

23 July 2013



The Honourable Georgie Crozier MLC  
Chair Family and Community Development Committee  
Parliament House  
Spring Street  
MELBOURNE VIC 3000

Email: [Janine.Bush@parliament.vic.gov.au](mailto:Janine.Bush@parliament.vic.gov.au)

### Right of Reply

As Director of Catholic Education for the Diocese of Ballarat since January 2012, I wish to exercise my right of reply in relation to allegations made against the Catholic Education Office and Catholic schools in the Diocese of Ballarat at the Inquiry into the Handling of Child Abuse by Religious and Other Organisations (the Inquiry).

On 28 February Mr M Crowe and Mrs C Crowe appeared at the Inquiry in Ballarat. Whilst the published transcript of that testimony appears to expunge any text that will identify the parish, school, principal and priest concerned, the remaining text clearly points to the school being in the Diocese of Ballarat and therefore leaves all schools of the Diocese the subject of suspicion. The transcript further leaves on record a number of very serious allegations which if left unchallenged could be accepted by the Committee.

1. *Mr Crowe alleged that he was forced, indeed "blackmailed" into signing a separation agreement with the school under a threat of misconduct (page 1 and page 8).*

- An allegation that Mr Crowe used excessive force on a student was investigated by a senior member of the Office of Professional Conduct, Ethics and Investigations from the Catholic Education Office Melbourne in February 2011. The investigation cleared Mr Crowe of any misconduct, although the investigator commented that Mr Crowe "must take responsibility for some of the escalation of the emotional content and the physical harm" caused in the incident. With the investigation finalized, Mr Crowe was invited to return to his position at the school in July 2011.
- An allegation of professional misconduct was made against Mr Crowe in July 2011 on the date designated for Mr Crowe to discuss his return to work. The allegation was in relation to a confrontation with a colleague on the school site. The parish priest notified Mr Crowe that the matter was to be investigated and required him to remain on leave pending investigation.
- Before that investigation could commence, Mr Crowe subsequently chose not to return to his position at the school and an industrial officer of the Independent Education Union representing Mr Crowe negotiated a separation agreement.
- The separation agreement was provided to Mr Crowe via his chosen advocate. Mr Crowe had several days to read over the agreement and consider whether or not to accept the settlement. He was supported throughout this process both by an Industrial Officer from the Victorian Independent Education Union and by his chosen advocate. Correspondence between the union, the school and the Catholic Education Office suggests that Mr Crowe signed this agreement without coercion. His signature was witnessed by the Advocate and the signed agreement was delivered to the Parish Priest by the Advocate.

2. *Mr Crowe alleged that Clergy interfere with teacher mandatory reporting (page 2) and a culture of cover up prevents teachers from raising suspicions of abuse (page 3).*
  - Teachers in Victoria are **mandated** to report suspected or known abuse of a child directly to the Department of Human Services (DHS) as per the *Children, Youth and Families Act 2005*.
  - All school and diocesan procedures and policies stress that it is the individual teacher who is personally mandated and that if they have formed a belief, they cannot be dissuaded from making a report by their principal or parish priest.
  - A report can be made with or without the support of their principal or parish priest and the DHS can maintain the confidentiality of the teacher making the report, so it is not reasonable to suggest that a teacher who had genuine concern for a child's safety would be too intimidated to make such a report.
  - Professional development in relation to mandatory reporting requirements has been a feature of the diocesan induction process for all new teachers since the passing of the *Children, Youth and Families Act 2005*.
  - Mr Crowe participated in professional development at the school during 2006 in which teachers' obligations with regards to mandatory reporting were outlined. This training activity stressed that it is the teacher who is personally mandated to report and this has always been the protocol reflected in the school's policy on mandatory reporting.
  
3. *Mr Crowe alleged that nepotism at the school enabled the Principal, Deputy Principal and other staff to collude in victimizing him (page 2).*
  - Allegations of nepotism and of workplace harassment were investigated by a senior member of the Catholic Education Office Ballarat in 2010 and found to be unsubstantiated.
  - When two staff members who were related to the Principal were applicants for positions at the school, the selection processes were run by separate panels and the appointments made by separate Parish Priests without the involvement of the Principal.
  
