

**PROCEDURE FOR INVESTIGATING COMPLAINTS OF
BREACHES OF THE CODE OF ETHICS - Approved 11th April 2024**

In this document, the term “Executive Officer” means the Executive Officer of CCVT Inc, or his or her delegate appointed by the Board of CCVT Inc for the purposes of the investigation.

Circumstances where a delegate may be appointed include where the Executive Officer has an actual or potential conflict of interest.

The Executive Officer is responsible for Step 1 and Step 2.

An investigator, once appointed, is responsible for Steps 3, 4 and 5.

If there seems good reason to deviate from this procedure in a particular case, for example based on the principles of natural justice or common sense, the procedure can be varied, provided written approval is first obtained from the Executive Officer (or, in the case of a complaint against the Executive Officer, from the CCVT Board), who may seek legal advice before giving such approval.

1 INITIAL REVIEW OF COMPLAINT

1.1 After a complaint is received in writing, it should be acknowledged in a timely manner.

1.2 If additional information is needed, meet with the complainant to seek additional details (allow a support person if appropriate). If at all possible, and if appropriate in light of 1.3 and 1.4 below, seek to understand how the complainant could see the matter being resolved.

1.3 Determine appropriate next steps.

If a complaint is frivolous, vexatious or malicious or is currently being investigated by another appropriate body, do not proceed with an investigation.

For complaints relating to criminal matters including all Child Protection complaints: do not progress to an investigation until the police and/or Commission for Children and Young People have been notified and consent to you doing so.

CCVT should not investigate complaints if the respondent has been convicted in a criminal court in relation to the conduct complained of. The criminal courts require a higher burden of proof and there is no need to hear the matter twice. The complaint can be referred directly to the Decision Maker(s). However, CCVT may decide to investigate a complaint that has not resulted in a conviction, or that has been discontinued by police, on the basis that there may still be sufficient grounds to investigate.

If a complaint is deemed a smaller conflict or dispute it may be better addressed informally or with the assistance of a mediator without needing to escalate it into a full-scale investigation. At this stage, the respondent may or may not be temporarily stood down.

1.4 Decide whether to proceed to formal investigation, or if another means of resolution is more appropriate. This decision is likely to be influenced by the circumstances, severity and potential outcomes for the alleged Minister if the allegation is proven as substantiated. Remember that, if not proceeding with a full investigation, the grounds on which this decision is made may be challenged at a later date.

**PROCEDURE FOR INVESTIGATING COMPLAINTS OF
BREACHES OF THE CODE OF ETHICS - Approved 11th April 2024**

Frivolous Complaint: A frivolous complaint is one about a minor or trivial matter, or an issue so vague or poorly explained that it cannot be considered meaningfully. It might also be about a matter that is considered already to have been resolved, or a matter that is of so little value that investigating it would be disproportionate in terms of time and cost.

Vexatious Complaint: A vexatious complaint is one that is made with the intention of, or has the effect of, being disruptive, and can show signs of escalating unreasonableness by the complainant. They might make contact on the same issue multiple times.

Malicious Complaint: A malicious complaint is one that appears motivated by a purpose that is dishonest or is made with the intention of causing harm.

2 INITIATE RESOLUTION PROCESS

- 2.1 If informal resolution is appropriate, inform the complainant and initiate the process, e.g. engage an external mediator. Confirm that there are no conflicts of interest, actual or potential, between the proposed mediator and any person or entity involved in the complaint.
- 2.2 If an investigation is required, appoint an investigator.
- a) Confirm that there are no conflicts of interest, actual or potential, between the proposed investigator and any person or entity involved in the complaint.
 - b) For Child Protection complaints - appoint an independent external investigator.

In all mediations/investigations the mediator/investigator must be impartial, objective and trained as a mediator/investigator. In determining whether someone is objective the question is - would the general community regard this person as objective? Further, there should be a conflict-of-interest check performed.¹

- 2.3 Appoint the Decision Maker.

The Decision Maker(s) receive(s) the written report of the Investigator and will make a decision based on the findings and recommendations in the report pursuant to Step 6.

- 2.4 The Executive Officer oversees the Resolution Process.

The Executive Officer will oversee the resolution process in terms of being a point of contact for complaints about the process, and for ensuring that it is conducted in an appropriate and timely manner in accordance with the steps and principles below.²

¹ Royal Commission into Institutional Responses to Child Sexual Abuse, Final Report, Volume 7, Improving institutional responding and reporting at p 206.

