

Procedure for Responding to Child Protection Concerns (ACT)

Adopted by Committee of Management on 13 May 2021

Purpose

The ***Procedure for Responding to Child Protection Concerns (Procedure)*** sets out a procedure to follow when a complaint or information about any form of child protection concern is received. In the ACT this includes a Sexual Offence Committed Against a Child or Young Person, Sexual Misconduct Involving a Child, Child Sexual Abuse and/or Non-Accidental Physical Injury.

The Church and its staff and volunteers have legal obligations to report certain information to government authorities, this includes duties under the *Crimes Act 1900 (ACT)*, *Children and Young People Act 2008 (ACT)*, and the *Ombudsman Act 1989 (ACT)*

Some of these duties apply to the church as an organisation or to church leaders, some of the duties apply to individuals. In some circumstances, failing to report knowledge of child abuse incidents to ACT Police may be a criminal offence. Baptist Churches of NSW & ACT have developed this ***Procedure*** to address various relevant duties in a way that is both thorough and practical.

Scope

This Procedure applies to all staff and volunteers of the Church.

Note: if reporting an incident which occurred in NSW, care should be taken to comply with NSW legislation. For assistance see the *Procedure for Responding to Child Protection Concerns (ACT)*.

If you have any doubt as to whether a complaint or information would fall within the scope of this Procedure, or about any of the steps set out in this Procedure, contact the Baptist Churches of NSW & ACT Ministry Standards Hotline on 1300 647 780.

The Procedure should be read in conjunction with the *Safe Church Policy* and:

- *Procedure for Handling Complaints Against Staff and Volunteers*
- *Safe Church Concerns Form*

1. Receiving a complaint or identifying a child protection concern

A child protection concern may include concerns regarding:

- a Sexual Offence Committed Against a Child or Young Person
- Sexual Misconduct involving a Child
- Child Sexual Abuse
- Non-Accidental Physical Injury
- Serious neglect of a child
- Behaviour which may psychologically harm the child
- Inappropriate discipline
- Inappropriately personal or intimate communication and/or behaviours which may constitute grooming
- Exposure of a child to Domestic and Family Violence
- or any other reason for concern

A child protection concern may be received:

- from a child who has been directly involved;
- from an adult who has been directly involved (including personal disclosures of wrongdoing);
- from another person with information about a child or adult;
- from another organisation with information about a child or adult;
- from staff or volunteers who have concerns based on their observations and interactions with one or more children or adults.

If someone raises a concern or reports an allegation:

- DON'T promise not to report the information
- DON'T ask leading questions
- DON'T attempt to assess the validity of the concern, or seek to investigate any allegation yourself
- DO clarify information reported to you if appropriate (for example, 'Can you tell me more about that?')
- DO assure the person that appropriate action will be taken
- if a child, DO reassure them that they are not at fault and that they will not be in trouble for sharing this information.

If a staff member or volunteer has a concern about a child's wellbeing but have not received any specific information they may report the concern, using the *Safe Church Concerns Form*.

2. Consider whether there is an immediate danger to a child

Where there is an **immediate** danger to a child

- contact Police immediately on (131 444 or 000) and report the information;
- follow any instructions given by Police;
- address any immediate safety needs of others present; and
- organise support for the person who has disclosed the complaint or information.

3. Internal Reporting

a) Complete Safe Church Concern Form

If a staff member or volunteer has or is notified of a child protection concern they should complete a *Safe Church Concerns Form* as soon as possible. This form should include relevant details of the concern, contact information, and the signature of the person completing the form.

b) Notify the Safe Church Team

- If a staff member or volunteer has or is notified of a child protection concern they must inform the Safe Church Team as soon as possible. The Safe Church Team is responsible for ensuring the church fulfils its legal obligations and ensuring that all concerns are managed appropriately.
- If there is any delay before the Safe Church Team can be contacted, the individual should consider whether it is necessary to report their concerns to external government agencies as outlined in step 4 below. They may contact the Ministry Standards Hotline on 1300 647 780 for advice.
- Staff and volunteers should ensure they do not discuss any concerns raised with the accused person at this point in time. Doing so may impede future investigation processes.
- If the concern raised would create a conflict of interest for a member of the Safe Church Team consider contacting the Baptist Churches of NSW & ACT Ministry Standards Hotline on 1300 647 780 for advice.

