



The Uniting Church in Australia  
Synod of South Australia

# **Guidelines for Church Councils when Dealing with Complaints**

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## Introduction

No-one likes to receive complaints. They are time-consuming and they challenge our sense of who we are, how we see things, our knowledge of the law and our obligations under it, but most of all, they remind us that the call of Jesus to “love one another” is not an easy street.

However, complaints are our friends. They show us our blind spots, remind us where we have become complacent or ill-informed, and when well-handled will ensure that we are bound by the exhortation to “Do justice, love mercy, and walk humbly with God.”

This booklet helps us when we are confused by old loyalties, emotionally charged colleagues and friends and we know we need to focus on our roles and responsibilities. It has a very simple framework, warns of common stumbling blocks and makes it clear when a referral to the Synod office is appropriate.

The list of legal references is daunting. They are included so that you are able to return to first principles. However, this booklet, and the Called to Care training manual will provide most of the information you need. Staff members of the Synod are there to support and advise you. Please take advantage of their experience and expertise.

## A Safe Place

*The Uniting Church in Australia believes that all people are made in the image of God and as such we should accept every individual regardless of race, age, creed or gender.*

*As a Christian community, we believe that God reaches out to us in love and acceptance and that our relationships with each other should express love and respect and not be abused.*

*As a community of faith we are committed to providing a place in society where human beings can explore what it means to be made in the image of God.*

*As an expression of this commitment, the Uniting Church in Australia recognises its responsibility to provide worshiping and pastoral communities that are free from abuse and that provide safe environments for all people to explore and express their faith in the Gospel.*



## Principles

The Biblical and Theological Framework

In these matters our capacity to grow Christian community in love, grace, truth and justice is put to the test.

**Scripture** is foundational – “unique prophetic and apostolic testimony, in which it hears the Word of God and by which its faith and obedience are nourished and regulated.” (Basis of Union para 5)

The **Basis of Union and the Constitution** of the Uniting Church provide much wisdom in these matters.

The Legal Framework

Work Health and Safety Act 2012 :

<https://www.legislation.sa.gov.au/LZ/C/A/WORK%20HEALTH%20AND%20SAFETY%20ACT%202012.aspx>

Fair Work Act 1994:

<http://www.legislation.sa.gov.au/lz/c/a/fair%20work%20act%201994.aspx>

Equal Opportunity Act 1984:

<http://www.legislation.sa.gov.au/LZ/C/A/Equal%20Opportunity%20Act%201984.aspx>

The Policy Framework

The **Safe Place Policy** holds many values and commitments together and expresses them simply and clearly. You may choose to laminate a copy of this statement and make it clearly visible in your places of worship and fellowship.

The **Regulations of the Uniting Church** provide detailed direction on what powers a Church Council does and does not have.

UCSA **Called to Care Training and Resource Manual** 2018. A Ready guide for congregations and the content of Called to Care workshops offered across the Synod.

The **Code of Ethics and Ministry Practice** (for Ministers in the Uniting Church in Australia). In this Code, “Minister” refers to Candidates, Community Ministers, Deacons, Deaconesses, Interns, Lay Pastors, Ministers of the Word, Pastor’s, Youth Workers and Ministers from another denomination serving in approved placements.

**Vilification and Harassment:** <https://assembly.uca.org.au/policies/item/169-policy-on-the-prevention-of-vilification-and-harassment-within-the-uca>

**Code of Conduct for Volunteers and Lay Leaders:** <https://sa.uca.org.au/safe-church>

**Code of Conduct for Church Councils:** <https://sa.uca.org.au/safe-church>

**Sexual Misconduct by a lay person of the UCA:** <https://assembly.uca.org.au/policies>



## Even before we begin:

If the complaint is against your minister and it is potentially a serious matter

- Inform the Presbytery PRC Chair, Synod office and ask for the Chairperson of the Safe Church Committee (Executive Officer, Placements and Safe Church), the General Secretary or the Associate General Secretary.
- And if that's too hard – talk confidentially with your Presbytery minister or Chairperson as soon as possible.
- Some matters should not be discussed at Church Council before being referred to the Presbytery and/or Synod. Please talk with your Presbytery Minister or Chairperson if you are unsure.

