



Anglican Diocese of Sydney

Pastoral Care and Assistance Scheme

**for survivors of child abuse or
sexual misconduct by a
church worker**

Professional Standards Unit

24 May 2018



Anglican Church Diocese of Sydney

PASTORAL CARE AND ASSISTANCE SCHEME

for survivors of child abuse or sexual misconduct by a church worker

1. PURPOSE OF THE SCHEME

The Anglican Church Diocese of Sydney has developed the Pastoral Care and Assistance Scheme (“**PCAS**”) to provide pastoral care, assistance and redress to survivors of child abuse and sexual misconduct by church workers.

This scheme is available for any person who discloses to the Professional Standards Unit (“**PSU**”) of the Anglican Diocese of Sydney that a church worker has, during his or her time as a church worker, engaged in child abuse, sexual abuse or sexual misconduct.

As Christians, we are very conscious that there is a primary need for us to respond to disclosures of child abuse or sexual misconduct with compassion and empathy, having regard to the situation of the person who has made contact with us.

The PCAS provides survivors of abuse with an alternative to going to court. We recognise that taking a case to court can be costly and stressful. Furthermore, survivors of abuse may find it difficult to establish the validity of their claims in court if too much time has passed or evidence has been lost. The PCAS gives survivors a choice to pursue a claim outside the court process.

2. OUR COMMITMENT

As Christians, we are committed to the mission of living out and extending the love, care and compassion of Jesus Christ to everyone.

We acknowledge that when a person is abused or subject to sexual misconduct, they are violated and their trust is betrayed.

We are committed to responding promptly with empathy, support and respect to an individual who makes a disclosure of child abuse or sexual misconduct by a church worker. We will seek to be compassionate to

survivors, to provide assistance to help them with their needs and to help them rebuild their lives.

The PCAS will be made known to the public and will operate in conjunction with disciplinary procedures.

3. ELEMENTS OF REDRESS

We recognise and acknowledge that child abuse or sexual misconduct has a tragic impact on a person's life. In addition, making a disclosure is in itself additionally traumatic and takes great courage. We want to ensure that the person is cared for, even as we provide procedural fairness to the church worker against whom allegations are made. Our response will incorporate the following elements:

a. Pastoral care

The survivor has often been involved in and may continue to be involved in the life of the church. As such, dealing with child abuse or sexual misconduct is likely to involve issues of spiritual concern as well as emotional, psychological and personal distress. We recognise that appropriate support needs to be available for the person to deal with all the issues which arise.

As a first response the survivor will be contacted by the PSU Chaplain, who has been given responsibility for ensuring that survivors of child abuse or sexual misconduct receive ongoing pastoral care and support. The PSU Chaplain will enquire what needs have arisen for the survivor as a result of the child abuse or sexual misconduct and will enquire whether the Diocese can help in meeting those needs. The PSU Chaplain will also inform the survivor of the existence of the PCAS.

If the survivor initially discloses the child abuse or sexual misconduct to a Diocesan Contact Person, the Contact Person rather than the PSU Chaplain may be the person to provide pastoral care to the survivor.

b. Professional counselling

We will pay for the survivor to see a professional counsellor with appropriate qualifications and experience, so that the survivor can work through the personal issues which arise for them. The counselling will be arranged with an independent practitioner, who will not be a church worker. The survivor can choose a counsellor with appropriate qualifications and experience, or the PSU Chaplain can recommend someone. A progress report may be sought from the counsellor with the consent of the survivor.

c. Dealing with the perpetrator

An integral part of the response to the survivor is dealing appropriately and justly with the perpetrator.

If the disclosure alleges a criminal offence, the survivor will be advised that they may make a statement to the police and that the Diocese will report the matter to the police in any event. If the disclosure relates to reportable child abuse, the requirements of the law in relation to mandatory reporting will be complied with by the Diocese. Church office-holders who are not mandatory reporters will be advised to undertake voluntary reporting to Family and Community Services where there is a reasonable suspicion that a child is at risk of significant harm.

