ‘relevant authority’ has the power to modify the Tribunal’s recommendations
 - Appeals – there is no adequate appeal mechanism. Everything goes back to the Tribunal administrator; this needs an escalation step.

Case-based responses

- Most case-based submissions were respondents (71%).
- Negative feedback regarding the system, and the support both for respondents and complainants
- Majority of case-based submissions felt that neither the Constitution nor the principles of Matthew 18 were followed in their case

Professional Standards Department

PSD General Management:

- Accountability, authority and role of the PSD, while understood by those in the Churchwide office, is not understood by the broader LCANZ membership. Church leaders are keen for any recommendations EDRT can make to improve communication of PSD's role, and accountability
- EDRT needs to consider if the PSD should be included in the Constitution or By-Laws, and to what degree, given the recent move to exclude all bodies except those that are decision-making (ie boards). Are policy, procedure and terms of reference to replace By-laws?
- PSD needs to manage limited resources efficiently and wisely. How can this be done with respect to their two roles of training and casework?
- Management issues

PSD Recommendations for improvement

- Investigate the theological foundations of the PSD
- Should there be a separation between training and complaints handling roles of the PSD? Can ALC Training take on the delivery of the training, as well as development of the training material?
- Should an advisory committee be established with volunteers with varying expertise? Is there further scope for paid consultation, or engagement with ecumenical bodies of a similar nature? If so, this group would require clear terms of reference, and accountability lines.
- Re-image the PSD, through better communication and training to office-bearers and pastors in the church
- Need clear terms of reference/jurisdiction for PSD within the judicial system
- Need to consider how to re-develop trust in the PSD and the staff
- Broader understanding in the church re Royal Commission findings and recommendations.

PSD Training

- Overall, the responses from the submissions were positive
- Suggestions for a meta-narrative to make the scope of the training more relevant to the trainee
- Changes to training are already underway
- Training material to be developed in partnership with ALC Training, allowing both online and face-to-face options
- Recent changes to Recognised Prior Learning (RPL) requirements and options
- Possibility in the future of ALC delivering the training also, thus freeing up Professional Standards Officers to do complaints handling

PSD Advice

- Mixed response to whether submissions felt their questions were able to be answered, and if they felt listened to
- LCANZ need to maintain a culture of care for the vulnerable and focus on prevention through training and compliance measures

PSD Complaints Handling

- Case-based submissions were mostly negative of PSD's handling of their complaint
- Approach to complaints
- Need complaint scrutiny stage: what is the PSD's current process for this?

- Concerns that the system is biased towards complainants and treats respondents as 'guilty until proven innocent'
- Breaching of confidentiality need to be a disciplinary action in-and-of-itself
- Consider the implications of a no-fault suspension option for cases of serious misconduct
- Whistle-blower policy is in draft
- Complaint investigation
- Evidence, including phone calls, emails and other communication needs to be recorded and stored securely.

PSD Persons of Concern Policy

- Significant concern regarding the exclusion of persons of concern from attending worship, and that the spiritual needs of persons of concern are not considered
- Risk assessments and management plans
- Consensus is that PSD has a very universal, one-size-fits-all approach to person-of-concern cases
- Risk assessments do not commensurate with management plans; this results in a management plan that is 'too restrictive'
- Concern that annual management plans never seem to reduce in severity over time
- Equal concern regarding recidivism rates for persons of concern
- An alternative policy documents supplied:
 - Church of England 'Parish Safeguarding Handbook'
 - Anglican Church WA province – Worshipping agreement, Policies 40.2, 40.6, 40.8 and SO Risk Assessment
- Feeling that 'person of concern' is a life sentence in the church, regardless of if you have served time or have just been accused of sexual misconduct

PSD Support

- Most found the PSD policies easy to locate, but there was less consensus regarding how easy they were to understand.
- The majority found the policies were mostly effective, but there is always room for improvement.