When the matter is about sexual misconduct (whether by an ordained or lay person):

- If this offence is potentially a criminal matter, make a decision about whether to inform the police. If it involves a person under the age of 18 years, YOU MUST report it immediately to the CHILD ABUSE OR NEGLECT HOTLINE on 131 478.
- Always inform the Synod immediately. This includes ANY information that has come to hand about past sexual misconduct, a sexual criminal history, and current police investigations or charges. This also includes matters of sexual harassment, whether you personally consider them serious or not serious.
- If we know about something, and the crime or activity is repeated under our purview, **WE HAVE NO INSURANCE COVER**. The UCA needs to have every opportunity to protect individuals, the gathered community, the alleged perpetrator and the wider church, and this process will be handled conjointly by your Presbytery, the Synod and your Church Council.

**Church Councillors are officers of the Church. We all hold liability.**

- Inform

When the alleged behaviour is a criminal offence, consider referring it immediately to the Police and inform the Synod office and ask for the Chairperson of the Safe Church Committee (Executive Officer, Placements and Safe Church), the General Secretary or the Associate General Secretary. You can do this by phoning 08 82364200 in office hours or if the matter is urgent and it is a member of the Pastoral Relations and Mission Planning Team.

Constitution and regulations (2018 edition)

5.1.3 Discipline is to be exercised by:

1. The Church Council on behalf of the Congregation in the case of members or adherents, except in the case of allegations of sexual misconduct;
2. The Presbytery when a Presbytery determines a Church Council has not adequately dealt with a discipline matter in relation to a member or adherent of the Congregations
3. The Presbytery upon a request of a Church Council if the Church Council considers it is not able to deal with a concern due to a member's or adherent's involvement in the Congregations
4. The Presbytery and Synod in the case of Ministers.



## The Process Framework

There are four distinct phases in dealing with a complaint. They are separate and distinct from each other.

1. Receiving a complaint or report of an incident
2. Assessment, investigation or exploration
3. Outcomes
4. Healing and recovery

**The receiver of a complaint should NOT be involved in stage 2 - the assessment, investigation or evaluation of a complaint.**

The receiver of a complaint may, however, be the person who coordinates the other processes and communicates with the complainant and/or respondent.

As a general rule it is NOT appropriate for the minister or ministry agent to be involved in the investigation (Phase 2). This is in order to preserve the pastoral relationship with both parties as much as possible.

## PHASE 1 Receiving a Complaint

### LISTENING

Making a complaint is a really difficult, anxiety-producing thing to do. Most people would rather go on “putting up with” or ignoring bad behaviour. People who are unhappy need to feel that they have been heard. Everyone needs to be taken seriously and good listening will give you the clues you need. Listening well is a really good investment of your time.

The principles of good listening include:

- Giving the complainant our whole attention.
- Warmth.
- An accepting attitude that welcomes feedback, is slow to be “shocked”, and quick to give permission for difficult things to be discussed openly.
- Suspending judgement (both inside one’s own head when listening and in what we do and say, which includes our non-verbal communication).
- Paying attention to privacy concerns.
- Listening for feelings and the intensity of those feelings.
- Allowing adequate time for a complainant to get all that he/she needs to get their complaint “off their chest”.
- Assuring people (especially children and vulnerable adults) that it is safe to complain and they will not be in trouble for speaking up.

Documenting this conversation is crucial. Notes will suffice, but ensure the date and time are recorded accurately.

If it is clear that this will be a formal complaint, take time to ensure the complainant is aware of the implications of making a formal complaint and the process that will probably be involved.

1. The complainant will need to write a complaint document and sign it.
2. The complainant’s complaint document will be seen by the respondent.
3. The respondent will know who the complainant is (except in rare circumstances where it is unsafe to reveal the complainant’s identity).
4. The complainant is very likely to have to re-tell their story. Some exceptions can be made, but if they are unable to do this, and/or the risk of re-traumatising the complainant is too high, a comprehensive complaint document will be required.