² Royal Commission into Institutional Responses to Child Sexual Abuse, Final Report, Volume 7, Improving institutional responding and reporting at p 207 notes that 'A senior person within the institution should be appointed to oversee the investigation. That person should be trained and skilled in monitoring an investigation.'

**PROCEDURE FOR INVESTIGATING COMPLAINTS OF
BREACHES OF THE CODE OF ETHICS - Approved 11th April 2024**

3 ESTABLISH SCOPE

3.1 Document the complaint.

Make specific reference to the part/s of the Code that have allegedly been breached.

3.2 Child Protection complaints

Consult with any authorities to whom a report has been made, such as police and/or the [Commission for Children and Young People](#), to agree to an appropriate scope for the investigation.

3.3 Identify what inquiries will need to be made.

3.4 Identify who is to be involved/interviewed.

3.5 Identify any risks relating to the proposed resolution. Consider whether specialist assistance will be required.

3.6 Document the proposed scope of the resolution.

3.7 Set a timeframe within which the resolution is to be completed.

3.8 Confirm the scope of any mediation/investigation with the Executive Officer in accordance with the Code with the costs to be borne by the respondent's CCVT affiliate.

3.9 Write to the complainant explaining the process and requesting further information (if necessary). Include information for the complainant about the availability of a support person and counselling under the complaint procedure and reiterate rights and obligations in relation to privacy and confidentiality.

The scoping phase of the mediation/investigation ensures that the complaint is properly particularised and a plan is developed for mediating/investigating the complaint.

Being able to clearly particularise the complaint against a standard of the Code (whether it be a Child Protection or Breach of Code complaint) will mitigate against people criticising the mediation/investigation. It also assists in communicating the complaint to relevant parties.

The scoping phase allows authorities and the Executive Officer to have critical input to ensure that mediators/investigators are properly instructed.

The scoping phase should include a consideration of risks relating to the mediation/investigation. These risks may include the need for people with specialist training in interviewing children, or linguistic or cultural factors, or if persons involved have disabilities which may require specialists.

The scoping phase also allows for a discussion of the cost of the mediation/investigation and for appropriate spending approvals to be sought. Organisations will ordinarily bear the cost of professionally investigating complaints made against any of their ministers.

**PROCEDURE FOR INVESTIGATING COMPLAINTS OF
BREACHES OF THE CODE OF ETHICS - Approved 11th April 2024**

4 COMPLAINT RESOLUTION PROCESS

4.1 Notify the respondent of the complaint.

- a) Provide sufficient details of the complaint so that the respondent is able to understand the complaint.
- b) Include what standard/s in the Code are alleged to have been breached.
- c) Explain the complaint procedure, including the resolution process.
- d) Explain the availability of a support person and counselling support.
- e) Set out rights and obligations including the importance of confidentiality.
- f) Request a written response within seven days.
- g) If no response, the mediator/investigator should:
 - i. notify the Executive Officer to seek advice about next steps;
 - ii. confirm with the respondent that they will continue the investigation; and warn them of the potential consequences of an adverse finding; and
 - iii. provide further opportunity for the respondent to respond to the complaint or any further complaints or prejudicial statements that arise in the investigation.
- h) Written communications will ordinarily be made via the CCVT Inc staff.

This step is for the purposes of procedural fairness and allowing the respondent to put forward their position on the complaint.

It is important that the respondent is offered a support person and provided with counselling if required.

Informing respondents of their rights and obligations may include the right to seek legal advice if they so choose and their obligation to answer questions asked of them.

The investigator should ensure that the respondent receives the correspondence. This will require contacting the respondent by phone to alert them to a complaint. In some cases, it may mean visiting the respondent or using a process server.

Further, the respondent should be provided with a further opportunity to respond or provide additional input during the course of the investigation, and particularly in the event that further complaints or prejudicial statements are made against them.

The respondent should be made aware of the potential consequences of the investigation.

The Senior Minister or Board of the respondent's CCVT affiliate should be made aware of complaints and associated costs, but will be required to observe strict confidentiality and to make arrangements for any period in which the minister might be required to stand down pending the outcome of an investigation.

**PROCEDURE FOR INVESTIGATING COMPLAINTS OF
BREACHES OF THE CODE OF ETHICS - Approved 11th April 2024**

4.2 Informal resolution

- a) Enact the informal resolution process (e.g. mediation) if relevant;
- b) Prepare a summary report of process and outcomes of the informal resolution; and
- c) Send the summary report to the Executive Officer who will determine if the matter has been resolved and can be closed or if the matter requires further intervention, which could include enacting a formal resolution process.

