



Uniting Church in Western Australia

Policy for Responding to Complaints of Past Abuse

December 2014

Purpose

This policy is to address allegations of child abuse, against past employees (including employees, carers and volunteers), brought by adults over 18 years of age who, as children, were in the care of Uniting Church or predecessor organisations within the bounds of the Synod of Western Australia.

Exclusions

This procedure should not be used for current employees, carers or volunteers working with the Uniting Church in Australia or any of its organisations. Procedures for addressing these complaints must access the relevant policies of the Uniting Church in Australia or the particular organisation.

This procedure should not be used where the complaint relates to the possible abuse of children who are still under the age of 18 years. In such circumstances the complaint should be referred directly to police.

Principles

The Uniting Church believes that God has given us the gift of the Spirit to "constantly correct that which is erroneous" in our life (*Basis of Union*, Para 18). Therefore, we will not hide from the truth, however painful that may be.

The Uniting Church Synod of WA and its community service agencies, schools and colleges, hereafter referred to as Organisations, will respond to complaints of past abuse of children in care in a manner which promotes healing. To this end it will listen respectfully and compassionately and, where appropriate:

- apologise for past wrongs
- provide access to specialised assistance and/or ex gratia payment
- support access to legal authorities

Complaints and/or allegations of abuse are serious. Each complainant shall and must be treated with respect and consideration, and in alignment with the Church's core values.

Any person who has received services from the Uniting Church in Australia WA Synod, an organisation of the Uniting Church in Australia or its predecessor has the right to complain. All complaints will be accepted without prejudice.

A compassionate response to the complainant must be the first priority in all cases of alleged abuse. All complaints will be addressed in the shortest time practicable.

The Uniting Church will not act against any person for bringing a complaint against a part of the Uniting Church and/or its ex-employees.

Access to a complaint and all details surrounding that complaint will be limited to those authorised to investigate and respond to it.

The Uniting Church Synod of WA adheres to an ongoing commitment to procedural fairness and natural justice for all those who have been service users of Uniting Church programs and services and for those who have worked for the Uniting Church, including employees, carers and volunteers.

Agencies and schools will have procedures which are consistent with this policy.

Any formal investigation into allegations will be undertaken by a person or persons independent of the Uniting Church.

We will not reinvestigate cases which have been investigated by Redress.

Any complaint or allegation by a minor shall be referred to the Police as soon as possible. Any complaint by an adult of abuse when they were a minor will be referred to the police if the complainant requests

Former residents who were in the care of the Uniting Church or its predecessors should be able to reasonably access personal information and the Uniting Church Synod of WA will reasonably support former residents who are seeking such information.

The Synod of WA encourages all members and staff to recognise the historical and personal importance and value of retaining former residents' client case files and other material of significance. Any Organisationⁱ that holds such material will ensure that it is securely stored.

Procedures

1. Initial enquiry and contact from complainant

Where a person requests information regarding the making of a complaint, they should be referred to the Designated Personⁱⁱ. Where the Designated Person is unavailable, the staff member should indicate that the Designated Person will contact them as soon as possible. If the person indicates that this is not acceptable and is reluctant to leave their contact details, the staff member must refer the person to these policies and procedures available at <http://unitingchurchwa.org.au/safe-church/> or, if the contact is made in person, provide a hard copy of the policy and information about how to contact the Designated Person.

Where a person indicates that they intend to report their complaint to the Police, the Designated Person or staff member receiving the report should refrain from obtaining full details of the allegations, particularly where the allegations involve sexual offences.

2. When a complaint is made

Where a complainant does not intend to report their complaint to the police, that complainant's complaint must be referred to the Designated Person as soon as possible so that the Designated Person is the first to receive more detailed information regarding the complaint.

Persons receiving such a complaint should be encouraged to make notes of the information received as soon as possible so that the maximum amount of detail is recorded.

Initial complaints may be made verbally or in writing, in any language.