4. *Mr Crowe alleged that the current Memorandum of Understanding between the Catholic Education Office and the Victorian Institute of Teaching assists clergy to cover up and hide child sexual abuse (page 5).*
  - The MoU to which Mr Crowe probably refers is an agreement ensuring that any allegations made against teachers in schools of the Diocese will be investigated by an officer from the Office of Professional Conduct, Ethics and Investigations at the Catholic Education Office Melbourne. This ensures an officer from outside the diocese investigates such matters.
  - The diocesan protocol *Protecting Students: Maintaining Relationships* (a copy of which is attached) outlines a process for managing allegations of abuse of students by employees in Catholic education in the diocese and clearly states that any accusations against clergy and religious staff are to be addressed "under the Towards Healing 2010 set of procedures" (page 3). Reports can be made directly to the Catholic Education Office, the Bishop or the Principal. Criminal matters are to be reported directly to the Police.

5. Mr Crowe alleged that there is no protection for whistleblowers in Catholic education (pages 5-6).
- Adherence to the diocesan protocol *Protecting Students: Maintaining Relationships* ensures that those who make allegations of abuse against staff in Catholic schools or against clergy are protected through the confidentiality of the investigation process and assisted with appropriate pastoral support.

I ask that the Committee publish this reply alongside the transcript of Mr and Mrs Crowe's appearance before the Inquiry by way of correcting the record contained in the transcript of the appearance by Mr & Mrs Crowe.

Yours sincerely,



Audrey Brown  
**Director of Catholic Education**





# Protecting Students: Maintaining Relationships

*Process for Managing Allegations  
of Abuse of Students by Employees in  
Catholic Education in The Diocese of Ballarat*



*Bishop's Office  
5 Lyons Street South  
Ballarat VIC 3350*

**P.O. Box 121**  
*Ballarat VIC 3353*  
*Phone: (03) 5337 7121*  
*Fax: (03) 5332 1122*  
*E-mail: [bishop@ballarat.catholic.org.au](mailto:bishop@ballarat.catholic.org.au)*

25 May 2012

Dear Principal,

I ask you to give very careful attention to the “Protocols for Managing Allegations of Abuse” which has recently been reviewed in the light of experience gained over several years.

It is a document that is published for the whole diocese with careful attention being given to clarity and consistency.

It is important that you familiarise yourself with the contents of the document and that you keep it in a place where it can be quickly located.

I also ask you to make copies of the document available to all members of your staff and encourage them to be fully aware of the processes outlined in the document.

I assure you of all possible support from me and from the members of my staff in carrying out the provisions of the document.

The Director of Catholic Education and members of her office will also be ready to assist you.

Yours sincerely in Christ,

**Bishop of Ballarat**

# Definitions

Church Authority	The Bishop of the Diocese
Parish Authority	Parish Priest Canonical Administrator
Principal	A head teacher or principal of a school registered under Part 3 of the Education Act 1958
Student	Child or young person enrolled in a Catholic school in the Diocese of Ballarat
Child Protection Services	The Victorian Government agency that protects children at risk of significant harm and that is provided by the Department of Human Services from regional offices. Child Protection has statutory powers and can use these to protect a child
Children, Youth and Families Act 2005	Provides the legislative basis for the system of services that provide support to vulnerable children and their families and, where necessary, protect children from significant harm.

# Acronyms and Abbreviations

CEOB	Catholic Education Office Ballarat
DSP	Diocesan Support Plan
DST	Diocesan Support Team
EAP	Employee Assistance Program
OPCEI	Office for Professional Conduct, Ethics and Investigations
PSRG	Professional Standards Resource Group
VIT	Victorian Institute of Teaching

# Introduction

## PURPOSE

The purpose of this protocol is to provide clear procedures on how to deal with allegations of misconduct, involving children in schools, by lay persons employed in Catholic Education.

These procedures both acknowledge the special responsibility of Catholic Education employees towards the children in their care, and respect the dignity of employees and their rights to justice.

This protocol applies only to lay employees of Parish Primary Schools and Regional Secondary Colleges. Schools owned and operated by Religious Institutes operate under a separate set of procedures (Towards Healing 2010).