Reconciliation Ministry

General comments:

- Reconciliation Ministry's role has recently been redefined to be mainly a teaching-based ministry.
- Qualifications of Reconciliation Ministry staff highlighted as a concern, emphasising the need for best-practice methodology based on empirical research
- Concerns about the theological hermeneutic underpinning the 'Ambassadors of Reconciliation' material; need to be conscious of power and gender imbalances in the church and the implications for the judicial system, especially when considering reconciliation ministry
- Several alternative options for resources suggested; several recommended Restorative Justice/ Practice, which is used in several Lutheran Education Australia schools
- Majority do not support Reconciliation Ministry inclusion in the Constitution
- Under-resourcing of this department identified as a significant problem
- Suggest that there be more specialised practitioners who can be referred to by local practitioners if the situation escalates or is complicated
- Given the above, guidelines would need to be established for local practitioners
- Reconciliation Ministry needs clear processes, structures and timelines.

SECTION 3: RESEARCH

3.1 INTRODUCTION

In the 50 years since the establishment of the Lutheran Church of Australia (LCA) the environment in which the church exists and practises has changed significantly. Over the last 25 years, there have been significant increases in regulatory obligations and societal expectations that have had a substantial impact on leadership groups at every level of the church. These changes have impacted employment conditions, care and protection of children and vulnerable adults, privacy laws, communication, and more. Increased regulation means increased demand for compliance and more notifiable measures of misconduct. This rate of change is unlikely to abate in the years and decades ahead.

Organisations are increasingly required to operate in an adaptive and nimble manner to ensure they remain relevant and viable in today's climate. The LCA is not alone in the need to adapt its operations to respond to regulatory changes, and to embrace better practices. The LCA is also not alone in the desire to maintain its core Christian beliefs in their approach to misconduct and discipline. As such, the EDRT has conducted two kinds of research:

- Empirical (study and peer-reviewed journal based) research to determine best practice.
- Research into comparable organisations in Australia and across the world.

3.2 METHOD

The EDRT conducted research into four main topics:

- Restorative practice framework
- Complaints handling processes, procedures and structures
- Safeguarding and protecting children and vulnerable adults
- Pastoral formation, role and support structures.

3.3 RESTORATIVE PRACTICE FRAMEWORK

Restorative Justice has been focused on in this report as it is a developing means of dealing with dispute resolution, that many might be unfamiliar with. It is also a method that is easily adapted to a church environment. Though this report will spend some time setting out the principles, it should not be seen as the only means of dispute resolution and other more traditional methods should not be excluded when considering how best to resolve a particular issue. The value of restorative justice practices is that they are able to be used alongside other more traditional methods.

3.4 COMPLAINTS HANDLING PROCEDURES

In this section of the report, the EDRT conducted research into the complaints handling processes of other Christian denominations within Australia, and across the world. Not every process has been addressed but the selection has been confined to those that differ from the LCA's processes in some way. In addition, the EDRT also considered the complaints overseeing process of a select group of comparable organisations.

The EDRT examined several complaint and grievance policies across Christian denominations in Australia and various churches around the world. Only a small selection has been presented here.

While most Australian denominations have created an agency similar to the LCA NZ Professional Standards Department to address the regulatory environment in which churches must now operate, jurisdiction of these agencies varies significantly in relation to the kinds of misconduct they address.

3.5 SAFEGUARDING AND PROTECTING

Since the Royal Commission into Institutional Responses to Child Sexual Abuse, the Australian Government developed the 'National Framework for Protecting Australia's Children 2009-2020' with the assistance of the National Children's Commissioner and the Australian Human Rights Commission. The 'National Principles for Child Safe Organisations' endeavour to provide a nationally coherent approach to forming organisational cultures across all sectors in Australia which promote child safety and wellbeing (Australian Human Rights Commission, 2020).

While the National Principles are not mandatory, the Royal Commission into Institutional Responses to Child Sexual Abuse recommended that all organisations that engage in child-related work be required to implement the ten principles. This of course includes all religious-based organisations.

For churches, there is the additional requirement from the Australian Charities and Not-for-Profits Commission (ACNC). As the vast majority of religious institutions are registered as charitable organisations, they are required to comply with the ACNC governance standards, which include the National Principles of Child Safe Organisations (Lambert-Smith, 29 July 2019).

As such, most Christian denominations in Australia have been working to implement the National Principles, and their 'key action areas' across their organisations. For this reason, many of the policies and procedures that relate to the National Principles are similar.

3.6 CHILD PROTECTION

Most churches had some sort of child protection policies and procedures prior to the Royal Commission's Recommendations Report, with many of them using the Child Safe Management System originally created by Scripture Union during the 1990s. The Royal Commission and the National Principles have standardised these processes across all organisations that work with children, including churches. For this reason, there is little difference between Australian churches' child protection policies and procedures.