The Designated Person must listen to the concerns expressed and explain to the person the principles and processes for the resolution of such complaints. The Designated Person will also provide a copy of this policy and procedures document, and any other specific materials which may be deemed helpful.

The Designated Person must consider whether the complaint is criminal in nature and discuss this issue with the complainant, including the possibility of reporting the complaint to the Police or relevant authorities.

2.1. Outcomes sought in relation to allegations

The Designated Person must discuss with the complainant the desired outcome of the complaint. The Designated Person must maintain a record of each allegation and the desired outcome for each.

Where a complainant indicates an intention to make a formal complaint in relation to an allegation, the Designated Person must ensure that the Head of Organisationⁱⁱⁱ - General Secretary/CEO/Principal - is informed in writing of that intention within 24 hours.

Where a complainant seeks counselling in relation to any trauma suffered as the result of alleged abuse, the Designated Person should inform the complainant regarding available internal and external counsellors.

Where the complainant nominates to receive counselling from an external counsellor, the Organisation may make a contribution towards any costs of that counselling.

Where a complainant seeks counselling only, the Designated Person should nevertheless consider whether any investigation should be conducted into allegations of abuse. The Designated Person should make appropriate recommendations regarding any investigation to the Head of the Organisation.

Upon receiving such recommendations from the Designated Person, the Head of the Organisation will inform the Chair of the Governing Body^{iv}, the Moderator and the General Secretary of the Uniting Church, WA Synod, within 24 hours.

2.2. Referral to external complaint procedure

Where a complainant indicates that they would prefer for their complaint to be handled by an external body, the Designated Person will refer them to the Police, Legal Aid or to another external body as appropriate in the circumstances.

Where the complaint involves allegations of a criminal offence, the Designated Person must urge the complainant to refer the matter to the Police.

Where the complainant indicates that they do not wish to refer the matter to the Police, the Organisation must obtain advice as to whether it should report the matter of its own accord.

Where a complainant indicates that they do not wish to report the matter to the police, the complainant must be warned that the Organisation itself may make a report of its own accord, depending on the severity of the offence and the public interest involved.

Following completion or conclusion of any criminal investigation and/or prosecution, a Uniting Church WA Synod internal investigation process may be activated or reactivated by the Head of the Organisation.

3. Support Person

The Designated Person must offer the complainant a Support Person for the duration of the complaint process.

The Support Person may be a staff member from within the Organisation or such other person as nominated by the complainant.

The role of the Support Person is to assist the complainant through the process. The Support Person may, with the permission of the complainant, be present at any meetings convened in relation to the process to which the complainant is invited.

The Support Person must not in any way represent the complainant either formally or informally unless the Support Person has express authority to do so.

4. Formal Complaint

A complainant wishing to make a formal complaint must outline that complaint in writing (unless the complainant is unable to do so). This can be done with the assistance of the Support Person.

The Support Person may assist the complainant with the writing of the outline, or may write it on behalf of the complainant, provided that the resulting document is clearly understood by, and signed by, the complainant.

The Designated Person will acknowledge in writing their receipt of the written complaint.

5. Complaint to be handled internally

If a formal complaint is made, the Designated Person will seek direction from the Head of the Organisation as to whether an investigation is to occur (Section 7), or whether sufficient information is already available to indicate that an investigation is unnecessary (Section 6). Factors to be taken into account in this decision

include the wishes of the complainant, knowledge of other instances of abuse, the length of time since the abuse, the likelihood of being able to locate witnesses etc. It is possible that even though the Head of the Organisation is satisfied that there is sufficient existing information to support the complaint, or not; the complainant may wish an investigation to take place as a matter of natural justice. In these instances the wishes of the complainant should take precedence.

6. No internal investigation necessary

Where there is to be no investigation, the Head of the Organisation should seek the approval of the Governing Body, and proceed to implement an appropriate response as outlined in Section 9.

