



# COMPLAINTS HANDLING PROCEDURE

SC04-1\_Complaints Handling Procedure\_1.0

## Purpose

The purpose of this procedure is to implement the Complaints Handling Policy (the policy) of the Lutheran Church of Australia (the church).

## Key principles

The following are key principles:

- the safety and welfare of children to be absolutely paramount, where a complaint affects children
- the fulfilment of all legal and ethical obligations pertaining to the reporting of risk of harm to, and cooperation with, any relevant external authority such as (but not limited to) a local police service
- protection of all persons who attempt to disclose misconduct in good faith from legal action, detrimental conduct and breaches of confidentiality
- handling complaints in a respectful manner that safeguards the integrity and dignity of both complainants and respondents
- confidentiality to be maintained, when possible, with only relevant parties informed of the details of complaints
- availability of pastoral care and support to all parties during the complaints handling process
- timely responses to complaints and appropriate recordkeeping
- industrial relations processes to be invoked in employment-related matters, where appropriate.

## How to lodge a complaint

Complaints can be lodged with Professional Standards, using the following contact details:

Phone (free call) -

**1800 644 628** Australia  
**0800 356 887** New Zealand

Email - [Complaints@lca.org.au](mailto:Complaints@lca.org.au)

Mail - **Complaints**  
**PO Box 519**  
**MARDEN SA 5070**  
**Australia**

Mobile - Phone text message  
+61 (0) 438 320 218

## **Emergencies and dangerous situations**

If a person is at immediate risk of harm, call emergency services on 000 in Australia or 111 in New Zealand. If a person is in imminent, but not immediate, danger call the local police. It is possible that the process set out below for a church response may also apply but calling emergency services or local police, as applicable, must be the first priority. Also, refer to the church's Emergency Response Procedure.<sup>1</sup>

## **Suspected harm, or risk of harm, to a child**

The process set out below, for the church's response to a complaint, does not apply when a complaint relates to harm to a child. This includes a situation where an adult alleges they were abused as a child. Instead, see pages 5–14 of the church's Child Protection Procedure.<sup>2</sup>

## **Reporting criminal conduct**

If a complaint of misconduct relates to an action that is believed to be a crime, the complainant will be encouraged to call the police as soon as possible. If it is appropriate in the circumstances a representative of the church might be available to accompany the complainant to a police station, to make a report. Professional Standards will be responsible for making its own separate report to the police of the alleged offence, regardless of any requests from the complainant.

Following its report Professional Standards will not take any further action, in relation to the misconduct alleged, unless there is permission from police.

## **Pastoral care**

It is essential that the complainant, the respondent and any other party, who may be impacted during the handling of a formal complaint, are offered pastoral care and support from the church throughout the process.

Professional Standards will organise for pastoral care to be provided and will maintain a register of suitable pastoral care and support persons.

In addition, there is a list of useful contact numbers below.

## **Whistleblower protection**

The church is committed to:

- Enabling all persons who attempt to disclose misconduct in good faith to be protected from legal action, detrimental conduct and breaches of confidentiality
- Meeting all requirements of Part 9.4AAA of the Corporations Act 2001 (Cth) and the Protected Disclosures Act 2000 (NZ), as applicable

## **Conflicts of interest**

An individual who has a role in responding to a complaint will declare any relevant conflict of interest. The church must take all reasonable steps to appropriately manage the conflict of interest, in accordance with the church's Conflict of Interest Policy and Procedure.<sup>3</sup>

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<sup>1</sup> See [www.lca.org.au/policies](http://www.lca.org.au/policies)

<sup>2</sup> See footnote 1

<sup>3</sup> See footnote 1

## Church response to a complaint

The church's response to a complaint will not just take into account the key factual circumstances, but also the psychological and other effects on the parties involved and impacted.

If an issue raised pertains primarily to theology or doctrine, Professional Standards will refer the matter to the applicable bishop and will have no further involvement in attempting to resolve the issue.

There will be situations in the church where a person wishes to make a complaint, but where neither the policy nor this procedure is applicable in the circumstances. For example, a complaint about the behaviour of a teacher at a Lutheran school would more appropriately be directed to the principal of that school.