4. External Reporting to Government Agencies

a) Safe Church Team responsibilities

The Safe Church Team should:

- ensure all necessary reports are made. Reports to different government agencies is required for different purposes and therefore multiple reports may be required.
- keep detailed contemporaneous notes of all information and steps taken.
- Where necessary, also follow all relevant steps outlined in the *Procedures for Handling Complaints Against Staff and Volunteers*.

b) Mandatory Reporting to the Child and Youth Protection Service (CYPS)

If a pastoral staff member

- Believes, on reasonable grounds, that a child or young person is being or has been **sexually abused**, or is experiencing or has experienced **non-accidental physical injury** (physical abuse)
- AND the reasons for the belief arise from information obtained during the course of, or because of, that person's work

then they must make a Mandatory Child Concern Report as soon as possible to the CYPS via

- CYPS Mandated Reporters Line on 1300 556 728, or
- by email childprotection@act.gov.au, or
- by using the online form at <https://form.act.gov.au/smartforms/csd/child-concern-report/>

Children and Young People Act 2008 (ACT) section 356

Offence—mandatory reporting of abuse

- (1) A person commits an offence if—
- (a) the person is a mandated reporter; and
 - (b) the person is an adult; and
 - (c) the person believes on reasonable grounds that a child or young person has experienced, or is experiencing—
 - (i) sexual abuse; or
 - (ii) non-accidental physical injury; and
 - (d) the person's reasons for the belief arise from information obtained by the person during the course of, or because of, the person's work (whether paid or unpaid); and
 - (e) the person does not, as soon as practicable after forming the belief, report (a ***mandatory report***) to the director-general—
 - (i) the child's or young person's name or description; and
 - (ii) the reasons for the person's belief.

...

- (3) In this section:
mandated reporter—each of the following people is a ***mandated reporter***.

...

- (p) a minister of religion, religious leader or member of the clergy of a church or religious denomination;

c) Voluntary Reporting to the Child and Youth Protection Service (CYPS) regarding risk to the safety and wellbeing of a child

If the Safe Church Team considers that there is a serious risk to the safety and wellbeing of a child or young person then they should make a voluntary report to the CYPS on 1300 556 729 as soon as possible.

If there is any doubt whether a concern would be considered a serious risk to the safety and wellbeing of a child or young person then the Safe Church Team should call CYPS on 1300 556 729 to receive advice.

Children and Young People Act 2008 (ACT) section 354

Voluntary reporting of abuse and neglect

- (1) This section applies if a person believes or suspects that a child or young person—
 - (a) is being abused; or
 - (b) is being neglected; or
 - (c) is at risk of abuse or neglect.
- (2) The person may report (a ***voluntary report***) the belief or suspicion, and the reasons for the belief or suspicion, to the director-general.

d) Report Child Abuse Offences to Police

- If the Safe Church Team obtains information that leads to a reasonable belief that a sexual offence has been committed against a child then they must report this to an ACT Police officer, regardless of whether the victim of the alleged abuse wants this report to be made
- The requirement to report to ACT Police includes both recent incidents and allegations of historic abuse. The Safe Church Team should notify the Baptist Churches of NSW & ACT Ministry Standards Hotline (1300 647 780) of any allegations of a Child Abuse Offence.
- Failure to Report a Child Sexual Offence to ACT Police is a criminal offence and may be punishable by up to two years imprisonment.

Crimes Act 1900 (ACT) 66AA

Failure to report child sexual offence

- (1) A person commits an offence if the person—
 - (a) is an adult; and
 - (b) obtains information that leads to the person reasonably believing that a sexual offence has been committed against a child; and
 - (c) does not, as soon as practicable after forming the belief, give the information to a police officer.
- (2) Subsection (1) does not apply if—
 - (a) the person—
 - (i) obtains the information when the alleged victim was no longer a child; and
 - (ii) reasonably believes the alleged victim does not want a police officer to be told about the person's belief; or
 - (b) the person reasonably believes that giving the information to a police officer would endanger the safety of a person (other than a person reasonably believed to have committed the sexual offence); or
 - (c) the person reasonably believes a police officer already has the information; or
 - (d) the person—
 - (i) is a mandated reporter under the [Children and Young People Act 2008](#), section 356 (2); and
 - (ii) has reported the information under that [Act](#), division 11.1.2 (Reporting abuse and neglect of children and young people) or reasonably believes someone else has done so; or
 - (e) subject to subsection (3), giving the information to a police officer would disclose information in relation to which privilege may be claimed under a law in force in the Territory; or
 - (f) the information is generally available in the public domain; or
 - (g) the person has another reasonable excuse.