**Always ensure that there is adequate pastoral care in place for the complainant. You will need to seek the complainant’s permission to share the basics of the situation with the chosen and appointed pastoral care person.**

**Never ignore a complaint because you think the complaint is vexatious, the person has ulterior motives, has mental health issues, or is a serial complainer. You may miss the most crucial issues because of your own biases.**

## EVALUATING - a process concurrent with listening

### Anonymous complaints

Anonymous complaints should be ignored. These are usually written notes, on social media or by phone. Your responsibility may be to put safety measures in place for the alleged respondent.

### Complaint or Personal Conflict?

It is important to differentiate between a complaint and a conflict between individuals that does not and should not involve the Church Council.

Is this a Church Council issue? Is it about the well-being of the community of faith? Encourage people to "sort out their own stuff" face to face in the first instance (Matthew 18:25 ff)

Often the best advice in the case of a personal conflict that has nothing to do with the community of faith is to suggest a mediator or counsellor.

Is this complaint informal or formal? Deciding whether a complaint is formal or not is crucial to your process.

Generally speaking, only a written and signed complaint is considered formal, and hence only then requires a formal complaint management procedure.

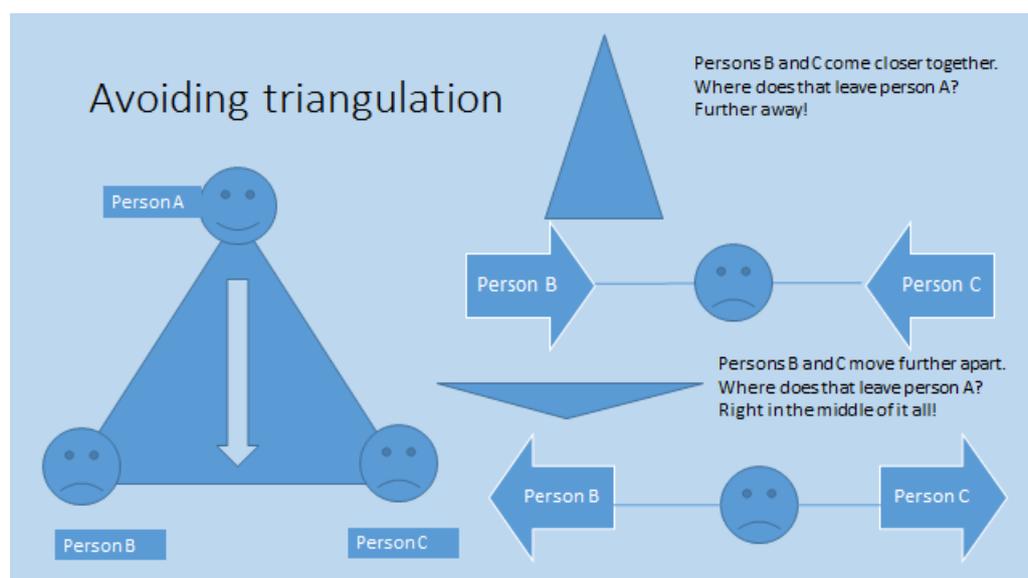
- a) Clarify by asking, "What do you want me to do about this?" or "What outcome are you hoping for?" These are crucial questions.

Often people want you "just to know" and do not want you to do anything. It pays to reflect this back to the complainant more than once to be sure that they understand that you are not expected to take action.

If a person is not willing to put a complaint in writing and sign it, knowing that the respondent will be shown the complaint, you are not obliged to do anything, and caution is your best friend. Furthermore, you will make an assessment of whether the complainant's desired outcome is possible, realistic, and in the Church Council's power to achieve.

- b) Avoid the temptation to be "triangle." Triangling happens when our relationship with one person is used by and for them to work through their relationship with a third person.