3.7 PERSON OF CONCERN

The identification and management of persons who are known to be sexual offenders and those that have been accused of sexual misconduct has been a major focus since the Royal Commission. In response the National Principles (namely Principles 8 and 10), most organisations have developed or amended policies and procedures to address situations where people have been identified as a 'person of concern'.

3.8 SCREENING AND TRAINING

In response to the National Principles, and the changing of church policy and procedures, denominations in Australia have subsequently updated their screening and training processes to ensure that these changes are understood at every level of the church structure.

As such, screening processes for those who work with children has been standardised across Australia, requiring an application process that includes a 'Working with Children Check', interview, and referees, and mandatory training in safeguarding and child protection policies and procedures.

Working with Vulnerable People cards and registers are also a valuable means of assisting in screening, and practices for registering for such cards has been implemented Australia-wide.

However, there is significant work yet required to standardise:

- the screening and training processes for those who are training to serve in the office of the public ministry, and
- support structures for the wellbeing of those who currently serve.

3.9 PROFESSIONAL CODES OF CONDUCT

Since the Royal Commission into Institutional Responses to Child Sexual Abuse, all mainline Christian denominations that the EDRT researched implemented a professional code of conduct/ ethics/ practice to be the benchmark of good conduct in their organisation for those in ministry. While many, if not most, of these churches had a document outlining this information in some form prior to the Royal Commission, after this event, the focus of many of these documents shifted from 'guidelines' to 'codes' so that appropriate and inappropriate behaviour could be clearly demarcated.

The evidence showed that churches address conduct in relation to:

- character/moral standards
- pastoral relationships
- personal relationships (which included friendship and intimate relationships)
- confidentiality and privacy
- (commitment to) professional development and competency
- financial conduct
- breach of policy/governance/rule
- self-care, and
- collegiality.

The less common inclusions covered:

- ministry to the aged
- ministry to people of different cultures
- ministry to those with mental ill health
- doctrine/teaching
- conflict of interest
- professionalism
- power (recognition and being conscious of the inherent 'power' differential between ministers and those they minister to)
- supervision (a commitment to professional supervision).

3.10 PASTORAL SUPPORT INITIATIVES

In response to the findings of the LCA's ALITE study data, the report recommended that the church further investigate how LCA agencies and oversight mechanisms can effectively support pastors experiencing high emotional trauma and significant work stress (Australian Lutheran College, April 2016).

Other Australian Christian denominations have also recognised the unique challenges and stressors of pastoral ministry and have employed a wide range of support initiatives to assist clergy and their families. These support initiatives serve to mitigate burnout and misconduct by promoting good self-care practices and wellbeing.

3.11 PROFESSIONAL SUPERVISION

All Australian churches are now required to ensure clergy have professional supervision, as per the Royal Commission's recommendation (16.45).

Professional supervision is common for 'helping professionals' (eg counsellors, psychologists), and ensures that clergy are supported in navigating the professional and ethical challenges of the role and helps them to avoid inappropriate 'boundary crossings'.

The LCAZ's Professional Pastoral Supervision program was instigated in 2018 and is outlined in the Pastor's Handbook (p168-185). It seems however that the current uptake has been slow. Given the importance of this initiative, the LCAZ may consider ways to increase awareness among the pastorates.

Other denominations using 'Statements of Understanding' or similar documents, have included the requirement for professional supervision in their agreement to highlight that it is compulsory.

All Australian denominations are challenged, however, in implementing this requirement due to the sudden demand for professional supervisors, which has shown there is a shortage of trained professionals who can provide this assistance.

3.12 HOURS OF WORK AND LEAVE ENTITLEMENTS

In recognition of the boundary-related stress due to the 'on call' nature of clergy, and the parameters of the National Employment Standards of the Fair Work Act (Federal Register of Legislation, 2017), the Baptist Unions of Queensland (QB), South Australia (BUSA) and Victoria (BUV), and the Churches of Christ Queensland (CCQ), and South Australia / Northern Territory (COC SA/NT) have recommended that:

- Pastors' hours of work should be 38 hours per week, plus agreed 'additional hours'.
- Pastors should work five days a week.
- Pastors should be entitled to five weeks annual leave.
- These conditions are outlined in the model employment agreement / statement of understanding of each of these church entities.