4.3 Formal resolution (including investigation)

- a) The investigator will normally contact people involved in the complaint and who hold information relevant to the complaint.
- b) The investigator may interview and seek written statements from those people.
- c) The investigator must only provide the minimum information to people involved in the complaint that is relevant to conducting the investigation.

The investigator has discretion about whether they interview or seek statements from people. In most cases it may be appropriate to commence with an inquiry or interview in order to determine the information a person holds, and to then ask them to provide a statement. In others the information they hold may be known to the investigator and a written statement requested straight away.

In most instances it would be appropriate for the investigator to seek a statement.

There may be instances where neither an interview nor a written statement are required due to the person previously having made a statement in relation to the matter (for instance a police statement).

An inquiry should be made to determine whether the person is content to be relied upon for their statement or if there is anything they want to add.

4.4 Conduct interviews.

- a) The investigator may conduct interviews of people involved in the complaint and who hold information relevant to the complaint.
- b) The investigator is to make notes of the interview.
- c) The investigator may require the interviewee to agree to the contents of those notes and sign them.
- d) The investigator is to seek the permission of a parent, carer or guardian of a child prior to interviewing them.

**PROCEDURE FOR INVESTIGATING COMPLAINTS OF
BREACHES OF THE CODE OF ETHICS - Approved 11th April 2024**

- e) Child Protection complaints - special care should be taken in interviewing a child, including determining if:
- i. it is necessary to further the complaint;
 - ii. relevant specialist skills are required to conduct the interview;
 - iii. the information may be available in a written statement, in cases where the child has already been interviewed;
 - iv. the information may be available through contemporaneous notes and/or evidence provided by people who received the complaint from the child; and
 - v. interviewing the child may result in distress and trauma.

This should be done in a private, logical manner, with diligence and care. This means that the investigator should be mindful of the order in which they interview people, and the manner in which they conduct those interviews, including choosing an appropriate, neutral venue.

The purpose of the interviews is to establish the facts of the complaint, and therefore the investigator should be careful not to get caught up in rumour or speculation of a trivial nature. The investigator should also be careful to only reveal the information required for the purposes of the interview or statement.

The investigator should keep written notes of key evidence arising from questions and ask the witness to sign that they agree to the content of interview notes. If the witness refuses to sign, record that they agree to the content of the notes (ensure they do agree) and that they refused to sign.

While making recordings of interviews and creating transcripts are generally not recommended, there may be instances where it is necessary. In most cases this will be a preference of the particular investigator. In cases where the investigator intends to record an interview the person interviewed should be forewarned and consent sought before doing so.

Any recording or transcript of an interview becomes part of the documentation of the investigation and must be stored privately and securely with other investigation documents.

4.5 Seek statements.

- a) The investigator may seek statements from people involved in the complaint and who hold information relevant to the complaint.
- b) The investigator may ask someone to provide them a statement, including following an interview.
- c) The investigator may commit the evidence to writing themselves.
- d) The investigator may determine the form of the statement, including whether it needs to be a statutory declaration.

**PROCEDURE FOR INVESTIGATING COMPLAINTS OF
BREACHES OF THE CODE OF ETHICS - Approved 11th April 2024**

Where possible the investigator should rely on statements that already exist for Child Protection complaints. In such instances they should confirm that the police do not object to the investigator providing the respondent with the substance of the complaints contained within.

The investigator should limit the content of statement so that it only relates to the complaint and other relevant detail. Other information (for instance personal information like the address and telephone number of the complainant) should be redacted from any statements provided to other parties, including those involved in the complaint procedure (As above, do not circulate police statements without approval of police).

4.6 Make further enquiries.

- a) Make enquiries of CCVT church bodies, including seeking access to any church archives.
- b) Make enquiries of other church bodies, including seeking access to their archives.
- c) Review and document information gained from public searches, including of books, documents and websites.
- d) Do other such things as are reasonable, necessary and consistent with principles of natural justice in order to complete the investigation.

It is likely that for complaints which are historic in nature there will be a need to confirm historical details which may require site visits or enquiries of other bodies.

The investigator should be able to rely on information on the public record, needing of course to be mindful of the source of that information (e.g. a blog post has less evidentiary weight as a source of information than a published journal article, but may be a good source of someone's views if it can be established they published the post).

Otherwise, the investigator can take all other reasonable steps.

4.7 Document responses to inquiries.

- a) Document the investigatory steps taken.
- b) Document the key details of the complaint and the contact information of all parties concerned.
- c) Keep information secure and confidential.

Keep copies of all statements and make file notes of all conversations in relation to the investigation. Keep records of the time and date people were contacted and what was discussed or provided to them. Information must be kept secure and private for the purposes of ensuring confidentiality.