If a complaint is informal NEVER make promises that you will "sort it out". This is neat way used by human beings to encourage other people to take responsibility for their relationships, and in so doing, to take the blame when things go wrong.

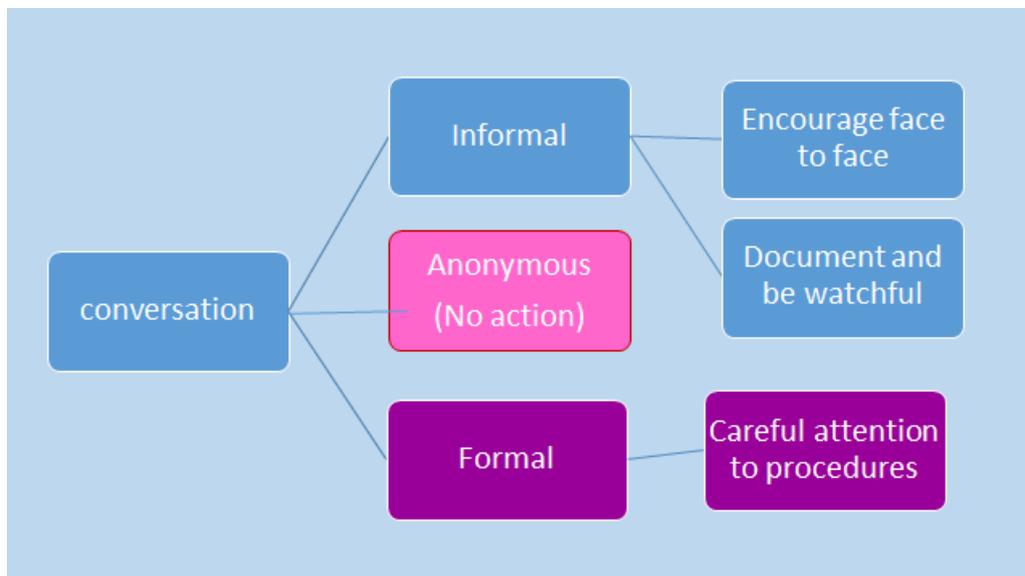


If a complaint is formal, the process will “sort it out” as much as is formally possible. No individual should ever personalise any responsibility for “fixing” problems.

In general, informal complaints should not be acted upon. However, there are notable exceptions:

1. **Report immediately to the Presbytery and the Synod:**
  - **Sexual misconduct allegations** - if with a minor, report on Abuse Hotline immediately, then report to the Presbytery and the Synod
  - **Criminal matters**– make decision whether to report to Police immediately, then inform the Presbytery and the Synod
  - Any possible **legal, reputational, or insurance risk**
  - If related to **Work Health and Safety**, report the incident immediately to the Synod office
2. **An officer of the Church needs to store away confidential information carefully and ponder on informal complaints.** There are times when, on the balance of things, the number or the nature of informal complaints would suggest that something needs to be done. For example, there might be a series of comments from a number of people about the behaviour of an individual yet no-one wants to lodge a formal complaint. **For the sake of the well-being of the community**, it may need to be “taken up” with the offending individual, but the processes for doing this are informal, non-accusatory and the stance where “we seem to have a problem and we need to work together on it” is more effective. We must be very careful when dealing with third person reports. We also need to keep an eye on any exposure to accusations of defamation.

In summary, the evaluation process looks like this:



## RECEIVING THE COMPLAINT - FORMAL PROCEDURES

A complainant may need help to formulate and document the complaint. They need to be alert to some of the traps – making the complaint about everything and not observable behaviour or observable outcomes; getting facts confused; writing something that is too long and does not make what the complaint is about clear, etc. If you assist with documentation, ensure that the complainant makes the document their very own AND NOT YOURS!

The receiver of the complaint advises the complainant that an investigative assessment of the complaint will be undertaken by two or more independent people, who will then report to the Church Council or other governing body with recommendations.

