

Kooyoora Ltd

PROTOCOL

for Safe Ministry in a parish or the Cathedral where there
is a risk of sexual abuse by a Person of Concern

A PROTOCOL UNDER THE
PROFESSIONAL STANDARDS UNIFORM ACT 2016 (Melbourne)

As approved by the Directors of Kooyoora Ltd on 19 February 2020

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Office of Professional Standards
Kooyoora Ltd
PO Box 329 Canterbury Vic 3126
Phone: 03 9416 1008

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**A PROTOCOL UNDER THE
PROFESSIONAL STANDARDS UNIFORM ACT 2016**

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NOTE:

The Office of Professional Standards is established by Kooyoora Ltd to provide support to people who make complaints about abuse and other misconduct by Anglican clergy, church officers, church employees and volunteers in the Anglican Diocese of Melbourne. The Director of Professional Standards is appointed by the directors of Kooyoora Ltd and operates independently of the Diocese.

- We take all complaints very seriously.
- We will do all we can to lessen harm by providing the best care possible.
- We offer respect, pastoral care and on-going long-term support to anyone who makes a complaint.
- We also offer support to any priest or Church worker who is accused of abuse or harassment or other misconduct. The rights of the person accused of misconduct will be respected.

1 Introduction

- 1.1 **Kooyoora Ltd** was incorporated on 12 January 2017 to operate independently of the Anglican Church the process to deal with the complaints against Church workers and to operate a screening regime, in each case for participating Anglican dioceses pursuant to the *Professional Standards Uniform Act 2016* of those dioceses.
- 1.2 This protocol is made by the directors of Kooyoora Ltd pursuant to the *Professional Standards Uniform Act 2016* (Melbourne) (**the Act**). It is intended:
- (a) to identify key aspects of the Act relating to safe ministry with Persons of Concern;
 - (b) to give effect so far as practicable to the Policy of the Anglican Church of Australia in a parish where there is a risk of sexual abuse by a Person of Concern; and
 - (c) to give useful information and guidelines about the way the participation of a Person of Concern in the life of a parish will be handled
- 1.3 This Protocol operates in conjunction with the Protocol for responding to complaints of misconduct by Church workers (**the Principal Protocol**) and is intended to promote safe ministry in a parish or congregation or in the Cathedral which has a Person of Concern amongst its numbers.
- 1.4 Using this protocol we will promptly respond to a report of a Person of Concern in a parish.
- 1.5 Section 3 summarises the roles of key participants in the process; section 4, the 11 stages to be followed in managing the participation of a Person of Concern in the life of a parish and subsequent sections provide the detail of that process.
- 1.6 Relevant legislation includes:
- Victorian legislation
- [Child Wellbeing and Safety Act 2005](#)
[Child Wellbeing and Safety Amendment \(Child Safe Standards\) Act 2015](#)
[Child Wellbeing and Safety Amendment \(Oversight and Enforcement of Child Safe Standards\) Act 2016](#)
[Crimes Act 1958](#)
[Crimes Amendment \(Sexual Offences\) Act 2016](#)
[Criminal Procedure Act 2009](#)
[Criminal Procedure Regulations 2009](#)
[Working with Children Act 2005](#)
[Legal Identity of Defendants \(Organisational Child Abuse\) Act 2018](#)
[Children Legislation Amendment \(Reportable Conduct\) Act 2017](#)
[Wrongs Amendment \(Organisational Child Abuse\) Act 2016](#)
- Melbourne Diocesan Legislation
- [Professional Standards Uniform Act 2016 \(Melb\)](#)
[Parish Governance Act 2015 \(Melb\)](#)

2 Key Terms

2.1 **Definitions:** In this Protocol, a reference to the **Principal Protocol** is a reference to the Protocol for responding to complaints of misconduct against Church workers in the Diocese of Melbourne, as approved by the Scheme Directors.

2.2 Key terms are defined as set out below and are italicised.

Alternative Ministry means either–

- ministry in a parish in whose life the Person of Concern may participate; or
- ministry by a member of the clergy who can provide pastoral ministry to the Person of Concern and admit them to Holy Communion in circumstances approved in advance in writing by the Archbishop.