**PROCEDURE FOR INVESTIGATING COMPLAINTS OF
BREACHES OF THE CODE OF ETHICS - Approved 11th April 2024**

- 4.8 Put any further material to respondent and complainant.
- a) Put any further material or prejudicial statements or evidence that arises in the investigation to the respondent in writing and give the respondent seven days to respond to that further material in writing.
 - b) Put any further relevant evidence that arises in the investigation to the complainant in writing and allow the complainant to respond within seven days.
 - c) If the respondent or complainant do not respond, the investigator is able to continue to prepare a report.

There may be good reasons why a respondent or complainant is unable to respond in the timeframe requested. Providing a time-limit allows the investigator to continue with the investigation and not experience undue delay.

However, where possible, if a respondent or complainant responds outside that period, and before the written report has been submitted, that response should be considered.

Follow these guidelines throughout the process:

- *Act fairly, in good faith, without bias and without undue delay.*
- *Ensure the respondent has sufficient detail to understand the complaint.*
- *Make reasonable, diligent enquiries and ensure there is sufficient evidence to make a finding of fact.*
- *Have in mind the seriousness of the conduct and the consequences of adverse findings.*
- *Do not provide information about the investigation to anyone other than the Safe Places Coordinator, Executive Officer and (in summary form) the CCVT Board.*
- *Only provide people with sufficient information to assist the investigation.*
- *Remind all persons of the need for privacy and confidentiality.*

Handle documents and information about the complaint and investigation appropriately. Report all instances where information has been mishandled to the Executive Officer.

5 PREPARE A REPORT

- 5.1 Establish and document the facts.
- a) In establishing and documenting facts, for civil matters (non-criminal matters) the investigator is bound by the standard of proof of the ‘balance of probabilities’ meaning, that the findings are made on whether the fact or issue is more probable than not on the available evidence.
 - b) For matters of a more serious nature, for example where the respondent could potentially lose their job or accreditation, the Briginshaw principle should be adhered to. The Briginshaw standard requires that due to the seriousness of the matter and the

PROCEDURE FOR INVESTIGATING COMPLAINTS OF

BREACHES OF THE CODE OF ETHICS - Approved 11th April 2024

gravity of the potential consequences to the respondent that flow from a finding, a higher degree of satisfaction is required (including the strength and standard of the evidence required) for there to be a proven finding.³

c) Document the facts for the purposes of the written report.

5.2 Prepare a written report setting out:

a) The complaint.

b) The respondent's response to the complaint.

c) A summary of the investigation process.

d) The findings in relation to the complaint, including whether the complaint is:

i. substantiated; or

ii. not substantiated.

e) The evidentiary basis for those findings.

f) Recommended actions and consequences as a result of those findings.

g) An executive summary suitable to be read by the Complainant and Respondent and available to the Decision Maker(s). (Note: the decision maker(s) will also receive the full report, along with the executive summary, when provided to the Executive Officer or his/her delegate ONLY).

5.3 Child Protection complaint - mandatory outcomes⁴

If the complaint is substantiated the investigator must determine that the outcome should be:

a) permanent removal from CCVT ministry; and

b) prohibited from holding themselves out as a person licensed, authorised or affiliated with CCVT.

5.4 Provide the written report to person overseeing the investigation.

It is important that findings of the investigation and the reasoning and process behind those findings are committed to writing for the sake of transparency and accountability and for assessment. The investigator should ensure that the report is drafted in neutral language and that findings are clearly and appropriately made.

The mandatory outcome in relation to Child Protection complaints is discussed further below.

³ *Briginshaw v Briginshaw [1938] HCA 34; 60 CLR 336.*

⁴ *Royal Commission into Institutional Responses to Child Sexual Abuse, Final Report, Volume 16 Religious Institutions, Recommendation 16.55 'Any person in religious ministry who is the subject of a complaint of child sexual abuse which is substantiated on the balance of probabilities, having regard to the principles in Briginshaw v Briginshaw, or who is convicted of an offence relating to child sexual abuse, should be permanently removed from ministry. Religious institutions should also take all necessary steps to effectively prohibit the person from in any way holding himself or herself out as being a person with religious authority.'*

**PROCEDURE FOR INVESTIGATING COMPLAINTS OF
BREACHES OF THE CODE OF ETHICS - Approved 11th April 2024**

6. MAKE DECISIONS

6.1 The Decision Maker(s) receives the report from the person overseeing the investigation.

There should be an agreed process for ensuring the written report from the investigator is provided to the decision maker in a timely fashion.