The process set out below will also not normally be applied in a complaint where it is more appropriate to invoke industrial relations processes. This may include situations where the Fair Work Commission or an employment lawyer has become involved, or where there has been an allegation of an unfair termination or of an underpayment. The Church Worker Support Department may be contacted for advice about such matters.<sup>4</sup>

The complainant must attempt resolution directly with the respondent, if appropriate and possible. In many situations it can be healthier to talk a matter through with the relevant local people, rather than seeking an investigation that may result in unnecessary stress. It might be possible to organise for neutral parties to facilitate some pastoral discussions, for the purpose of resolving the matter.

Importantly resolving the matter at a local level will only be appropriate if any emotional harm, harassment or abuse alleged is minor. Further, it is important to note Professional Standards must be notified of an allegation of sexual abuse or harassment.

In accordance with the policy, a response to a complaint will be timely. The below process will be commenced, implemented and completed in as brief a timeframe as is reasonably practicable with unnecessary delays minimised. However the specific timeframe for completion may depend upon a number of factors, such as delays in the receipt of relevant information, which are beyond the church's control.

If appropriate, Professional Standards will contact both the complainant and the respondent at least every two weeks to check whether they have any questions and whether they and their families have adequate pastoral care.

### *Process for addressing a formal complaint – key steps*

1. When Professional Standards receives a formal complaint, it will firstly notify the applicable bishop.
2. Professional Standards will refer the matter to the Complaints Triage Committee, for an assessment and recommendation regarding the best way for the church to address the complaint.
3. As part of its assessment, the Complaints Triage Committee will determine whether an investigation of an alleged breach of a church standard or policy is required.<sup>5</sup> This will be based on a number of factors, such as the credibility of the allegation and the seriousness of the misconduct alleged. The Complaints Triage Committee will aim to complete the assessment, within seven days of receiving all of the relevant details of the complaint, if possible. In accordance with guidance from the Complaints Triage Committee and instruction from the applicable bishop, Professional Standards will provide an appropriate written response to the complainant. If there is no investigation required it is most likely that Professional Standards will close its file, unless additional key details are subsequently provided for the consideration of the Complaints Triage Committee.

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<sup>4</sup> See [www.lca.org.au/cws](http://www.lca.org.au/cws)

<sup>5</sup> The Complaints Triage Committee will also consider whether it is necessary to take any interim measures that address health and safety requirements. For example this might involve standing the respondent down from ministry on a temporary, no fault basis or informing other parties of the substance of the complaint.

4. If the Complaints Triage Committee determines that an investigation is required, Professional Standards will proceed to prepare terms of reference for the investigation in accordance with the Complaints Triage Committee's instructions. Upon approval by the applicable bishop Professional Standards will engage an independent, external body (the investigator) to carry out the investigation.

The terms of reference for the investigation will require that a written notice is provided to the respondent, which identifies the relevant allegation. A copy of the policy and this procedure will also be provided to the respondent.

Professional Standards will inform the complainant who will be conducting the investigation. The investigation may involve seeking further information from the complainant and other parties. The investigator will avoid, if possible, making the complainant repeat their account of what allegedly happened. If the complainant is interviewed, they will be entitled to invite a support person to the interview.

The investigator will only disclose confidential information, when it is necessary to do so for the purpose of investigating the matter. It is possible, depending on the vulnerability of the complainant, that it would not be appropriate to disclose the complainant's name to the respondent. Whether there is such a disclosure is at the discretion of the investigator. It is important that when possible the complainant, the respondent and their support persons maintain confidentiality in relation to matters discussed during the investigation.

The investigator will provide an opportunity for the respondent to respond to the allegation in writing, as well as verbally. This may or may not involve meeting in person. If the respondent is interviewed, a support person for the respondent will be permitted to attend the interview.

The investigator will aim to complete the investigation within 30 days of commencing the investigation. The investigator will determine the allegation to be 'substantiated', 'partially substantiated' or 'not substantiated'.<sup>6</sup>

The investigator will provide an investigation report and all supporting evidence to Professional Standards and the applicable bishop.

5. The applicable bishop will make a preliminary determination, deciding firstly whether to accept the investigator's findings and secondly whether there are disciplinary actions required.<sup>7</sup>
6. Professional Standards will inform both the complainant and the respondent of the preliminary determination, with accompanying reasons, seeking confirmation of whether they accept the bishop's decision. Appropriate pastoral care will continue to be provided.
7. If either the complainant or the respondent confirm that they do not accept the determination, they are able to submit the matter to the church's Tribunal Administrator to consider whether there are sufficient grounds for referral to a church tribunal.<sup>8</sup>
8. If the Tribunal Administrator determines there are sufficient grounds for a tribunal hearing to occur the tribunal will consider the relevant appeal, together with supporting evidence, as well as the other side's response. The tribunal will prepare findings on whether the relevant allegation is substantiated and on whether disciplinary actions are required. The Tribunal Administrator will notify the applicable bishop and Professional Standards of the tribunal's findings.