3.13 PASTORAL WELLBEING AND CONTINUING EDUCATION

Many Australian churches have created agencies, or programs to assist pastors in a variety of personal and professional care programs, such as:

- better self-care practices
- marriage enrichment programs
- retreats
- mentoring programs
- continuing education programs
- assistance to those experiencing burnout
- assistance to those who are in transition.

SECTION 4: KEY ISSUES & RECOMMENDATIONS

Introduction

This part of the report is intended to draw together the other parts of this paper and make recommendations based on the EDRT's consultations and research.

The EDRT have approached this section with three overarching conceptual questions in mind:

- On what foundation is the church's current ecclesiastical discipline system in the Constitution and By-laws, built?
- What concerns are there with the structure and operation of the current system?
- How might the current system be improved?

In dealing with these issues, it also needs to be acknowledged that the LCANZ spans two countries, and six states and two territories within Australia, and accordingly the legal requirements in each might differ. It is hoped that the recommendations made are sufficiently broad so that they can have general application churchwide.

4.1 THE CURRENT SYSTEM OF ECCLESIASTICAL DISCIPLINE GENERALLY

The area of ecclesiastical discipline within the church has developed in a reactionary fashion as society's expectations have changed. This has resulted in a system that is piecemeal in its development and approach rather than structured and planned. In many respects there has been a tinkering with problems as and when they arise rather than taking a holistic approach and fully addressing issues or developing systems that are required for a modern ecclesiastical discipline system. This has also meant that as change has been implemented time has not been taken to ensure that the membership is educated as to why there is a need for change, which, has then understandably resulted in resistance to the implementation of various policies.

The submissions received show that there is a great deal of concern with the current system, and alone are a compelling argument for change. While acknowledging that the submissions relate to individual experiences and therefore are not necessarily representative of the whole organisation, it is clear that the practices of the current ecclesiastical discipline system have caused significant disquiet.

When the submissions received are considered in light of the research component also undertaken, which shows that other organisations have acted comprehensively to address the need for an effective discipline system, while we as a church are yet to do so, then the need for reform becomes overwhelming.

It needs to be acknowledged that many tensions or competing interests exist, and for a system to be effective these need to be tackled. To date this is not something that we have done well as a church. Individuals' expectations need to be managed and education has to occur so that members are brought along the journey.

Many of the matters raised in the submissions received could have had different outcomes had there been effective systems in place in dealing with such matters. The church's requirement to move towards embracing secular responsibilities has also resulted in clashes with the culture and aspirations of the church. Again, education of members is key here. If members can understand why we as a church need to do things differently there will be greater willingness to adapt and change with the times. A fundamental aspect that needs to be remembered is that many members of the church are volunteers, particularly at congregational level, and won't

necessarily have the knowledge, skills and time to effectively participate in an ecclesiastical discipline system, accordingly the system needs to be one that is accessible and services the membership that we have.

Resourcing is a further issue. It is always a difficult area, however under resourcing can and does result in an ineffective system. Decisions in relation to ecclesiastical discipline, in the modern context, are too important to not be properly resourced. In short, under resourcing has played a part in the current criticism of many aspects of the system.

On paper, Professional Standards has a significant budget and Reconciliation Ministry a comparably smaller one. However, when the budget is considered in light of the work required to be done across the LCANZ, they are not significant. Professional Standards and Reconciliation Ministry will each be dealt with separately in more detail later in this section of the paper.

The Tribunal system is dependent on volunteers, who are in no way commensurately recompensed for the amount of time and effort taken to fulfil their roles properly. There is no formal training for panel members, which should be occurring. There are no precedents or guidelines or definitions for terms specific to the church, and accordingly each panel is left to self-determine how terms are to be defined and what approach will be taken, resulting in the potential for a lack of consistency in approach depending on the makeup of the panel. Members are also expected to apply legal principles such as natural justice and conflicts of interest, without necessarily having any training let alone legal training in what these terms might mean or how they should be applied. Once a determination is made by a Tribunal, there are no mechanisms for enforcement of decisions, which take the form of recommendations, which can be entirely ignored.

In summary, the system is failing in almost every aspect and a drastic overhaul is required for there to be an effective ecclesiastical discipline system that is viable in the modern context. Change needs to be considered holistically, where existing components of the current system are built upon. Consideration also needs to be given to what amount of change people can cope with, and that systems and services need to continue to operate. Implementation needs to be prepared for, so that the new system can commence smoothly and effectively.