The Diocese will otherwise deal with an alleged perpetrator in accordance with the *Ministry Standards Ordinance 2017*. In many cases these disciplinary processes will clarify issues as to the facts and extent of the alleged child abuse or sexual misconduct. When such disciplinary procedures are in process, they will generally need to be resolved before a claim for a monetary payment under the PCAS can be determined. For further information about the procedures to be followed in dealing with an alleged perpetrator, contact the PSU.

d. Monetary payment

The survivor will be invited to make a claim for financial assistance in the form of a monetary payment. A monetary payment cannot make amends for the harm caused by child abuse or sexual misconduct. Rather, the purpose of a monetary payment under the PCAS is to provide tangible recognition of the seriousness of the hurt and injury suffered by the survivor.

e. An apology

We recognise that an apology is the appropriate Christian response to a person who has had child abuse or sexual misconduct perpetrated against them. We also recognise that an apology can aid in the healing process of the survivor.

When a disclosure of child abuse or sexual misconduct has been made, it will not usually be possible to confirm the facts or extent of the claim immediately.

Before the substance of a disclosure has been established, a general acknowledgement will be given that all child abuse or sexual misconduct is

grossly wrong and should never occur. This will include an empathetic expression of care and concern.

Once the substance of a disclosure has been established, an apology will be given to the survivor which will not include qualifications which may exacerbate the trauma experienced by the survivor. The form and wording of the apology and the context in which it is given must be acceptable to the survivor. It will normally be given by a senior church representative in a pastoral context where the survivor has first been given the opportunity to tell their story and has been listened to. The tragic impact of child abuse or sexual misconduct on a person's life will be acknowledged and recognised.

4. ASSESSMENT OF MONETARY PAYMENTS

Step 1: Completion of *Request for Pastoral Care and Assistance* form

A survivor will be invited and offered assistance by the PCAS Case Worker to complete a *Request for Pastoral Care and Assistance* form with supporting documentation. Alternatively, the PSU Chaplain or a Diocesan Contact Person may assist with this process.

The Assessment Schedule indicates the factors that will be considered in making an assessment of the monetary payment to be offered.

If moderate or severe psychological or psychiatric effects are claimed as an effect of the child abuse or sexual misconduct, the survivor must provide a formal written report from an approved report writer. An approved report writer is a currently practicing senior psychologist or psychiatrist having clinical experience with patients who have been survivors of child abuse or sexual misconduct, that has been approved by the Director, Professional Standards. The Diocese will pay for this report.

Where a survivor claims less severe psychological effects of the abuse, the survivor will be invited to provide a statement from a counsellor or other appropriate professional to describe the personal impact of the child abuse or sexual misconduct on the survivor. The Diocese will pay for this statement.

Step 2: Assessment of the claim by the PCAS Case Worker

Where the child abuse or sexual misconduct has not already been substantiated (by disciplinary, civil or criminal proceedings, or by an admission by the perpetrator which has been accepted as the truth by the Diocese), the PCAS Case Worker will review all available evidence to assess whether in "reasonable likelihood", the alleged child abuse or sexual

misconduct was perpetrated by the church worker in the context of their role as a church worker.

Where child abuse or sexual misconduct has been substantiated, the PCAS Case Worker will review all available evidence to assess the following as described in the Assessment Schedule:

(1) the severity of the abuse or sexual misconduct

The assessment of the severity of the abuse or sexual misconduct will be based on the matters listed in Factor 1 in the Assessment Schedule, and a value will be allocated accordingly, up to the maximum value of 40 (that is, the greater the severity of abuse, the higher the number in the range of 1-40).

(2) the severity of the impact of the abuse or sexual misconduct

The assessment of the severity of the impact of the abuse or sexual misconduct will be based on the matters listed in Factor 2 in the Assessment Schedule, and a value will be allocated accordingly, up to the maximum value of 40 (that is, the greater the severity of abuse, the higher the number in the range of 1-40). If at the time of assessment, the survivor is a child or young person, the assessment of the impact of the abuse may need to be predictive of the likely impact rather than being limited to the actual impact to date.