## PHASE 2 Assessment, investigation or exploration – FORMAL COMPLAINTS only

The Church Council or an Executive team:

- Refers to the relevant policy documents as referenced on page 3 of this booklet. They may designate an appropriate process.
- If the matter is to be managed locally, determines who will investigate – usually two or more people. Ensure there are no conflicts of interest, which is really difficult in a congregation. Try to choose people who can be objective. If you cannot do this, refer the matter to the Presbytery or the Synod. Always choose people who carry the respect of the congregation and have a deep spiritual maturity.
- Puts pastoral care in place immediately for the respondent.
- Ensures confidentiality for the sake of the complainant and the respondent.

**Remember: The person who has received the complaint should NEVER be a person who investigates the complaint.**

The Investigative Team:

- Refers to the relevant policy documents as referenced on page 3 of this booklet. They may designate an appropriate process.
- Informs the respondent sensitively, ensuring the respondent has support available.
- Ensures that the respondent has a copy of the complaint (Natural justice).
- Offers a support person for any interview process.
- Considers timing issues – don't leave people with a complaint over their head for weeks (days even) while we get organised, but leave them sufficient time to consider how they will respond to the complaint.
- Determine the process it will use.
  - How many conversations? Be aware that every time you talk with a complainant you may be re-traumatising them. It may be preferable to ask them to write a statement so they can avoid multiple interviews with strangers.
  - Do you need witnesses?
  - Ask both complainant and respondent whom they would like you to interview. Ensure (as much as possible) that you talk with equal numbers on each side of this issue.
  - Ensures a venue that maximises privacy for everyone involved, including any witnesses.
- Deals with the matter in a timely manner.
- Refers to Codes of Conduct and other policy documents, including the Safe Place Policy.
- Writes a report with recommendations for the Church Council and/or the Presbytery and or the Synod.
- The investigation team may be asked to report in person to the Church Council or other governing body. They should be asked clarifying questions, and then thanked and discharged.

These guidelines are abbreviated because the process chosen will depend on the nature of the complaint. If you have any concerns about appropriate process, please talk with your Presbytery minister or Chairperson or ask to talk with the Executive Officer, Placements and Safe Church on 08 82364268.



## 5.2 THE DISCIPLINE OF MEMBERS

### PASTORAL CARE OF MEMBERS

#### 5.2.1

(a) In cases where:

- (i) in the opinion of the Church Council, any member of the Church appears to disregard the privileges and obligations of membership or to disregard the discipline of the Church; or
- (ii) a formal complaint has been received about a member by a member of the Church Council; the Council shall endeavour by visitation and pastoral counsel to restore the relationship of the member to the life of the Church.

(b) Any member who declines to renew a satisfactory relationship with the life of the Church shall be advised of the possibility that the name of that member may be removed from the membership roll and shall be given opportunity either in person or in writing to make a submission on the matter to the Church Council.

(c) Should that member be a member of the Church Council, and that member declines to renew a satisfactory relationship with the life of the Church subsequent to visitation and pastoral counsel in accordance with Regulation 5.2.1 (a) that member may be requested by the Church Council to resign his or her position to that body and cease all responsibilities associated with that position prior to a decision being made regarding removal of the name of that member from the membership roll.

### SUSPENSION OR TERMINATION OF MEMBERSHIP

5.2.2 Where the Church Council has determined that the member has failed to respond to the pastoral care and invitation to renew a satisfactory relationship with the life of the Church, the Church Council may:

- (a) suspend the rights and privileges of membership; or
- (b) remove the name of the member from the membership roll.

The member shall be notified in writing of any such action.

#### NOTE:

**RIGHT OF APPEAL (Please check with the Regulation with care and ALWAYS include this information in any notice of suspension or termination of membership).**



## PHASE 3 OUTCOMES

The Church Council (or other governing body):

- Considers pastoral strategies for the whole community involved in this dispute / incident/ complaint.
- Considers recommendations:
  - May put in place a behavioural covenant. This is a document signed by the Chair of Church Council, often the minister, the respondent and sometimes the Presbytery and/or Synod which outlines expectations and limitations on the respondent.
  - May suggest restorative justice. This may include a range of possibilities. Often this may involve apology and recompense.
  - May consider disciplinary responses - see Regs re “privileges of membership” (Regs 5.2.1) - or may remove persons from leadership
  - May request that the respondent be excluded from worship or the premises for a limited time.