RECOMMENDATIONS

- 1. That the current system of ecclesiastical discipline be redesigned**
- 2. That a steering committee be established to oversee the implementation of the new ecclesiastical discipline system**
- 3. That the system established encompasses the conceptual as well as structural reforms recommended**
- 4. That an implementation team be established to:**
 - prepare for change**
 - implement approved recommendations for reforms**
 - ensure that ecclesiastical discipline can still be administered while the new system is implemented**
- 5. That as part of the implementation process a panel/board be established to support the operation of the ecclesiastical discipline system and to ensure that the system remains fit for its purpose**

4.2 REFORM CONSIDERATIONS

This section will be dealt with in two separate parts. Firstly, as a conceptual model what should a robust discipline system be based upon, and secondly, once acknowledging these concepts, how might the discipline system be structured and reformed.

Conceptually, the overarching objective of an ecclesiastical discipline system is to protect the theological doctrine of the church and support its contemporary responsibilities.

Any such system should be based on the following principles:

- evidence-based
- facilitate effective and efficient decisions, consistent with its objective.
- support victims and valid complaints
- be fair to all parties and uphold the rules of natural justice
- not be unnecessarily complex or legalistic and make timely decisions
- enable resolution of complaints and disputes within congregations where possible
- support church standards and operations
- where possible, operate in an ecumenical and scriptural manner.

For the system to be effective the following concepts need to be considered:

- The scope of the discipline system needs to be sufficiently broad to cover disputes and inappropriate conduct, whether reported or identified. Both disputes and inappropriate conduct need to be suitably defined.
- There should be a complementary major focus in the church in preventing matters of dispute or inappropriate conduct, so far as possible, and protecting and safeguarding vulnerable people should be a priority.
- Clear policies and procedures need to be developed, which are easy to follow. These documents should not be included in the Constitution to enable flexibility and the ability to change them as needs and expectations change and evolve.
- The system's name needs to encompass all the work undertaken and accordingly it is suggested that the system should not be identified as 'ecclesiastical' but rather as a complaint and dispute resolution system. All matters, including the performance of pastors, should be included in the one system.
- A separate process for matters of doctrine should be considered, to follow Biblical principles with a process more aligned to the nature of theological matters.
- Guidance should be provided on applying scriptural principles in managing the discipline process, but not so as to detract from responsibilities in protecting people from potential harm.
- An informal process for minor matters should be provided, particularly at the local level, to enable matters to be resolved through conflict resolution, mediation and restorative practices. Information and management and pastoral advice may effectively resolve many matters of concern raised and this should be encouraged.
- Guidance and assistance should be provided to the local level for handling informal matters, including suitable expertise. A range of options should be available for dealing with such matters, including exclusion or suspension of a person from membership, or applying conditions to a person's membership. Matters that are more serious, or that have been unable to be resolved at a local level, or which would be more effectively dealt with externally, should be brought into a formal disputes and complaints process. Relevant concepts outlined above should also apply here, and suitable processes and resolution options for this level should be developed.
- Restorative Justice/Practices, along with other forms of conflict resolution should be available options in suitable cases. Regardless of which option is used

appropriate training or outsourcing needs to be considered to ensure that the processes employed assists in resolution rather than causing further conflict. Conflicts of interest should be avoided for decision-makers.

- The options for determining a case, should be provided for in policy and procedure documents rather than in the Constitution.
- The Tribunal should be reserved for the more serious cases relating to doctrine and inappropriate conduct or matters not suitable or unable to be resolved lower down, as well as appeals from previous decisions.
- All cases reported are to be recorded by the department tasked with handling complaints.
- Decisions when made at any level should be recorded in writing so that appropriate records are kept.
- A triage system should be implemented and managed by the complaint's handling department. This should be comprised of a group of suitable people to determine the best way to deal with particular cases. It may be necessary for preliminary investigations to be undertaken to assess whether a complaint is of substance. Some complaints may also be screened out in this process.
- A policy should be adopted of reporting to police all matters where the allegations are potentially of a criminal nature, regardless of whether the complainant is an adult or not.
- The role that bishops are to have in the complaints process needs to be considered. Consideration needs to be given as to how a District bishop's relationship with his pastors can be preserved to enable the effective management and support of District pastors. To this end consideration should be given to a bishop or other senior church official being assigned to oversee the complaints and discipline process. The creation of such a position would also assist in giving clarity to the enforceability of Tribunal decisions at a District level.

