

Uniting Church South Australia

Procedures for the Implementation of the *National Framework for Interim Redress Measures for Survivors of Past (Childhood) Sexual Abuse*

December 2016
tabled at UCSA Standing Committee February 2017

1. Purpose

The Uniting Church in Australia, Presbytery and Synod of South Australia is committed to doing all that it can to provide fair, consistent and compassionate redress for past sexual abuse committed towards children in our care.

This procedure has been developed for addressing complaints regarding allegations of past sexual abuse that have occurred in Uniting Church in Australia, Synod of South Australia (Uniting Church SA) congregations or bodies within the Property Trust or congregations of the Methodist Church, Congregational Union or Presbyterian Church of Australia prior to Union. It does not apply to complaints that have allegedly occurred in separately incorporated organisations associated with the Uniting Church SA.

The procedure facilitates the implementation of the *National Framework for Interim Redress Measures* approved by Assembly Standing Committee on 21 December 2015 and is to be read in conjunction with this framework.

It is the Church's first preference to have any application for redress resolved by using this procedure without limiting the Survivor's right to use legal processes at any time. This procedure is not applicable to situations where the Survivor has current legal proceedings against the Uniting Church.

2. Principles

- a) The Uniting Church SA recognises that some Survivors of past sexual abuse have not received the support and care that they rightly deserved.
- b) The Uniting Church SA acknowledges that complaints and/or allegations of past sexual abuse are serious. All complainants will be welcomed and treated with the respect deserved. A compassionate response will be the first priority in all cases of alleged abuse.
- c) The Uniting Church SA is committed to procedural fairness for all those who lodge allegations/complaints of past sexual abuse.
- d) All applications will be reviewed in the shortest time practicable.
- e) The staff who have access to the application and all details surrounding that application will be limited to those required to respond to it.

3. Procedure

3.1 Notification

- a) Applications for redress may be received verbally or in writing and may be made by the Survivor or someone acting on behalf of the Survivor including a legal representative.
- b) Where an application is received by any leader other than the CEO/General Secretary this is to be immediately referred to the CEO/General Secretary. The CEO/General Secretary will inform the Safe Church Committee and the Property Trust of the application. Standing Committee will be informed of the existence of the application.
- c) In consultation with the Safe Church Committee, the CEO/General Secretary is to acknowledge the application in writing.

3.2 Consultation

- a) Should it be determined by the CEO/General Secretary and the Safe Church Committee to apply the Redress Procedures, the CEO/General Secretary will offer to meet with the Survivor and support person to hear their story. There is also to be a written request that the Survivor outline the matter including its impact upon them in writing. (The principles outlined in the “Member and Adherent Sexual Abuse and Sexual Misconduct Policy 2015” shall be followed).
- b) If the Survivor agrees to meet, the CEO/General Secretary will convene a “Without Prejudice” meeting as soon as possible. The Survivor may have a support person, who may be their legal representative, attend this meeting. Apart from the CEO/General Secretary, a person with experience in issues relating to child sexual abuse and another church representative will attend this meeting. This meeting shall be held in a location giving due consideration to any sensitivities of the Survivor and with representatives of the church appropriate to the situation.
- c) Uniting Church staff and members of the Safe Church Committee will maintain confidentiality about the application at all times.

3.3 Investigation

- a) Should an investigation of the application be required, the CEO/General Secretary in consultation with the Safe Church Committee will assign this to a Designated Person(s) with pastoral and investigation skills who shall provide a report to the CEO/General Secretary.
- b) In assigning investigation of the application the CEO/General Secretary will document and agree an Investigation Plan outlining the objectives of the investigation and people who should be interviewed. This investigation will be by enquiry and not adversarial. Confidentiality will be stressed with all interviewees.
- c) The Investigation Plan will ensure procedural fairness is provided to all interested persons.
- d) The Designated Person(s) is to provide an Investigation Report to the CEO/General Secretary in the shortest practicable time. The CEO/General Secretary is to provide the Safe Church Committee with an Investigation Report.
- e) The Church will accept reasonable likelihood as the standard of proof, but wherever possible, and to the extent possible, will seek to determine a higher standard of proof to ensure fairness to all parties.

4. Criminal or Civil Action

- a) The General Secretary/CEO will advise that in their role they have a legal responsibility to report to Police and/or Families SA, and will do so as soon as practicable.
- b) If the Survivor has not previously referred the matter to the Police the CEO/General Secretary will encourage the Survivor to do so.
- c) Where the CEO/General Secretary becomes aware of any criminal or civil action arising out of the complaint, advice of this shall be provided to the Property Trust and Standing Committee.