Director means the Director of Professional Standards;

Executive Director means the Executive Director of the Office of Professional Standards;

Parish includes, in connection with a Person of Concern, an authorised congregation and the Cathedral;

Parish Council means the governing body of the parish constituted under the *Parish Governance Act 2013* (Melb);

Parish Representative means one or other of the vicar and Churchwardens of the parish;

Participate in the life of a parish means attending public worship in a parish, otherwise participating in activities of a parish, or any of those things;

Person of Concern is a person whose presence may constitute an unacceptable risk of harm to any person engaged in the activities of the parish as a result of sexual abuse or physical abuse and includes one or more of the following:

- (a) a person who has pleaded guilty to, has been convicted of, or has admitted to having committed, a sexual offence or other offence against the person;
- (b) a person who is currently charged with a sexual offence or other offence against the person;
- (c) a person who has been disciplined or had other action taken against them under a disciplinary or professional standards process of the Church or another organization because of sexual abuse or physical abuse, or who has

been refused ordination, employment or appointment in the Church or another organization because of an adverse risk assessment arising from sexual abuse or physical abuse;

- (d) a person who, as a result of sexual abuse or physical abuse, has received an adverse risk assessment from a professional with appropriate qualifications and experience in accordance with the requirements of another church or a statutory authority;
- (e) a person who has received or is receiving treatment for disordered sexual behaviour;
- (f) any other person within a class of persons prescribed from time to time by the Diocesan Bishop in Council.

prescribed Church worker has the meaning in schedule 1 of the Act;

prescribed Person of Concern means a Person of Concern whom the PSC in their absolute discretion under s67G has declared is a prescribed Person of Concern;

Process of Assessment has the meaning in paragraph 15.1 below;

PSC means the Professional Standards Committee;

relevant Church authority means–

- (i) in a parish, the vicar and the Churchwardens;
- (ii) in the Cathedral, the Dean and any other duly authorised representatives of the Chapter appointed for this purpose;
- (iii) otherwise the Archbishop and any duly authorised representatives of the Archbishop in Council appointed for this purpose.

Vicar includes a senior minister and a locum tenens.

2.3 Otherwise, expressions used have the same meaning as in the Act, s3.

3 Key Roles

3.1 In consultation with the PSC, the **Director of Professional Standards** exercises significant responsibility in the implementation of this protocol. The role of the Director includes, but is not limited to:

- determining on a preliminary basis that a specific person is a Person of Concern: s67D;
- managing the process of obtaining a formal assessment of a Person of Concern and of a parish in which they participate, or wish to participate and communicating the outcomes of those assessments to the relevant parties;

- reporting to the PSC to enable it to decide, on the basis of those assessments, whether a specific Person of Concern can participate in the life of a specific parish;
 - determining after consultation with the vicar and Church wardens, and implementing, any Interim Safety Arrangement: s67E;
 - developing for the approval of the PSC, and implementing an Interim Safety Arrangement, a Safety Plan and Safety Agreement with the assistance of the vicar and Churchwardens;
 - ensuring that Parish Accountability Groups have the necessary training and support; and
 - monitoring the effective implementation of an Interim Safety Arrangement, a Safety Plan and a Safety Agreement and monitoring compliance with the same.
- 3.2 The **Parish Council** decides whether to proceed with the Process of Assessment and, if it does, is kept informed by the Director of the outcome. If it does not agree to proceed with the Process of Assessment, the Parish Council will in effect prevent a Person of Concern being allowed to participate in the life of the parish unless the PSC is satisfied that the Person of Concern does not present an unacceptable risk of harm to any person engaged in the activities of the parish.
- 3.3 The **vicar** together with the Churchwardens is responsible for following the implementation of this process in a parish. When required, the vicar consults with the responsible bishop about the appropriate form of Alternative Ministry to be offered to a Person of Concern.
- 3.4 The **Parish Accountability Group** is appointed by the vicar and Churchwardens and monitors the participation of a Person of Concern in the life of the parish, including whether the Person of Concern continues to meet the conditions of the Safety Plan or Safety Agreement.
- 3.5 The **Kooyoora Support Panel** is appointed by the Executive Director and comprises people with appropriate qualifications and experience. Members of the Panel provide training and support to assist implementation of this policy and, when needed, may become members of a Parish Accountability Group.
- 3.6 The **PSC** is the Professional Standards Committee appointed under the Act. It plays key role in determining questions that arise in the process.
- 3.7 The Archbishop (whether directly or through an assistant bishop) is kept informed of the process involving a Person of Concern and, when required, provides advice about the form of Alternative Ministry to be offered to Persons of Concern. The Archbishop gives effect to a recommendation of the PSC, the Professional Standards Board and the Review Board, if so required under the Act.

4 Participation in the life of a parish

4.1 In the Act, unless the contrary intention appears

participate in the life of a parish means attending public worship in a parish, otherwise participating in activities of a parish, or any of those things;

clearance for participation means the clearance for participation in the life of a parish granted under the Act.

4.2 This protocol seeks to regulate participation in the life of a parish by a prescribed Person of Concern, defined as set out above.

5 Clearance for participation

5.1 A prescribed Person of Concern must apply to the Office of Professional Standards for a clearance for participation in the life of a specified parish: s67H of the Act.