RECOMMENDATIONS

- 6. That the Constitution as it relates to ecclesiastical discipline be redrafted to set out a clear framework for the establishment and operation of a discipline system**
- 7. That any operational details of a discipline system be set out in supporting documentation such as, policy and procedure documents or guidelines**
- 8. That terminology specific to ecclesiastical discipline be given definition so that there can be consistent interpretation of such terms**

4.3 BISHOP OR OTHER SENIOR CHURCH OFFICIAL FOR COMPLAINTS HANDLING AND DISCIPLINE

At present there is no senior church official appointed specifically to oversee ecclesiastical discipline, and the role of supervision has fallen to the Churchwide bishop, or the bishops of the Districts depending on the nature of the complaint and level of escalation. The area of complaints and discipline is a growing area and demand on a complaints system is only going to increase. To not have a senior church official specifically appointed to oversee the area is a shortcoming that needs to be addressed.

The proposal to appoint a senior church official to ecclesiastical discipline is beneficial for many reasons. Bishops have demanding roles within their own Districts, and a portion their time currently is spent on matters of ecclesiastical discipline. Accordingly, if ecclesiastical discipline was removed from their responsibilities it would free up some time for other areas of work.

Another benefit to having one senior church official's oversight is that training is not provided to the bishops on appointment as to how to approach discipline and accordingly each District will approach it differently depending on the skills and approach of the individual. If one senior church official was appointed to oversee the area of discipline, there would be a consistent approach across the LCANZ.

The senior church official appointed should either already have the skills set to oversee ecclesiastical discipline or be provided with training on how to oversee the area. Finally, District bishops are intended to perform the role of 'pastor to the pastors'. This then becomes difficult when they then also have to administer discipline.

If a specific senior church official was appointed to oversee ecclesiastical discipline, the District bishops would be able to continue to act as a support for their District pastors throughout any discipline processes. It is intended that the Churchwide bishop would maintain oversight of this newly created position, with reporting responsibilities to the College of Bishops. The proposal is that the position of senior church official created would then oversee the following proposed new ecclesiastical discipline system of the LCANZ.

RECOMMENDATIONS

- 9. That a position of bishop or senior official be created to oversee ecclesiastical discipline**
- 10. That this position has a supervisory role over the judicial system of the church and any further bodies of the church created to administer and oversee ecclesiastical discipline**

4.4 TRIBUNAL JUDICIAL SYSTEM

The Tribunal and its scope of operations appears to be well-defined within the current Constitution, but it suffers from the broader deficiencies of the current system, such as a lack of definition in core threshold matters. Very few matters are referred to the Tribunal and given the fundamental principles of dispute resolution that the church has engaged in it is assumed that this should be the case. The research undertaken indicates that the role of Tribunal members has lacked definition, and there has been little if any training on how Tribunal matters should be conducted. The Tribunal's powers are limited to making recommendations to the relevant bishop, with no capacity for the recommendation to be enforced.

RECOMMENDATIONS

- 11. That the Tribunal be retained**
- 12. That matters should be referred to the Tribunal only after other mechanisms of dispute resolution have failed**
- 13. That the Tribunal System be utilised to assist in determining whether pastors are fit and proper to remain on the role in situations where this has been questioned**
- 14. That there be a consistency in approach to hearings. To that end, panel members should be provided with mandatory training as to the expectations of what is required of them**
- 15. To assist in developing consistency, consideration should be given to creating guideline definitions so that Tribunal panels can apply principles consistently, regardless of membership**

4.5 PROFESSIONAL STANDARDS

Though not provided for in the Constitution, a department such as the current Professional Standards Department is needed to coordinate and manage the overall discipline system. Given the nature of such a department's role it is to be expected that it will receive some criticism. For the department to operate effectively, a balance needs to be struck between fulfilling its functions and dealing with members in a sensitive manner which considers competing interests. The department fulfils a difficult role and has been at the forefront of the changed responsibilities and operating environment of the church.