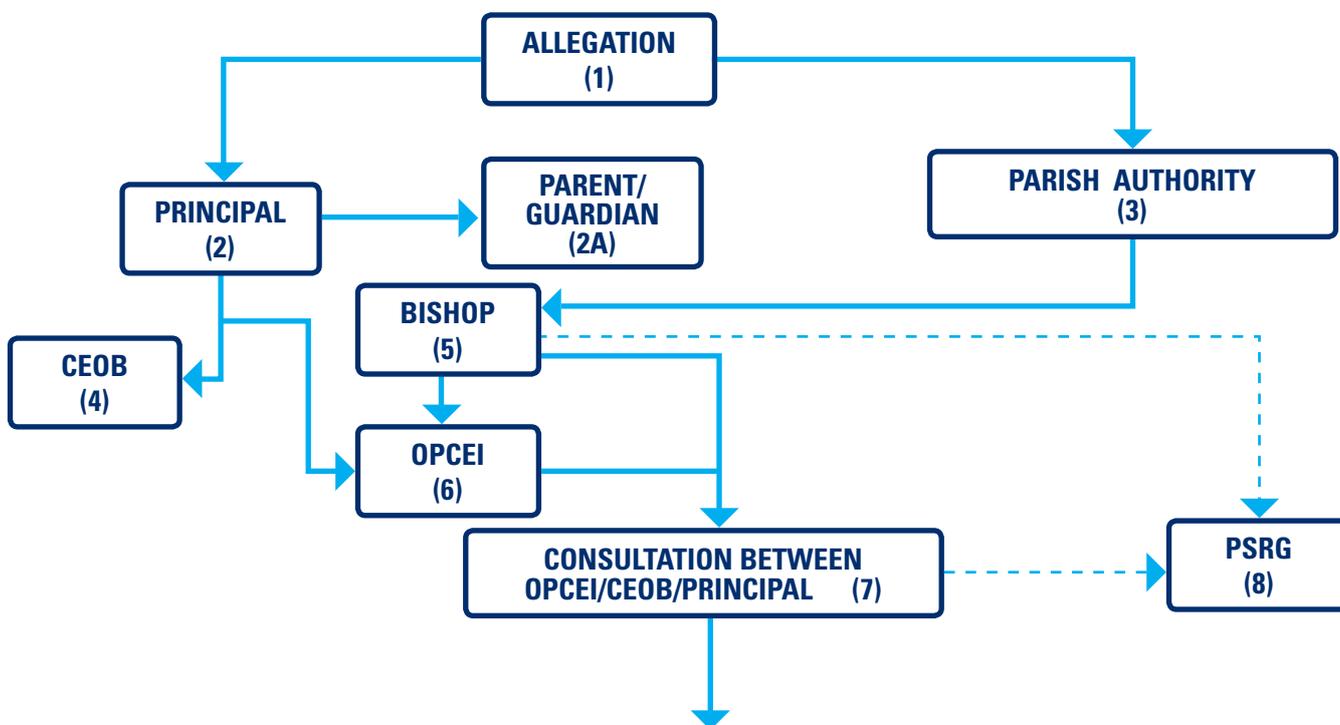
Clergy and Religious Staff operate under the Towards Healing 2010 set of procedures.