(3) any additional elements

The PCAS Case Worker will assess whether there are any additional elements to be taken into consideration based on the matters listed in Factor 3 in the Assessment Schedule, and allocate a value accordingly, up to the maximum value of 20 (that is, the more significant the additional elements, the higher the number in the range of 1-20).

The PCAS Case Worker will then add up the values for Factors 1, 2 and 3 to reach a value out of a total of 100. That total out of 100 will then be multiplied by the maximum payment amount of \$150,000.

For example, 30 (Factor 1) + 22 (Factor 2) + 4 (Factor 3) = 56/100.
 $56/100 \times \$150,000 = \$84,000$.

The maximum possible total monetary payment under the scheme is \$150,000.

ASSESSMENT SCHEDULE

Factors	Value as a %
<p>Factor 1: Severity of abuse or sexual misconduct</p> <p>The following matters, where relevant, are to be taken into account:</p> <ul style="list-style-type: none"> • Age of survivor at the time of first incidence of abuse or sexual misconduct; • Intensity of the abuse or sexual misconduct (for example, penetrative, non-penetrative); • Duration of the abuse or sexual misconduct (for example, whether there were multiple occurrences over a long period of time); • The existence of multiple perpetrators; and • Use of physical force or coercion (for example, threats or intimidation). 	1-40
<p>Factor 2: Severity of impact of abuse or sexual misconduct</p> <p>The following matters, where relevant, are to be taken into account:</p> <ul style="list-style-type: none"> • Intrapersonal problems, including compromised sense of self-worth, sexual identity issues, deep feelings of guilt, shame and responsibility for the abuse; • Relational impairments, including impaired relationships, trust and intimacy issues; • Psychological functioning, including depression, anxiety, anger, fear, post-traumatic stress, suicidal ideation or attempts; • Social functioning, including issues with education, employment and housing; and • Physical health, including medical issues, disabilities, addictions, eating disorders. 	1-40
<p>Factor 3: Additional elements</p> <p>The following matters, where relevant, are to be taken into account:</p> <ul style="list-style-type: none"> • Whether survivor was in state care at the time of the abuse; • Whether survivor experienced other forms of abuse in conjunction with the physical or sexual abuse, including emotional abuse (this should not overlap with physical force or coercion to the extent this is already included in assessing the severity of the abuse in Factor 1 above); • Whether survivor was in a 'closed' institution or without the support of family or friends at the time of the abuse; and • Whether survivor was particularly vulnerable to abuse due to disability. 	1-20

Following assessment of the claim, the PCAS Case Worker will make an offer of a monetary payment to the survivor accordingly.

Step 3: If the offer is not accepted

If the survivor does not accept the offer made by the PCAS Case Worker, the claim will then be assessed by an external independent panel. The panel, appointed by the Archbishop in Council, consists of two members:

- (a) A senior medical practitioner such as a psychiatrist or clinical psychologist having current or recent clinical experience with patients who have been victims of child abuse or sexual misconduct; and
- (b) A senior legal practitioner who has experience in arbitrations or other alternative dispute resolution procedures.

The panel will follow the same process as the PCAS Case Worker to assess the claim (outlined in Step 2 above).

Following assessment, the panel will recommend an appropriate monetary amount to be paid to the survivor. The panel will be asked to make their recommendation within 2 months.

The recommendation of the panel is final and there is no “appeal” from the assessment, however neither party is bound to accept the recommended assessment.

If the recommendation is accepted by the Diocese, an offer will be made to the survivor accordingly. The survivor may accept or decline an offer made by the Diocese.

Step 3: If the offer is accepted

As the PCAS is an alternative to litigation, the survivor will be asked to sign a deed to release the Diocese (including their employees, but excluding the perpetrator) from being a party to any court proceedings arising out of the child abuse or sexual misconduct. There is no confidentiality clause in the Deed of Release and so survivors are not prevented from “telling their story”.