All emails containing the report should have the appropriate security marker of 'Confidential' and there should be a reminder within the text about treating the report in a confidential manner.

6.2 Make a decision within fourteen days.

- a. Review report and recommendations made by the investigator.
- b. Contact the Executive Officer if there are any concerns with the report or recommendations.
- c. Accept or reject the recommendations made by the investigator.
- d. Decide on proposed consequences (subject to considering the response of the respondent and mandatory outcomes below).
- e. Provide the proposed outcome, and any other documents in support of any difference from the investigator's recommendations to the person overseeing the investigation.

The Decision Maker(s) is/are unable to reject the findings of the Investigation.

If the Decision Maker(s) choose(s) to reject the recommendations made by the investigator, they must document the reasons for doing so. At this stage the proposed consequences are subject to hearing the final submission of the respondent. This is a procedural fairness step and allows the respondent another opportunity to respond now that the proposed consequence is clear.

The Decision Maker(s) is/are unable to deviate from proposing the mandatory outcome in respect of Child Protection complaints, which are permanent removal from CCVT ministry, and that the person be prohibited from holding themselves out as being licensed, authorised or affiliated with CCVT.

The severity and mandatory nature of outcomes in relation to child sexual offences reflect the seriousness of which the community views misconduct of that nature. While forgiveness and restoration are key principles of faith, there is a recognition that forgiveness does necessarily mean being able to trust someone again and restoration to ministry.

6.3 Communicate the decision

- a. Child Protection complaint – Safe Places Coordinator to provide the proposed outcome, a copy of the investigator's report and any supporting documentation, to the Commission for Children and Young People, and provide any feedback from the Commission to the Decision Maker(s).

**PROCEDURE FOR INVESTIGATING COMPLAINTS OF
BREACHES OF THE CODE OF ETHICS - Approved 11th April 2024**

- b. Child Protection complaint - the Decision Maker(s) will consider the feedback from the Commission for Children and Young People in respect of the findings and proposed outcome.
- c. The Decision Maker is to provide the respondent with:
 - i. a written summary of findings;
 - ii. the proposed decision (subject to the respondent's response); and
 - iii. a request for a response within fourteen days.
- d. Following the expiry of fourteen days, the Decision Maker(s) will consider the respondent's submission, and make the final decision, and set out an action plan detailing actions to be taken by the Affiliate and by CCVT in order to implement the decision.
- e. The Decision Maker(s) will communicate the decision inclusive of action plan (via the Executive Officer where needed) to:
 - i. the complainant;
 - ii. the respondent;
 - iii. any relevant church body; and
 - iv. Child Protection complaint - any relevant police, Commission for Children and Young People or child protection authority, as required.
- f. If adverse findings have been made in relation to the respondent, the Decision Maker(s) will provide the respondent with the opportunity to appeal the decision within 14 days, and a copy of the appeals procedure.
- g. Implement the decision in accordance with the action plan.

Follow these guidelines throughout the process:

- *Act fairly, in good faith, without bias and without undue delay.*
- *Ensure the respondent has sufficient detail to understand the complaint.*
- *Have in mind the seriousness of the conduct and the consequences of adverse findings.*
- *Handle documents and information about the complaint and investigation appropriately - report all instances where information has been mishandled to the Executive Officer.*

7 HEAR APPEALS

7.1 The Appeal body receives the request for an appeal

7.2 As soon as reasonably practical the Appeal body is to meet to consider the appeal, including:

**PROCEDURE FOR INVESTIGATING COMPLAINTS OF
BREACHES OF THE CODE OF ETHICS - Approved 11th April 2024**

- a) the grounds for the appeal;
- b) the findings made by the investigator, including their reasonableness;
- c) the decision made by the Decision Maker(s); and
- d) whether there has been any materially significant error in the process undertaken or conclusions reached by the investigator or Decision Maker(s).

The Appeal body is not to reconsider the facts of the case, or re-investigate the matter, but is to determine whether the findings and decisions were 'reasonable' and open to be made, including whether the consequences of the decision of the Decision Maker(s) is/are harsh or unfair to the respondent, such that the decision should be altered or rescinded.

- 7.3 The Appeal body may request further information, to be provided within seven days, from the:
- a) investigator;
 - b) decision maker(s); and
 - c) respondent.
- 7.4 Either at its first meeting, or on receipt of further information, the Appeal body is to:
- a) consider the appeal; and
 - b) determine whether to uphold or dismiss the appeal.
- 7.5 Respond in writing to the respondent within seven days of that determination, providing:
- a) the determination of the appeal body; and
 - b) the grounds for that determination.