## PRINCIPLES

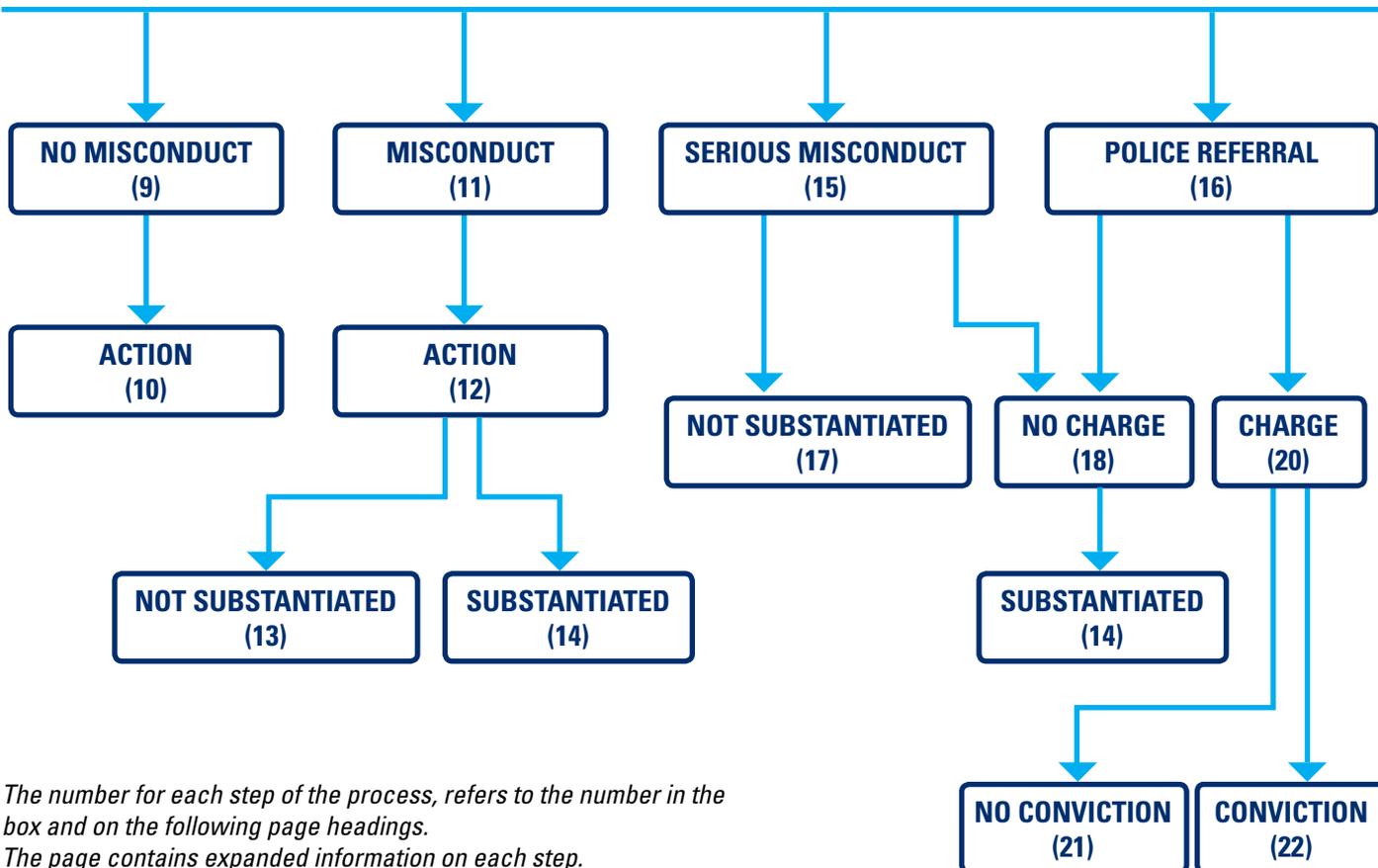
- All adults have a responsibility to care for children, to positively promote their welfare and to protect them from any kind of harm due to misconduct.
- All children have the right to a thorough and systematic education in personal safety, including safety in relationships.
- The Ballarat Diocese is committed to the importance and implementation of child protection strategies and procedures. All allegations must receive a response and be dealt with promptly.
- Abuse of children by persons in positions of trust or authority is a serious matter. Whilst legal sanctions exist, these may not be the only response in dealing with misconduct situations.
- The possibility of a malicious, false or exaggerated allegation is acknowledged. After proper investigation, where the employee is found to be innocent of the allegation, the appropriate Church authority will assist the employee to re-establish his/her credibility in the eyes of colleagues and the community.
- Harm to the child and the employee is minimised by:
  - confidentiality;
  - adherence to agreed procedures, both at the school and at the Diocesan Office (involving authorities);
  - provision of appropriate emotional support and pastoral care.
- Investigations should be contained in order to minimise the potentially negative impact of the investigative process, with care taken with respect to the number of interviews to which the child is subjected.

# Process for managing allegations of abuse of students by employees in catholic education in the diocese of ballarat

## STAGE ONE



## STAGE TWO



The number for each step of the process, refers to the number in the box and on the following page headings.  
The page contains expanded information on each step.