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<sup>6</sup> The relevant standard of proof is the balance of probabilities, having regard to the principles set out in the case of *Briginshaw v Briginshaw*. This means, for an allegation to be substantiated, evidence must show it is more likely than not that the alleged breach of a church standard or policy occurred. If there is an allegation of a significant breach, and if there are potentially grave consequences for the respondent in the event that the allegation is substantiated, the relevant evidence needs to be able to withstand close scrutiny.

<sup>7</sup> Possible disciplinary actions may involve a requirement to complete further training, an official warning, counselling, close supervision, a suspension, or a permanent removal from ministry.

<sup>8</sup> Professional Standards will provide the Tribunal Administrator's contact details to the applicable party, at this point.

9. The applicable bishop will make a final determination and will communicate this determination, with reasons, to both the complainant and respondent. The applicable bishop is responsible for implementing any disciplinary actions. Professional Standards is responsible for facilitating the provision of continuing pastoral care to the parties involved and impacted.
10. The Policy and Procedure on Prevention of Risk of Harm from a Person of Concern<sup>9</sup> may still apply, even if the allegation has not been substantiated.

#### *Closing a file*

The Professional Standards file on a complaint will be closed, when there is no further action required. It should only subsequently be re-opened in the event that there is a compelling reason for doing so, such as new and salient evidence coming to light.

#### **Support contact numbers**

These services are staffed by professionally qualified and experienced counsellors. They are not employees of the Church.

##### *New Zealand*

Lifeline Aotearoa

T 0800 543 354 or text 'Help' to 4357

W [www.lifeline.org.nz](http://www.lifeline.org.nz)

24/7 crisis support and suicide prevention

Healthline

T 0800 611 116

W [www.health.govt.nz](http://www.health.govt.nz)

Health advice and information

Samaritans

T 0800 726 666

W [samaritans.org.nz](http://samaritans.org.nz)

Confidential emotional support 24/7 to those experiencing loneliness, depression, despair, distress or suicidal feelings

##### *Australia*

1800 Respect

T 1800 737 732

W [1800respect.org.au](http://1800respect.org.au)

24/7 telephone and online crisis counselling, information and referral for anyone in Australia who has experienced or been impacted by sexual assault, domestic or family violence. Staffed by trauma specialist counsellors.

Bravehearts

T 1800 272 831

W [bravehearts.org.au](http://bravehearts.org.au)

Specialist case management, counselling and telephone counselling for abuse survivors, non-offending family members and friends. Services include counselling, support engaging with Royal Commissions, preparation of written statements, attending private sessions and public hearings.

In Good Faith Foundation

T 03 9326 5991

W [igff.com.au](http://igff.com.au)

Provides independent advocacy, case work, referral and support to aid recovery for victims, their families and communities responding to clergy and other abuse.

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<sup>9</sup> See [www.lca.org.au/policies](http://www.lca.org.au/policies)

Lifeline  
T 13 11 14  
W [lifeline.org.au](http://lifeline.org.au)  
24/7 crisis support and suicide prevention

Relationships Australia  
P 1300 364 277  
W [www.relationships.org.au](http://www.relationships.org.au)  
Relationships Australia is a leading provider of relationship support services for individuals, families and communities. They aim to support all people in Australia to achieve positive and respectful relationships.

Suicide Call Back Service  
T 1300 659 467  
W [suicidecallbackservice.org.au](http://suicidecallbackservice.org.au)  
24/7 counselling for people 18 years and over who are suicidal, caring for someone who is suicidal or people bereaved by suicide.

### Review of this procedure

This procedure will be regularly reviewed in consultation with relevant ministries.

### Appendices

- A. Terms of reference for Complaints Triage Committee
- B. Terms of reference for church tribunal system

Name	SC04-1_Complaints Handling Procedure
Version	1.0
Document owner	Professional Standards
Document manager	Manager – Professional Standards
Reviewed by	Finance, Audit & Risk Committee, GCB
Approved by	EOC
Date approved	17 November 2023
Review date	November 2026
Confidentiality Level	Public

## Appendix A

### Complaints Handling Procedure flow chart