Acceptance of the offer and signing the Deed of Release will affect the survivor’s legal rights. The survivor is required to get independent legal advice before signing the Deed of Release. The Diocese will pay for this independent legal advice.

Once the Deed of Release has been signed, the Diocese will arrange for the payment to be made to the survivor.

Additional assessment for future counselling needs

At the time of the assessment under the PCAS, an assessment will be made for future counselling needs for the survivor of up to \$5,000 over and above the PCAS payment. These funds may later be accessed by the survivor to contribute towards their future counselling costs, should this be required.

6. CONCLUSION

The Diocese is committed to addressing disclosures of child abuse or sexual misconduct responsibly and proactively. Persons making disclosures of child abuse or sexual misconduct need a compassionate and timely response, to lessen the trauma that survivors are experiencing. The PCAS aims to allow survivors to receive appropriate pastoral care and assistance without resorting to litigation.

FREQUENTLY ASKED QUESTIONS

When can someone use the PCAS?

A person can use the PCAS if they have experienced child abuse or sexual misconduct that:

- was perpetrated by a church worker,
- was related to the church worker's role or position,
- happened in the Sydney Diocese of the Anglican Church,
- can be reasonably substantiated, and
- caused harm to the person wishing to use the PCAS.

All of the above must apply.

Who is a church worker?

A church worker is:

- a member of the clergy (ordained as a bishop, priest or deacon) in the Anglican Church Diocese of Sydney, or
- any other person (paid or voluntary) in a position or holding an office in the Anglican Church Diocese of Sydney.¹

What is a disclosure?

A disclosure is any allegation or complaint made to the Diocese about child abuse or sexual misconduct.

What is child abuse?

Child abuse is sexualised or abusive behavior by a church worker towards a person under the age of 18 years. Child abuse means the following conduct in relation to a child:

- bullying,
- emotional abuse,
- harassment,
- neglect,
- physical abuse,
- sexual abuse, or
- spiritual abuse.

Each of the above components of child abuse are further defined in *Faithfulness in Service* which is available at www.safeministry.org.au. Some examples of child abuse include (but are not limited to):

¹ "Church worker" is defined in the Ministry Standards Ordinance 2017 and also includes a person appointed by or on behalf of a minister of a parish as a Church of England Boys' Society ('CEBS'), Girls' Friendly Society ('GFS') or Kids Plus leader within the parish under rule 3.18(2) of Schedule 1 or rule 3.17(2) of Schedule 2 of the Parish Administration Ordinance 2008.

- A church worker inappropriately touching a child or young person,
- A church worker engaging in any kind of sexual activity with a child or young person.

What is sexual misconduct?

Sexual misconduct is inappropriate sexual behaviour towards an adult by a church worker where that behaviour would constitute a criminal offence or an abuse of a pastoral relationship. An example of sexual misconduct is a church worker engaging in any kind of sexual activity with an adult person he or she is in a pastoral relationship with (where that person is not their spouse).

Will the church pay for a survivor's personal counselling?

Yes. If a survivor makes a disclosure of child abuse or sexual misconduct by a church worker the church will pay for an initial period of counselling. The church may also agree to pay for counselling after that initial period. To arrange counselling, a survivor can contact the PSU Chaplain on (02) **9265 1500**.

How does a survivor make a claim for a monetary payment?

A *Request for Pastoral Care and Assistance* form can be obtained by calling (02) 9265 1500 or emailing pcas@sydney.anglican.asn.au. It is also available at www.safeministry.org.au. The PSU can be contacted to speak with a survivor about making a claim and can assist with filling in the form if needed. The completed form should be sent to the PSU.

Can a child make a claim for a monetary payment?

Yes, it is possible for a claim to be made by a child or on a child's behalf.

What information will a survivor need to provide?

Information in support of the survivor's claim will need to be provided. This may include personal accounts, any supporting documents or information from other persons, receipts or accounts for expenses hospital records, medical reports, psychological or psychiatric reports or any other information relating to any past or continuing needs. If a survivor is claiming to have suffered moderate or severe psychological effects, they will usually need to see an approved report writer. Information can be obtained from the Professional Standards Unit on (02) **9265 1500**.