5.2 The application must be in or to the effect of the prescribed form.

5.3 The Director, the PSC and the Office of Professional Standards must deal with the application in accordance with the Act and any applicable protocol. The Director may at any time lodge a complaint against a prescribed Person of Concern: s 21(1A).

5.4 The provisions of the Act and the Principal Protocol apply to a complaint by the Director against a prescribed Person of Concern as if the complaint against that person was a complaint against a Church worker, modified insofar as their participation in the life of a parish is taken to be a role office or person in the Church: s 21(1B).

6 Fitness for participation

6.1 It is a condition of eligibility for the grant of a clearance for participation that the Person of Concern does not constitute an unacceptable risk of harm to any person engaged in the activities of the parish whether unconditionally or subject to a satisfactory Safety Plan or Safety Agreement or other condition or restriction: s 67J of the Act.

7 Prohibition on participation: s67Q

7.1 If a prescribed Person of Concern—

(a) has failed to apply for a clearance for participation in relation to a parish and for a national Police Check in compliance with s 67H and that default continues for more than 7 days after written notice of that default from the Director requiring the person to remedy the same; or

(b) has been refused a clearance for participation by the PSC and has not by written notice to the Director objected to the determination within 21 days from the date they are notified of the determination; or

- (c) has been refused a clearance for participation by the PSC on the direction of the Board or on review, the Review Board; or
 - (d) has had his or her clearance for participation cancelled by the PSC on the direction of the Board or on review, the Review Board
- then—
- (e) the prescribed Person of Concern must not participate or continue to participate in the life of that parish or any other parish except to be admitted to the Holy Communion or the Lord's Supper in circumstances approved in advance in writing by the Archbishop.

See section 25 below for the duties of the Church authority if the prescribed Person of Concern has had any of the above events occur.

8 Stage 1 Identify a Person of Concern

- 8.1 The vicar or a Churchwarden or other prescribed Church worker may find out about a Person of Concern by receiving information from the Diocese, the Person of Concern, people in the parish or others elsewhere.
- 8.2 A prescribed Church worker is as stated above in paragraph 2.2.

9 Stage 2 Duty to notify the Director

Minister or a Churchwarden or other prescribed Church worker

- 9.1 Under s17(1A) of the Act, if any prescribed Church worker believes on reasonable grounds that a Person of Concern is participating or wishes to participate in the life of a parish and has no reason to believe that the Director is aware of those facts, the prescribed Church worker must as soon as possible report the matter to the Director.
- 9.2 If you are unsure whether a person is a Person of Concern, you may consult the Director.
- 9.3 If at a later stage and because of new information you hold the belief referred to in paragraph 9.1, you must report the matter to the Director.
- 9.4 The Director will make enquiries to determine whether in their view the person is a Person of Concern, and if the Director so determines, advise you of the outcome of their enquiries.
- 9.5 The Director will notify the Archbishop (or at his discretion, the responsible assistant bishop) as soon as practicable after information relating to a Person of Concern comes to hand and consult from time to time throughout the process with the Archbishop or the assistant bishop on the particular approach to be taken, consistent with the Act and this protocol.

10 Stage 3 Director's preliminary assessment

- 10.1 After making all reasonable enquiries, the Director will determine in their preliminary assessment–
- (a) whether the person is a Person of Concern;
 - (b) whether the person may constitute an unacceptable risk of harm to any person engaged in the activities of the parish, if pending any Process of Assessment, the Person of Concern continues to participate in the life of the parish; and if so
 - (c) whether the PSC should by resolution declare the person a prescribed Person of Concern and thereby require the person to apply for a clearance for participation in the life of the parish and a national Police Check
- and report the same to the PSC: s67D of the Act.
- 10.2 If the Director makes that preliminary determination, the Director will give notice in writing to the Person of Concern–
- (a) informing them of that preliminary determination; and
 - (b) giving them the opportunity within 7 days or such further period as the Director may allow to make any submission to the PSC as to why the PSC should not adopt the preliminary view of the Director.
- 10.3 The Director will also inform the relevant Church authority (in a parish, the vicar and Churchwardens) of their preliminary assessment.