- d) If a Survivor makes application for redress and then subsequently commences a process of civil litigation the redress process will terminate. A prior unsuccessful civil litigation claim does not prevent a Survivor making application for redress.

5. Application Resolution

- a) Redress will be in accord with those actions specified in the National Framework:
- i. Direct personal response
 - ii. Counselling and psychological care
 - iii. Monetary payments
- b) Where a formal expression of apology is offered by the CEO/General Secretary this will be provided by the Moderator. The Survivor may have a support person present and there may be other church representatives present with the prior acceptance of the Survivor. This verbal apology will be supported by a written apology. Where the Survivor does not want a verbal apology a written apology will be provided.
- c) Counselling and psychological care may be provided on an ongoing or episodic basis while the Interim Framework remains in place. To ensure the Survivor is receiving appropriate levels of care and making progress towards recovery a report from the counsellor or medical practitioner may be required at intervals determined between the Survivor and CEO/General Secretary.
- d) Where a monetary settlement is sought by the Survivor the CEO/General Secretary will consult with a panel consisting of a representative from the Pastoral Relations Committee, Safe Church Committee and Property Trust as to the quantum and determination of an ex gratia payment and terms of settlement. The purpose of a monetary payment under this interim redress framework is to provide a tangible recognition of the seriousness of the hurt and injury suffered by a Survivor.
- e) A maximum payment of \$150,000 may be offered in order to conclude the process. Any payment will take into consideration the severity of the abuse, the severity of the impact and other additional elements on the basis of the recommendation of the Royal Commission into Institutional Responses to Child Sexual Abuse.
- f) Where a monetary payment is offered as part of the redress outcome the Survivor will be required to sign a Deed of Release prior to receiving the payment. Before signing a Deed of Release the Survivor will be encouraged to seek legal advice. The Church will fund this to a maximum of \$1,100 (including GST).

6. References

Uniting Church in Australia: National Framework for Interim Redress Measures (December 2015)

Uniting Church in Australia: Member or Adherent Sexual Abuse and Sexual Misconduct Policy (December 2015)

7. Review

This procedure will be reviewed by the CEO/General Secretary or delegate in collaboration with the Safe Church Committee, the Royal Commission Task Group and the Property Trust within 12 months of adoption by Standing Committee.

8. Definitions

“CEO/General Secretary” means CEO/General Secretary of the Uniting Church in South Australia or her/his delegate.

“Confidentiality” is about privacy rather than secrecy. In general terms, sharing of information in relation to allegations of a criminal offence should be strictly limited. These allegations shall be referred to the South Australian Police if such a referral has not previously occurred. The referral will be made as soon as possible and with the absolute minimal involvement of other people. In the conduct of an investigation, confidentiality is an assurance that information provided is protected from being shared with unauthorised persons or for any purpose other than which it was collected.

“Designated Person(s)” means a person or persons appointed by the CEO/General Secretary and Safe Church Committee who is independent of all other people involved in the allegations, appointed to investigate the application.

“Investigation Plan”

- i. Summarises the issues to be addressed throughout the investigation
- ii. Establish clear objectives for the conduct of the investigation
- iii. List the people who will be interviewed through the investigation process. Should the Designated Person (s) consider that other individuals should be interviewed after the investigation Plan is agreed the approval of the CEO/General Secretary must be sought
- iv. Summarise the evidence to be sought or obtained
- v. Establish a strategy for the confidential management of the investigation.
- vi. Establish a process by which parties to the investigation will be kept adequately informed as to the status of the investigation

“Investigation Report”

- i. The process by which the investigation was conducted
- ii. The outcomes of the investigation
- iii. Recommendations of the Designated Person (s) as to an appropriate response to the application.
- iv. Reasons for which the CEO/General Secretary considers the Designated Person (s) recommendations should be implemented, modified or rejected.

“Moderator” means Moderator or her/his delegate as defined in The Uniting Church in Australia Constitution and Regulations.

“Property Trust” means The Uniting Church in Australia Property Trust (S.A.).

“Safe Church Committee” means the Safe Church Committee or its delegate, as a subcommittee of the Standing Committee.

“Standing Committee” means the Synod Standing Committee as defined in The Uniting Church in Australia Constitution and Regulations.

“Support Person” means a person invited by the Survivor to assist them through the redress process. With the Survivor’s permission, the Support Person may attend any meetings convened through the process to which the Survivor is invited.