RECOMMENDATIONS

- 16. That the current Professional Standards Department role and functions be reviewed**
- 17. That the current position of Professional Standard Officer be reviewed, with a view of the position becoming solely an investigative one**
- 18. That Professional Standards becomes the intake point for all complaints received, and an appropriate framework be developed for complaints handling**
- 19. That the teaching/training component currently undertaken by the Professional Standard Department be transferred to ALC**
- 20. That training packages become standardised throughout the LCA NZ so that there can be a consistent approach to training**
- 21. That the option of online training be made available**
- 22. That the principles governing Professional Standards be embedded into the ALC training packages for pastors and church workers**
- 23. That these principles are taught throughout pastor and church worker training and become an integral part of training, so that pastors and church workers understand and are familiar with professional standards requirements**
- 24. That a new complaint handling process be developed that allows for all forms of dispute resolution**
- 25. That Professional Standards becomes responsible for risk audits within the church and maintains records of training compliance**
- 26. That Professional Standards maintains supervision of persons of concern and the development of management plans for them**
- 27. That those involved in the assessment of persons of concern and preparation of risk management plans should be appropriately trained and qualified to make such assessments**
- 28. That the definition of a 'person of concern' be amended**
- 29. That the Prevention of Harassment and Abuse Policy and Child Protection Policy be merged to form a Safeguarding Children and Vulnerable Adults Policy, with the Child Protection Procedure to be re-named**

4.6 RECONCILIATION MINISTRY

Reconciliation Ministry has one employee and was until recently conducting casework as well as an educative role across the whole of the LCA NZ. Lack of adequate resourcing has resulted in an ineffective system that raised many concerns particularly in the submissions phase of this review.

The principles behind reconciliation ministry are admirable and fit well with the culture and Constitution's guiding principles. However, under-resourcing has resulted in it being ineffective and not living up to its potential. A lack of clarity in the role distinction between Reconciliation Ministry and Professional Standards has also resulted in tensions between the departments.

RECOMMENDATIONS

- 30. That the principles of reconciliation be embedded into the ALC training packages for pastors and church workers**
- 31. That these principles are taught throughout training and become an integral part of training, so that pastors and church workers are familiar with the techniques employed and equipped to approach conflict in a reconciliatory manner on graduation**
- 32. That case-based reconciliation ministry be outsourced to external organisations specifically qualified to carry out case work.**
- 33. That Reconciliation Ministry as it currently exists be disbanded.**

4.7 PASTORS

The review has not undertaken an exhaustive analysis of the pastor's position, conditions and circumstances within the LCANZ. In consultation, issues have been raised with the current call document and whether it is still a sufficient document. Pastors have traditionally been considered as being called to the role and accordingly are not employees. This interpretation can place pastors in a vulnerable position as they are not afforded the protections that exist from being an employee.

This interpretation of their role also impacts the discipline system. For a working relationship to exist, there needs to be clarity in the role and expectations of pastors, for all parties. There also needs to be clearly defined expectations from a calling congregation as to what expectations exist. Work-related stress, and ambiguity in the role and relationships, are undesirable in a church context.

Attention needs to be given to proper screening of candidates, foundational training, vocational/ professional development, continuing education and effective supervision and guidance. Access to information on appropriate standards must be easy to access, and easily understood. A regular review process for pastors to ensure that their expectations and the calling congregations are met is an important part of any discipline system, so as to avoid conflicts developing.

Reviews and participation in them should be encouraged as a healthy way of assessing how a call is progressing from the perspective of all parties.

Any discipline system implemented will impact upon pastors and their role within the church. It is accordingly important that pastors are provided with training as to the discipline system. Pastors should also be supported within such a system and be able to obtain information and advice. Consideration should be given to establishing a form of guild to fulfil the role of advisor and support to pastors in areas of discipline.