**THIS IS NOT TO BE DONE WITHOUT REFERRAL to the Synod Safe Church Committee. Issues include: complying with the Equal Opportunity Act; documenting and informing with extreme care; issues of enforcement and implications for the Police; the reputation of the Uniting Church; media matters. This decision is never taken lightly.**

- The Church Council may agree with a recommendation that the complaint is vexatious or lacks merit.
- May decide that resolution of this matter is not possible and refer it elsewhere.
- The outcomes are communicated to both the respondent and the complainant. If disciplinary action is taken, inform the respondent of appeal processes (Reg 5.2.3).
- Ongoing pastoral care is offered.
- Often a referral to a clinical psychologist or professional counsellor is offered.
- Follow-up is diarised.
- The Church Council questions and resolves, “Who needs to know about this matter?” In some circumstances, especially when the outcomes are very serious, it may be helpful for a Presbytery or Synod officer to speak with a congregation or fellowship group. In some circumstances a very carefully prepared document may be read to a congregation by a person with designated authority, with hard copies available so that there is no doubt about what has actually been decided and spoken. In these circumstances it is wise to seek the support and advice of the Presbytery of a Synod.

## PHASE 4 Healing and restoration

A Church Council and the Ministry team may give close attention to what may bring healing.

Suggestions include:

- Further mediation with the goal of adversaries finding common ground
- Opportunities for prayer
- Opportunities for people to express their grief. In some circumstances this may involve bringing support people from outside the congregation into the community for either group de-briefing or individual counselling. Often major grievances have ripples well beyond the main players, especially if the outcomes are perceived as severe or unjust by some members of the community.
- A service of lament. This is an opportunity for people to have worship time simply to reflect quietly on the devastation of broken relationships and to acknowledge complicated grief.
- A ritual within worship around brokenness, forgiveness and reconciliation.

Take care to get the timing of these actions right – a premature invitation to resolution can do much damage.

Once again, wisdom around what suits a specific situation is essential.

## Some reassurances:

The matters alluded to in this document cover a wide range of possible complaints, and the processes outlined may seem “over the top”. However, most complaints are resolved locally and without the most extreme outcomes mentioned here. However, it is very important that those of us in leadership have a good understanding of how to deal with the most challenging of situations. Ensuring good process in the small issues as well as the big ones brings confidence and respect.

You are not alone. The Presbytery and Synod has “seen it all before” and will guide you every step of the way. We would rather be over informed than kept in the dark. Placements and Safe Church team members are skilled in managing these issues pastorally and effectively. Moreover, they report to the Safe Church Committee and are accountable to the whole Church.

When the Presbytery and Synod becomes involved in a complaint matter or issues around persons of concern, the staff will endeavour to

- Keep you in the driver’s seat as much as possible
- Maximise communication channels.
- Develop the right process for the specific situation.
- Ask questions that only local leaders can answer. What impact will this have on your church community? Who needs to be informed? Do we need to keep your church community safe ( and the person of concern too)

Together we pray that the body of Christ will be renewed by the Holy Spirit.

For further support, please liaise with your Presbytery minister or Chairperson or the Executive Officer, Placements and Safe Church. The Placements and Safe Church Team can be contacted on 08 8236 4204.

*I therefore, the prisoner in the Lord, beg you to lead a life worthy of the calling to which you have been called, <sup>2</sup>with all humility and gentleness, with patience, bearing with one another in love, <sup>3</sup>making every effort to maintain the unity of the Spirit in the bond of peace. <sup>4</sup>There is one body and one Spirit, just as you were called to the one hope of your calling, <sup>5</sup>one Lord, one faith, one baptism, <sup>6</sup>one God and Father of all, who is above all and through all and in all.*

*Ephesians 4:1-6*