e) Report Allegations of Reportable Conduct to the ACT Ombudsman

Under the Reportable Conduct Legislation churches are required to nominate a Head of Designated Entity for the purposes of the Reportable Conduct Scheme. The Head of Designated Entity would typically be either the paid senior pastor or the chair of the church governance body.

Ombudsman Act 1989 (ACT) 17E

Meaning of Reportable Conduct

(1) In this division:

"reportable conduct" means conduct—

- (a) engaged in by an employee of a designated entity, whether or not in the course of employment with the entity; and
- (b) that results in any of the following, regardless of a child's consent:
 - (i) ill treatment or neglect of the child;
 - (ii) exposing or subjecting the child to—
 - (A) behaviour, or a circumstance, that psychologically harms the child; or
 - (B) misconduct of a sexual nature that does not form part of an offence mentioned in subparagraph (iii);
 - (iii) an offence against any of the following provisions of the Crimes Act 1900 for which the child is either present or a victim at the time of the conduct:
 - (A) part 2 (Offences against the person);
 - (B) part 3 (Sexual offences);
 - (C) part 4 (Female genital mutilation);
 - (D) part 5 (Sexual servitude);
 - (iv) an offence against either of the following provisions of the Education and Care Service National Law (ACT)
 - (A) section 166 (Offence to use inappropriate discipline);
 - (B) section 167 (Offence relating to protection of children from harm and hazards).

In the event of receiving any allegations that any staff or volunteer has engaged in Reportable Conduct, whether or not the conduct was in the course of employment, the Head of Designated Entity must

- notify the Reportable Conduct Scheme (administered by the ACT Ombudsman) as soon as practicable, but within a maximum of 30 days from receiving the complaint or information, in accordance with s 17G of the *Ombudsman Act 1989 (ACT)*. The Safe Church Team should also follow section 2.2 of the *Procedure for Handling Complaints Against Staff and Volunteers*.
- As soon as practicable, conduct an investigation or appoint a suitable person to conduct an investigation regarding the reportable allegation (see section 6 of the *Procedure for Handling Complaints Against Staff and Volunteers*)
- Provide a written "s17J final report" to the Ombudsman in the form outlined in http://www.ombudsman.act.gov.au/_data/assets/pdf_file/0014/81005/No.-7-17J-final-report.pdf (see section 11(e) of the *Procedure for Handling Complaints Against Staff and Volunteers*)

5. Accountability Measures

a) Report back to person making initial notification

- As soon as is practicable (no longer than 48 hours), the Safe Church Team must inform the person completing the initial *Safe Church Concerns Form* of what action they have taken including any reports made and the 'report number' for reports to ACT Police or CYPS.
- If the Safe Church Team determines that it is not necessary to make a report to the ACT Police, or CYPS, the person who made the initial *Safe Church Concerns Form* may choose to make a report themselves in order to ensure that they have not breached s66AA of the *Crimes Act 1900 (ACT)*, or obligations under the Mandatory Reporting legislation.

b) Report to Baptist Churches of NSW & ACT

If a Child Protection Concern has been reported to any government agency the Safe Church Team should advise the Baptist Churches of NSW & ACT Ministry Standards Manager via email on standards@nswactbaptists.org.au of the matter for the Association's confidential records, and to seek confirmation that the matter has been managed appropriately.

6. Recordkeeping

The *Safe Church Concerns Form* and detailed notes of action taken in relation to any Child Protection Concern must be kept secure for a minimum of 45 years.

7. Advice and Support

If you have questions about whether a report should be made please contact the Baptist Churches of NSW & ACT Ministry Standards Manager on 1300 647 780 for advice, guidance and support.