Can a survivor's counsellor write a report for their claim for a monetary payment?

Yes. A survivor may ask their counsellor to write a personal impact report in support of the claim for a monetary payment. If the counsellor is qualified to

make a diagnosis of a psychological or psychiatric disorder they may also provide a formal psychological impact statement.

Will the survivor's privacy be protected?

We will treat the survivor's information with complete confidentiality as far as is possible, except when we are legally obligated to provide it to a court or law enforcement authority. We may also need to inform the church worker that the claim concerns. The church worker does not participate in the assessment process. But if there are disciplinary proceedings, some information about the allegations will be given to the church worker. If the church worker is asked to contribute financially to a monetary payment, they will learn about the payment made to the survivor. Details of our Privacy Policy are available at www.safeministry.org.au

How much money will be offered?

This will depend on the severity of the abuse or misconduct and the severity of its impact on the survivor. The Assessment Schedule sets out how the amounts are assessed. The maximum that can be paid is \$150,000.

Can a survivor state how much money they think they should be offered?

Yes, a survivor can state in their application which matters listed under each factor in the Assessment Schedule apply to them. The survivor can also say what they think is an appropriate value within the range for each factor. Reasons should be explained clearly, and information provided in support. The PCAS Case Worker or the panel will consider those submissions and information at the time that the claim is assessed. The PCAS Case Worker can help with this if needed.

Who will decide how much money is offered?

The PCAS Case Worker will assess the claim in accordance with the Assessment Schedule and will make an offer to the survivor. If the survivor does not accept the offer, an independent panel will assess the claim in accordance with the Assessment Schedule. The panel will be independent of the church, the survivor and the perpetrator and will consist of a senior lawyer and a senior medical practitioner such as a psychiatrist or clinical psychologist. The panel will recommend an amount to be offered to the survivor and the Diocese may either accept or reject the recommendation. If the Diocese accepts the recommendation, it will offer the survivor that amount, and the survivor can accept or refuse the offer.

Does a survivor pay tax on the payment?

No. At the time this document was written, payment under the PCAS does not form part of a person's taxable income.

Will the payment affect a survivor's Centrelink benefits?

No. We have an agreement in place with Centrelink confirming that Centrelink considers a payment under the PCAS to be an "exempt payment" for their purposes.

How will Medicare treat the payment?

At the same time as the monetary payment is made to the survivor, the Diocese will pay \$175 to Medicare under a bulk payment agreement with the Department of Human Services in satisfaction of past payments of Medicare benefit. The \$175 payment to Medicare will not be deducted from the payment to the survivor.

If a survivor is offered a monetary payment, will the perpetrator be the one who pays the money?

If the church worker has a finding made against them in disciplinary proceedings and is able to contribute, we may ask him or her to make a financial contribution. The survivor does not have to be involved in this process.

Is there a time limit for making an application?

There is no time limit for making an application under the PCAS.

Will participating in the PCAS prevent a survivor from being able to sue the Anglican Church?

No, *unless* the survivor accepts an offer of a monetary payment under the PCAS. If the survivor accepts an offer of a monetary payment, they will be asked to sign a legal document called a Deed of Release which means the matter is finalized between the survivor and the Church. This prevents the survivor from going to court later.

If a survivor accepts a monetary payment, can they still talk about what happened to them?

Yes. There is no confidentiality clause in the Deed of Release that we ask a survivor to sign.

Can a survivor get a lawyer to help them?

Yes, a survivor is free to seek legal advice at any point in the process. But it is not necessary to have a lawyer representing a survivor in order to make a claim for a monetary payment through the PCAS. This changes if an offer is made. Once an offer is made to a survivor, they are required to get independent legal

advice before signing the Deed of Release. We will pay for this independent legal advice.

Need more information?

For more information please phone the Professional Standards Unit on (02) 9265 1536 or email us at pcas@sydney.anglican.asn.au

CONTACT

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