7. Process for internal investigation

Where a complainant requests that an internal investigation be conducted, or the Designated Person or Head of the Organisation determines that such an investigation is appropriate in the circumstances (and where any external investigation has either not proceeded, is not appropriate or has been completed), the internal investigation process is to be commenced within the shortest possible time.

Internal investigations are to be completed within three months of the complaint being made except where the Governing Body and the complainant both agree that the investigation period should be extended as appropriate in the circumstances.

7.1. The Investigator

The Head of the Organisation shall appoint an Investigator who shall be contacted by the Designated Person to investigate the substance of the complaint and to assist the Organisation to respond appropriately.

The Investigator shall be independent of the Organisation, and shall be independent of any other person involved in the allegations, including but not limited to, the complainant and the ex-employee against whom the allegations are made.

The costs associated with an internal investigation process are to be borne by the Organisation.

Uniting Church Synod and Organisation staff will give the Investigator all reasonable assistance, including the provision of information, during the conduct of the investigation.

7.2. Investigation plan

The Designated Person and the Investigator shall develop an investigation plan.

The investigation plan will:

- summarise the issues to be addressed throughout the investigation
- establish clear objectives for the conduct of the investigation
- list the people who will be interviewed throughout the investigation process
- summarise the evidence to be sought or obtained
- establish a strategy for the confidential management of the investigation
- establish a process by which parties to the investigation will be kept adequately informed as to the status of the investigation.

7.3. Contact with the ex-employee

The Investigator shall, wherever feasible and appropriate in the circumstances, contact the ex-employee against whom allegations have been made.

Where the Investigator determines that contact with the ex-employee is not feasible or appropriate in the circumstances, the reasons for that determination must be provided in writing to the Head of the Organisation.

An ex-employee will be contacted only through the nominee of the Designated Person who will make the appropriate arrangements such that the ex-employee may be interviewed in relation to the complaint.

Where an ex-employee is contacted regarding a complaint or allegation made against them, the Designated Person must offer to provide the ex-employee with a Support Person for the duration of the investigation.

The ex-employee's Support Person must not in any way represent the ex-employee, either formally (for example, as a legal representative) or informally.

The ex-employee and any person connected to or associated with them, must be requested not to contact or attempt to contact the complainant or to involve themselves in the investigation process in any way, except as directed by the Investigator, the Designated Person or the Head of Organisation.

7.4. Investigator's report

The Investigator must, at the conclusion of the Investigation, provide to the Head of the Organisation a written report.

The written report must:

- outline the process by which the investigation was conducted
- describe the outcomes of the investigation
- make recommendations as to an appropriate response to the complaint [with reference to the outcomes originally sought by the complainant].

8. Procedure following conclusion of the internal investigation

8.1. Governing Body to make a determination

Following the conclusion of the internal investigation and having received the Investigator's written report, the Head of the Organisation will present, as soon as practicable, to the Governing Body:

- the Investigator's recommendations
- the Head of the Organisation's own recommendations
- the reasons, for which the Head of the Organisation considers that the Investigator's recommendations should be implemented, modified or rejected.

The Governing Body will then determine the appropriate course of action to be undertaken.

8.2. Implementation of action to be taken

Where the Governing Body determines that action is to be taken, the Head of the Organisation will determine whether it is appropriate that that determination be implemented by current Organisation staff.

Where implementation of a determination by current staff is inappropriate in the circumstances, an external facilitator may be engaged to implement the determination.

Any external facilitator should ordinarily not be the same person who conducted the internal investigation except where this is appropriate in the circumstances.

Where the course of action determined by the Governing Body involves another organisation, the Governing Body will, where appropriate, authorise the Head of the Organisation to discuss the implementation of that course of action with the relevant external parties.

Where the complainant or ex-employee has had access to a Support Person throughout the investigation process, the Support Person will maintain contact with that complainant or ex-employee until the implementation of the determination has commenced.