11 Stage 4 Develop and put in place an Interim Safety Arrangement

- 11.1 After receiving notice that a Person of Concern is participating or wishes to participate in the life of a parish, if the Director determines in their preliminary assessment that the person may constitute an unacceptable risk of harm to any person engaged in the activities of the parish if pending any Process of Assessment, the Person of Concern continues to participate in the life of the parish, the following will apply.
- 11.2 The Director will advise the vicar and Churchwardens of their preliminary assessment and, in consultation with them, determine upon and put in place an Interim Safety Arrangement to manage that risk: s67E of the Act.
- 11.3 Developing an Interim Safety Arrangement is not to be an extended process. At a minimum, the Interim Safety Arrangement should be whatever is required to protect people in the parish from the risk of harm. It may include a condition that the Person of Concern should not participate in the life of the parish until the Process of Assessment is completed.
- 11.4 The vicar and Church wardens will be asked to decide, in consultation with the Director:

- (a) who in the parish needs to be informed of the Interim Safety Arrangement;
- (b) what information should be given;
- (c) whether that information should include the identity of the Person of Concern; and
- (d) if the Interim Safety Arrangement is to include a condition that the Person of Concern not participate in the life of the parish until the Process of Assessment is completed, whether Alternative Ministry can be provided to the Person of Concern, being either–
 - a parish in whose life the Person of Concern may participate; or
 - a member of the clergy who can provide pastoral ministry to the Person of Concern and admit them to Holy Communion in circumstances approved in advance in writing by the Archbishop.

11.5 The Person of Concern will be asked to comply with the Interim Safety Arrangement and co-operate with putting it in place. If they fail to do so, the available measures are outlined below in section 20.

12 Stage 5 PSC determines whether to require an application for a clearance

- 12.1 The PSC will consider the report of the Director and any response from the Person of Concern given within the time allowed by the Director: s67F.
- 12.2 The PSC will determine in their view, stating their grounds–
- (a) whether the person is a Person of Concern;
 - (b) whether the person may constitute an unacceptable risk of harm to any person engaged in the activities of the parish; and therefore
 - (c) whether that person should by resolution be declared a prescribed Person of Concern for the purposes of the Act and therefore be required to apply for a clearance for participation and a national Police Check: s67G.
- 12.3 The Director will give notice in writing to the Person of Concern–
- (a) informing them of the determination and resolution of the PSC; and if the determination is adverse to them
 - (b) requiring the person no later than 14 days from the date of the notice to apply to the Office of Professional Standards for a clearance for participation and a national Police Check.

There is no opportunity to the Person of Concern under the Act to seek a review of this determination of the PSC.

13 If the Person of Concern fails to apply for a clearance

- 13.1 If the prescribed Person of Concern fails to apply for a clearance for participation and a national Police Check and that default continues for more than 7 days after written notice of that default from the Director requiring the person to remedy the same, they are prohibited from participating in the life of the parish except to be admitted to the Holy Communion or the Lord's Supper in circumstances approved in advance in writing by the Archbishop: s67Q(1)(a).
- 13.2 If they continue to do so, the Director may serve written notice on the relevant Church authority in relation to the prescribed Person of Concern (the vicar and Churchwardens) of the default referred to in the preceding paragraph.
- 13.3 In that event, the Church authority must subject to s 67S(2) take all reasonable steps to prevent the prescribed Person of Concern from having entry or access to premises or activities of the Church in the parish, except to be admitted to the Holy Communion or the Lord's Supper in circumstances approved in advance in writing by the Archbishop: s 67S(1). That could mean for example calling the Police or security to exclude the Person of Concern from the premises of the parish.
- 13.4 The Director may independently, if circumstances require, lodge a complaint of misconduct against the Person of Concern under s21(1A) of the Act to the PSC. See further section 20 below.
- 13.5 In making the complaint of misconduct, the Director may rely inter alia on the matters by which that person falls within the definition of a Person of Concern and on any matter referred to in paragraph 13.1.
- 13.6 The making of a complaint serves to enliven the jurisdiction and process of the PSC and other bodies under the Act and to afford the Person of Concern procedural fairness in that process.
- 13.7 The provisions of the Act and the Principal Protocol dealing with complaints apply to that complaint by the Director: s21(1B). The provisions of section 8 of that protocol relating to the respondent apply to the Person of Concern.
- 13.8 Under s180 of the Act, the Director or Executive Director must, in respect of every matter with which the PSC is dealing, report either orally or in writing to the Archbishop and any other Church authority with such frequency and as fully as may reasonably be required.

14 If the Person of Concern applies for a clearance

- 14.1 The Director must deal with the application for a clearance for participation in accordance with Part 4.3 of the Act.

- 14.2 The Director will acknowledge to the applicant receipt of the application and determine how to proceed with their assessment in accordance with the following section.
- 14.3 The Director will forward or make available to the applicant an application for a National Police Certificate for completion and return to the responsible authority. The Diocesan Corporation will meet any expense of the Police Check.
- 14.4 The national Police Certificate will be issued direct to the applicant who is responsible for posting the original to the Director to record the date and reference number of the National Police Certificate and any adverse outcome.
- 14.5 The Director will conduct a search of the National Register of the Anglican Church of Australia and cause to be conducted such other investigation and enquiry as may be appropriate to the matter. The Director will proceed with the Process of Assessment as set out below.