RECOMMENDATIONS

- 34. Foundation training for pastors should include ethical standards and practical ways to avoid compromising conduct.**
- 35. Suitable programs for promoting the wellbeing of pastors should be examined and implemented, including support programs.**
- 36. Foundational documents clearly setting out expected standards of behaviour for pastors, such as call documents and a code of conduct, should be developed or enhanced, where appropriate, in a role-specific way.**
- 37. Members in key positions in congregations should be educated on the standards of behaviour expected of their pastor.**

- 38. There should be clear and timely advice available for congregations where there are concerns about the standard of behaviour of a pastor.**
- 39. The LCA NZ should examine the terms and conditions of pastors to avoid undue work-related stress and ambiguity in roles and relationships and implement appropriate changes.**
- 40. A guild should be established to advise and assist pastors in disciplinary matters.**

REPORT: REVIEW OF THE LCANZ'S ECCLESIASTICAL DISCIPLINE, ADJUDICATION AND APPEALS, AND PROVISIONS, POLICIES AND PROCESSES

APPENDIX 1

LUTHERAN CHURCH OF AUSTRALIA REVIEW OF THE LCA'S ECCLESIASTICAL DISCIPLINE, ADJUDICATION AND APPEALS PROVISIONS, POLICIES AND PROCESSES

BACKGROUND

At its Convention in October 2018 the LCA General Synod adopted the following resolution:

The General Synod requests the General Church Board to undertake a review of the LCA's overall Ecclesiastical Discipline Adjudication and Appeal's provisions, policies and processes including a review of the PSD and related policies, procedures and practices, in response to concerns raised in congregational and district pastors conference proposals submitted to this Synod on matters related to the discipline and judicial system of the Church.

That the review be conducted by people with no involvement in allegations against the PSD nor with any responsibility for PSD. Those undertaking the review to be members of the LCA and include high level theological expertise and knowledge of police and judicial matters as well as the Royal Commission into the Institutional Abuse of Children. That submissions to the review be sought from interested parties.

As highlighted in the Synod resolution, the resolution was responding to a range of concerns expressed by a number of LCA bodies in respect to the judicial system of the church and the work of the Professional Standards Department.

The resolution aims to undertake the review in a comprehensive and integrated way, rather than address specific issues in a piecemeal manner.

The Synod also resolved that the review be conducted as independently as possible, but the 'review team' membership is drawn from the church and consist of people with the requisite skills, qualifications and experience.

TERMS OF REFERENCE

To enable the LCA's ecclesiastical discipline, adjudication and appeals structures, policies, processes and procedures to meet the aspirations and responsibilities of the Church and which are consistent with contemporary standards the review will:

1. Examine the LCA's Ecclesiastical Discipline, Adjudication and Appeals provisions, policies and procedures, including the role of the Professional Standards Department and Reconciliation Ministry
2. Call for and receive submissions from interested parties
3. Identify the relevant issues and concerns with the current arrangements and any anticipated issues
4. Where appropriate, identify and examine systems used in other organisations

5. Examine any other relevant matters; and
6. Make recommendations in a final report to the General Church Board.

SCOPE OF WORK

The scope of work will be determined by the review team in a manner that it considers necessary to achieve its terms of reference. It has been encouraged by the General Synod to conduct the review in a manner that provides an opportunity for all parties with an interest in the review to provide their input, and thereby reflects the diversity of perspectives on the matters under consideration.

The GCB requests that, as the matters under review are of a sensitive and, in some situations, are deeply personal in nature, the review team establishes an environment in which all who participate in this process do so in a respectful manner and, accordingly, will apply the five principles of dialogue in the LCA.

REVIEW TEAM

A review team will be appointed by the General Church Board. The team leader will also be appointed by the General Church Board. The membership will consist of members with a commitment to the mission of the church and with relevant skills, qualifications and experience in one or more of the following areas:

- a) Leading review processes
- b) High level theological expertise and knowledge
- c) Child protection, and preferably with a good knowledge of the report and recommendations from the Royal Commission into Institutional Responses to Child Sexual Abuse
- d) Complaints handling or a related field; and
- e) Policing or legal background that is relevant to the matters subject to the review.

As required by the Synod resolution, the members will have no involvement in allegations against the PSD nor with any responsibility for PSD and, for the sake of a consistent approach, will have no involvement in allegations against the Judicial System nor with any responsibility for the Judicial System and Reconciliation Ministry.

The GCB will provide resources to establish a secretariat which will provide logistical and other forms of support to the Review Team on its request.

The Review team may also seek external advice and expertise, if necessary.

MEETINGS

The Review Team will establish its own schedule of meetings, which it considers necessary and appropriate to satisfy the requirements of the Terms of Reference.

TIMEFRAME

An interim report will be submitted to GCB by no later than 3 April 2020. A final report with recommendations will be submitted to GCB by no later than 9 October 2020.

General Church Board
22 February 2019