8.3. Provision of information to complainant and ex-employee

The Head of the Organisation will inform the Designated Person of the Governing Body's determination as to the appropriate course of action.

The Designated Person will present the Organisation's determination in writing to:

- the complainant and their Support Person; and
- any ex-employee involved in the complaint.

9. Process of implementation

The following procedure for implementing a determination that action is to be taken should be followed either when an internal investigation is unnecessary, or on finalisation of an internal investigation as outlined in Section 8.

9.1. Process of implementation: formal apologies

Where the Governing Body determines that an appropriate response to the complaint requires that the complainant receive a formal apology, the apology is to be made in a form and manner that is negotiated and acceptable to the complainant.

9.2. Process of implementation: financial settlement

Where the Governing Body determines that a financial settlement is to be offered to the complainant, the Governing Body is to make its offer of financial settlement only after taking advice from the Uniting Church General Secretary as to the appropriate quantum and terms of settlement.

The complainant is entitled to access to independent legal advice as to whether to accept the offer of a financial settlement, the reasonable costs of which will be met by the Uniting Church WA Synod.

[Alternative 9.2 Process of implementation: further steps]

Where the Governing Body determines that further steps in addition to an apology are to be taken, the further steps must be taken as soon as reasonably possible.

9.3. Process of implementation: no condition of confidentiality to be imposed on complainant

Notwithstanding any provision in this policy relating to confidentiality, no complainant shall be required to give an undertaking which imposes upon them an obligation of silence concerning the circumstances which led them to make a complaint, or the action that has been taken, as a condition of an agreement with the Uniting Church.

10. Review of Complaint Process and/or Review of Determination

If a complainant and/or ex-employee against whom a complaint is made is of the opinion that they have not been afforded procedural fairness in the course of the complaint process, then they may request in writing, by no later than 14 days of the process being concluded or the determination provided, that the process of investigation and/or determination be reviewed.

Requests for reviews of process are to be made in writing to the Head of the Organisation by the complainant or ex-employee.

Any review of process or determination is to be conducted expeditiously.

A review of process or determination shall be undertaken by a person or persons appointed by the Head of the Organisation. The reviewer/s shall have the authority to interview all relevant staff concerned and will have access to all relevant documentation.

The Head of the Organisation shall provide to a person who has requested a review of process and/or outcome a written report on the findings of that review upon completion. The report will also be supplied to the Designated Person and the Head of the Organisation.

Where the review results in the recommendation that a change to the original determination be considered, the processes described in Sections 8 and 9 must be followed.

11. Current practice

The Designated Person shall consider how the complaint and any investigation and determination of the complaint could inform current practice. The Designated Person must then make appropriate recommendations to the Head of the Organisation.

Advice of the outcome to be given to the Moderator and General Secretary by Head of Organisation.

12. After the complaint is resolved

Following the resolution of a complaint, the Designated Person is responsible for ensuring that all information pertaining to the complaint is included in the complainant's file and, where relevant, the ex-employee's file.

Such files shall be securely maintained in the central filing system of the Organisation.

13. Quality Improvement

The Designated Person shall, from time to time, consider how this Policy is achieving the desired outcomes of the complaint process and/or could inform and improve current practice, and make recommendations to the General Secretary accordingly.

Definitions

- * *Head of Organisation means Chief Executive Officer, Principal or General Secretary.*
- * *Governing Body means those bodies which are separately incorporated under the Uniting Church Act.*
- * *Designated Person means a person appointed from time to time by the Organisation.*

Flow Chart

To be reviewed in 2017

ⁱ Organisation means an agency or school separately incorporated under the Uniting Church Act WA

ⁱⁱ Designated Person means a person appointed from time to time by the Organisation.

ⁱⁱⁱ Head of Organisation means Chief Executive Officer, Principal or General Secretary.

^{iv} Governing Body means the Board of Council of those bodies which are separately incorporated under the Uniting Church Act.