15 Stage 6 Decide how to proceed with an assessment

- 15.1 This section sets out a procedure for deciding how to proceed with the Process of Assessment – that is to say, the process of–
 - (a) assessment of the Person of Concern, including whether that assessment should be undertaken by an Expert or by the Director or otherwise; and
 - (b) assessment of the parish.
- 15.2 The Director will discuss with the Person of Concern the Process of Assessment and the likely implications for them if participation in the life of the parish is approved.
- 15.3 If the Person of Concern is willing to proceed, the Director will meet with the Parish Council to explain the Process of Assessment and the likely implications for the parish if participation by the Person of Concern in its life is approved.
- 15.4 The Director will ascertain the view of the Parish Council as to whether–
 - (a) they are willing to proceed with the Process of Assessment and whether there should be an Expert Assessment of the Person of Concern; and whether
 - (b) the parish has the capacity and commitment to implement and monitor a Safety Agreement or Safety Plan to enable the Person of Concern to participate in the life of the parish.
- 15.5 If both the Person of Concern and the Parish Council are willing to proceed with the Process of Assessment, the Director, after consulting the PSC and any member of the Kooyoora Support Panel and taking into consideration the view of the Parish Council, will decide whether a separate Expert Assessment of the Person of Concern is required. It may not be required, for example, when the Person of Concern is perceived to represent a low risk of harm to people in the parish.

- 15.6 If either the Person of Concern or the Parish Council is unwilling to proceed with the Process of Assessment, the Director will make an assessment of the risk of harm to any person engaged in the activities of the parish if the Person of Concern continues to participate in the life of the Parish and report the outcome of this assessment to the PSC.
- 15.7 The PSC may proceed to determine the application for a clearance for participation in accordance with the Act: s67K, s67L. The PSC may determine to refuse the application and in that event, the Person of Concern must not participate or continue to participate in the life of that parish or any other parish except to be admitted to the Holy Communion or the Lord's Supper in circumstances approved in advance in writing by the Archbishop: s67L.

16 Stage 7 Conduct the necessary assessments

- 16.1 If paragraph 15.5 applies and both the Person of Concern and the Parish Council are willing to proceed with the Process of Assessment, the following steps are to be taken:

Assessment of the Person of Concern

- 16.2 If an Expert Assessment is required, the Director may rely on an assessment already conducted if that is current—exercising their judgement on the matter of currency—or arrange for an assessment to be carried out and forwarded to them.
- 16.3 If an Expert Assessment is not required, the Director will undertake an assessment of the Person of Concern.

Assessment of the parish

- 16.4 The Director will arrange for a Situational Assessment of the parish to be carried out.
- 16.5 The Assessment should address the following issues:
- Does the parish have the capacity to manage the Person of Concern?
 - What safe ministry infrastructure currently exists in the parish?
 - Are there suitable people willing to be members of any Parish Accountability Group?
 - What activities does the Person of Concern want to be involved in? Do any of these activities involve children? Do any of these activities take place off site?
 - What activities is the parish willing to have the Person of Concern involved in?
 - Is any person in the parish a known survivor of abuse?
 - Is a person in the parish a member of the family of a known survivor of abuse?
 - Would the location or layout of the church buildings make monitoring of the Person of Concern difficult?

- What forms of support would there be for the Person of Concern?
- Are there any special circumstances, for example, the known presence of other Persons of Concern?

17 Stage 8 Determination of the PSC after assessments

- 17.1 The PSC will consider any assessment of the Person of Concern and the Situational Assessment and determine whether the Person of Concern may participate in the life of the parish and, if so, under what conditions: ss67K, 67L.
- 17.2 Generally, the Person of Concern will not be permitted to participate in a leadership role such as reading the Bible or leading prayers in services, leading any youth or other group, or providing pastoral care. It is important to recognise that if a Person of Concern has a leadership role they will be perceived not to pose a risk to the safety of children and vulnerable adults. A Person of Concern who wishes to have a role office or position in the parish would generally need to apply for and obtain a clearance for service under Part 4.2 of the Act.
- 17.3 The PSC may also determine:
- whether the Person of Concern should be subject to a Safety Agreement, and if so, the terms of that Agreement; the PSC will work with the template approved under the *Professional Standards Uniform Regulations* and may make such modifications and additions as may be necessary or desirable in the particular circumstances of the matter;
 - whether the Person of Concern has an intellectual disability and should be subject to a Safety Plan in lieu of a Safety Agreement and if so, the terms of that Plan, noting the limited circumstances involving incapacity in which a Safety Plan may be used; see the definition of Safety Plan in the Act;
 - whether the parish is to form a Parish Accountability Group including the Parish Representatives.
- 17.4 The PSC will keep a record of these decisions in writing.
- 17.5 If the PSC determines that the Person of Concern may participate in the life of the parish, either conditionally or unconditionally, the Director will inform the vicar and Churchwardens and meet with the Person of Concern to explain the decision.
- 17.6 As arranged by the vicar and Churchwardens, the Director will explain the decision—and its implications—to the Parish Council. The explanation should address the outcome of any Assessment that was undertaken. In consultation with the Director, the vicar and the Church wardens will decide—
- who in the parish needs to be informed of the decision;
 - what information should be given; and

- whether that information should include the identity of the Person of Concern.

Person of Concern may object to the PSC determination

- 17.7 If the PSC determines that the Person of Concern should not be granted a clearance for participation in the life of the parish, the Director will inform the vicar and Churchwardens and meet with the Person of Concern to explain the decision and the process under which the Person of Concern may by written notice to the Director within 21 days from the date of the determination object to it. In that event, the PSC may refer the matter to the Professional Standards Board for adjudication: s67O(a) and 69 of the Act. See section 21 below.
- 17.8 The Person of Concern must not continue in that event to participate in the life of the parish, except to be admitted to the Holy Communion or the Lord's Supper in circumstances approved in advance in writing by the Archbishop.
- 17.9 If the PSC determines that the Person of Concern should only participate in the life of the parish subject to conditions prescribed by the PSC in a Safety Plan or Safety Agreement, the Director will inform the vicar and Churchwardens and meet with the Person of Concern to explain the decision. The Director may anticipate this approach by discussing with the parties the possible conditions of a Safety Plan or Safety Agreement.
- 17.10 The Person of Concern must honour those conditions and if they breach them, either the Director or the Parish Representatives may terminate the Safety Agreement.

18 Stage 9 Establish the necessary safeguards

- 18.1 The Director will complete the arrangements for any Safety Plan or Safety Agreement and provide copies to all parties. Alternatively, the Director will explain matters to the vicar and Church wardens and, if appropriate, to the Person of Concern. The Director will let the Bishop know of progress during the stages of this protocol and when any Safety Agreement or Safety Plan is in place.
- 18.2 The Director will provide training and support for the members of any Parish Accountability Group. Alternatively, the Director will arrange for a consultant selected from the Kooyoora Support Panel to provide the training and support.
- 18.3 The vicar and Churchwardens may constitute the members of a Parish Accountability Group and may after consultation with the Director appoint further suitable members.
- 18.4 If necessary, the Director will arrange for the establishment, training and support of the Parish Accountability Group.

19. Stage 10 Monitor the arrangements made

Variation of any Safety Agreement or Safety Plan

- 19.1 At least once a year, the Director will review the operation of the Safety Plan or the Safety Agreement.
- 19.2 If at any time the Director considers that the Safety Agreement or Safety Plan is inadequate to protect people in the parish from the risk of harm, or otherwise requires variation, the Director will report the matter to the PSC for further consideration.
- 19.3 If after this consultation the PSC decides that the Safety Agreement or Safety Plan should be varied, the Director will meet with the Person of Concern, the vicar and Churchwardens—and at their discretion the Parish Council—to explain the decision and seek the agreement of the parties to a variation.
- 19.4 The Director will inform the Archbishop of the proposed changes.

Variation of arrangements for support and accountability

- 19.6 At least once a year, the Director will review the operation of any Parish Accountability Group.
- 19.7 If at any time the Director considers that the Parish Accountability Group is not providing support and accountability to the Person of Concern, the Director will report the matter to the PSC.
- 19.8 If after this consultation the PSC decides that the arrangements for providing support and accountability to the Person of Concern should be varied, the Director will meet with the Person of Concern, the Parish Accountability Group, the vicar and Church wardens, and if required, the Parish Council, to explain that decision and seek a variation in the arrangements.
- 19.9 The Director will inform the Archbishop of the proposed variation.

20. Stage 11 Further Action

- 20.1 If the Person of Concern fails to comply with an Interim Safety Arrangement or if for any reason an Interim Safety Arrangement cannot be put in place or if the person has committed any misconduct, the Director may lodge a complaint against the Person of Concern to the PSC.

Complaint - Interim position

- 20.2 The PSC may exercise its powers under s37 of the Act. If the PSC is satisfied there is an unacceptable risk of harm to any person if, pending the outcome of the complaint, the Person of Concern continues to participate in the life of the parish, the PSC may under Part 3.5 of the Act refer the matter to the Board or, as the urgency of the matter

requires, make a recommendation direct to the Church authority that pending that outcome—

- (a) the Archbishop direct that the minister who has the cure of souls refuse to admit the respondent to the Holy Communion or the Lord's Supper except in circumstances approved in advance in writing by the Archbishop; and
- (b) the Church authority take reasonable steps to prevent the respondent from having entry or access to premises or activities of the Church either generally or in a specified location or circumstances, except to be admitted to the Holy Communion or the Lord's Supper in circumstances approved in advance in writing by the Archbishop; or
- (c) such other action be taken as may be thought fit. (s37 as amended)

20.3 The provisions of Part 3.5 of the Act (Suspension) set out a procedure which the PSC and the Board must follow to ensure that appropriate procedural fairness is accorded to the respondent.

Final disposition

20.4 **The PSC** will consider whether—

- (a) to exercise its powers under s27 of the Act to dismiss the complaint or to take no further action or to take limited action in relation to the complaint or to recommend any steps to be taken; or
- (b) to refer the matter to the Board for determination and any recommendation to the Church authority pursuant to s78 of the Act.

20.5 The PSC may determine to refer the complaint or application for clearance to the Board under section 69 on the happening of any of the following events specified in s67O of the Act—

- (a) if the PSC has made a determination under paragraph (a) or (b) or (c) of section 67M and the Person of Concern has by written notice to the Director objected to the determination within 21 days from the date they received the determination;
- (b) if a Person of Concern has breached a condition of an Interim Safety Arrangement or a Safety Plan or a Safety Agreement or any variation of the same and has failed to remedy the same within 7 days from written notice from the Director notifying the breach;
- (c) if a Person of Concern is prohibited by the provisions of section 67Q from participating or continuing to participate in the life of a parish or any other parish and in contravention of that prohibition participates or continues to participate in the life of the parish or any other parish;
- (d) if the Church authority has breached a condition of an Interim Safety Arrangement or a Safety Agreement or Safety Plan or

any variation of the same and has failed to remedy the same within 7 days from written notice from the Director notifying the breach;

- (e) the PSC determines for other good reason, the complaint or matter should be referred to the Board.

20.6 **The Professional Standards Board** may recommend as it sees fit, under s78 of the Act, for example, under s78(g) that—

- (a) the Archbishop direct that the minister who has the cure of souls in the parish refuse to admit the respondent to the Holy Communion or the Lord's Supper except in circumstances approved in advance in writing by the Archbishop; and
- (b) the Church authority take reasonable steps to prevent the respondent from having entry or access to premises or activities of the Church either generally or in a specified location or circumstances, except to be admitted to the Holy Communion or the Lord's Supper in circumstances approved in advance in writing by the Archbishop.

21 Determination by the Board

21.1 For details of the composition of the Board, refer to Part 22 of the Principal Protocol.

21.2 The proceedings of the Board and the Review Board are governed by Part 5.5 of the Act.

21.3 On the referral to the Board of an application for a clearance for participation, the Board must enquire into and determine—

- (a) whether the Person of Concern did commit any alleged misconduct; and
- (b) whether—
 - (i) the Person of Concern is unfit, whether for a specified limited period or permanently, to participate in the life of a parish; or whether
 - (ii) in participating, the Person of Concern should be subject to any condition or restriction:

s81 of the Act.

21.4 The Board must hold a preliminary conference and give directions in relation to the application: s101 of the Act.

21.5 If the Board is satisfied that the respondent did commit any alleged misconduct and that—

- (a) the Person of Concern is unfit as provided above; or
- (b) in participating in the life of a parish, the Person of Concern should be subject to any condition or restriction

the Board may make a determination to that effect and may—

- (c) direct that the Office of Professional Standards refuse the

application or issue the clearance for such period and subject to such condition or restriction as it may determine; and

(d) exercise the powers referred to in sections 77 and 82 of the Act: s81 of the Act.

21.6 Within 7 days of the Board making any final finding of fact or direction on the application for a clearance for participation (**the decision**) that is adverse to the applicant, the Executive Director shall inform the applicant of the decision.

21.7 The applicant has no right of review of the decision under the Act in relation to an application for a clearance for participation.

22 Proceedings of the Board

22.1 The Board—

- (a) must act with fairness and according to equity, good conscience, natural justice and the substantial merits of the case without regard to technicalities or legal forms; and
- (b) is not bound by the rules of evidence but may inform itself on any matter in such manner as it thinks fit: s97 of the Act.

22.2 Part 5.5 of the Act contains provisions dealing with the proceedings of the Board and the Review Board.

22.3 The Board must not in the course of inquiring into any question—

- (a) inquire into any matter which is or has been the subject of any formal investigation or enquiry conducted—
 - (i) under or pursuant to any provision of the Constitution; or
 - (ii) under or pursuant to a Canon of the General Synod, a Canon or an Ordinance of another diocese relating to the discipline or professional standards of clergy or Church workers by a board of enquiry, tribunal or other body—

save to the extent of any fresh evidence that was not reasonably available during the previous formal investigation or enquiry, but may take into account the finding of any such formal investigation or enquiry; or
- (b) inquire into, make any findings in relation to or take into account any alleged breach of—
 - (i) faith of the Church, including the obligation to hold the faith;
 - (ii) ritual of the Church, including the rites according to the use of the Church and the obligation to abide by such use; or
 - (iii) ceremonial of the Church, including ceremonial according to the use of the Church and the obligation to abide by such use:

s111 of the Act.

23 The Church authority

- 23.1 Section 67Q: If a prescribed Person of Concern—
- (a) has failed to apply for a clearance for participation in relation to a parish and for a national Police Check in compliance with section 67H and that default continues for more than 7 days after written notice of that default from the Director requiring the person to remedy the same; or
 - (b) has been refused a clearance for participation by the PSC and has not by written notice to the Director objected to the same within 21 days from the date of the determination; or
 - (c) has been refused a clearance for participation by the PSC on the direction of the Board or on review, the Review Board; or
 - (d) has had his or her clearance for participation cancelled by the PSC on the direction of the Board or on review, the Review Board
- then—
- (e) the prescribed Person of Concern must not participate or continue to participate in the life of that parish or any other parish except to be admitted to the Holy Communion or the Lord's Supper in circumstances approved in advance in writing by the Archbishop.¹
- 23.2 A wilful or reckless failure to comply with a requirement of subsection (1) or (2) renders the prescribed Person of Concern liable to be dealt with for misconduct under this Act as if a Church worker.
- 23.3 If a Church authority in relation to a prescribed Person of Concern in any parish (the vicar and Churchwardens) has received written notice from the Director of any of the matters in paragraphs (a), (b), (c) and (d) of section 67Q, the Church authority must subject to subsection (2) take all reasonable steps to prevent the prescribed Person of Concern from having entry or access to premises or activities of the Church either generally or in a specified location or circumstances, except to be admitted to the Holy Communion or the Lord's Supper in circumstances approved in advance in writing by the Archbishop: s67S(1).
- 23.4 The vicar may admit the Person of Concern to the Holy Communion or the Lord's Supper in circumstances approved in advance in writing by the Archbishop.
- 23.5 A wilful or reckless failure to comply with a requirement of subsection (1) of S67S renders the Church authority liable to be dealt with for misconduct under this Act.

24 Completion of the Process

- 24.1 As appropriate the Executive Director will liaise with those involved in this Protocol at the completion of the matter and will seek comments about the process and may discuss possible improvements.

¹ *Holy Communion Canon 2001*

- 24.2 Proposals regarding any changes within the structures of the Church which may assist to prevent further occasions of abuse will be considered.
- 24.3 Any recommendations resulting from this activity will be provided to the Scheme Directors.

25 Confidentiality

- 25.1 Part 8.2 of the Act imposes strict confidentiality obligations in connection with a complaint or matter but requires or authorizes disclosure in the circumstances there referred to. See also Part 28 below of this Protocol.

26 Co-operation with Government Authorities

Reference should be made to Part 27 of the Principal Protocol.

27 Co-operation with other Dioceses, other Denominations and other Child Related Employers

Each of the Director and the PSC has a duty under the Act to disclose certain information in their possession relating to alleged misconduct of a Church worker to other office holders or bodies in the circumstances there prescribed: s177 - 180 of the Act.

28 Grievance procedure

- 28.1 Any grievance about the operation of this Act or this protocol must in the first instance be addressed in writing to the Executive Director of the Scheme Corporation marked confidential.
- 28.2 The grievance is to be dealt with in accordance with the provisions of ss182 and 183 of the Act.
- 28.3 The Executive Director must consider the grievance and forward the same to the Director and to the investigator or other staff member if any involved for a written response within 14 days or such longer period as the Executive Director may allow.
- 28.4 The Executive Director must provide the person lodging the grievance and the Scheme Directors with a written response and an outline of any proposed action.
- 28.5 If the person aggrieved about the operation of this Act or any protocol approved under it remains so after receiving the response from the Executive Director, that person may address their grievance in writing to the Professional Standards Ombudsman. That person is appointed by the Scheme Directors pursuant to Part 7.5 of the Act.
- 28.6 The Professional Standards Ombudsman must consider the grievance and forward the same to the Director and to the investigator or other

staff member if any involved for a written response within 14 days or such longer period as the Professional Standards Ombudsman may allow.

- 28.7 The Professional Standards Ombudsman must provide the person lodging the grievance and the Scheme Directors with a written response and an outline of any proposed action.