# 1) ALLEGATION

An allegation may be made on the basis of:

- information received from a third party that indicates a child has been abused;
  - your own observation of the child's behaviour which suggests abuse has occurred;
  - witnessing abuse or a series of actions that suggest abuse;
  - direct disclosure from a child that abuse has occurred.
1. Any allegation of misconduct of a sexual, physical or emotional nature against an employee of the school should be referred immediately to the principal, who informs the Parish Authority and contacts the Bishop's Office. Any allegation against the Principal is to be referred immediately to the Bishop's Office.
  2. Those to whom the allegation is made should observe confidentiality throughout, which means that there should be no broadening of discussion on the allegation, apart from with those persons specified in these procedures. It is important that the employee's reputation be protected, especially in the early stages of the process.
  3. The person to whom an allegation is made should document the allegation and his/her action(s).
  4. The Principal should document the details of the allegation as received, before discussion with relevant authorities.
  5. Where the allegation has been disclosed by a student, the Principal must inform the student's parents immediately and document the complaint in the presence of the student's parents or such other person agreed to by the student and parents.
  6. Where disclosure of the allegation is not by the student, the Principal should document the complaint and immediately contact the parents of the student.
  7. If contact with the parents may compromise a future investigation, advice needs to be sought from the investigatory agency e.g. Police / PSRG.
  8. Certain alleged offences against children or young persons may have mandatory reporting implications and where this is the case, the Principal is required to contact the Department of Human Services. If the person to whom the allegation is made is mandated by law, it remains his/her responsibility to ensure that the Department of Human Services is contacted.
  9. The possibility of a malicious, false or exaggerated allegation is acknowledged. After proper investigation, where the employee is found to be innocent of the allegation, the relevant Church Authorities will assist the employee to re-establish his/her credibility in the eyes of colleagues and the community and will provide appropriate emotional support and pastoral care.

## 2) PRINCIPAL

The Principal:

1. Listens very carefully to the allegation.
2. Documents the detail of the allegation on the Contact Record - Diocese of Ballarat. (Appendix A)
3. Immediately informs the Parent/Guardian, Parish Authority and the Director of Catholic Education, Ballarat.
4. Immediately posts the completed Contact Record (Appendix A) to:  
Director,  
Catholic Education Office Ballarat,  
(P.O. Box 576, Ballarat 3353) and marked CONFIDENTIAL.
5. Where appropriate, adheres to mandatory reporting legislation, as stated in the Children, Youth and Families Act 2005.
6. Contacts the Catholic Education Office by phone to advise of the posting of Contact Record. (Phone: 5337 7 131)
7. Observes complete confidentiality at this stage with respect to the allegation, other than following the process and contacting appropriate people.
8. **Ensures that the student is safe and his / her needs are being met.**

### 3) PARISH AUTHORITY

The Parish Authority is to:

- respect the role of the Principal in this process;
- refer any allegation against a lay staff member, other than the Principal, to the Principal.

If the allegation is against the Principal, the Parish Authority:

1. Listens very carefully to the allegation.
2. Documents the detail of the allegation on the Contact Record - Diocese of Ballarat. (Appendix A)
3. Immediately posts the completed Contact Record to:  
Director,  
Catholic Education Office Ballarat,  
(P.O. Box 576, Ballarat 3353) and marked CONFIDENTIAL.
4. Contacts the Catholic Education Office, Ballarat by phone to advise of the posting of Contact Record. (Phone: 5337 7131 )
5. Observes complete confidentiality at this stage with respect to the allegation.
6. **Ensures that the student is safe and his / her needs are being met.**

**Parish Authority:  
Parish Priest  
OR  
Canonical Administrator**

## 4) DIRECTOR OF CATHOLIC EDUCATION, BALLARAT

1. Informs the Bishop's Office of the allegation.
2. Immediately initiates contact with Office for Professional Conduct, Ethics and Investigations (OPCEI) and forwards copy of Contact Record to OPCEI (See explanatory note below)
3. Director, if appropriate, informs the Educational Consultant responsible for the school.
4. Liaises with the Bishop to determine the appropriate course of action.
5. Ensures all discussions and actions taken are documented and filed securely.

*Explanatory Note:*  
**OFFICE of PROFESSIONAL CONDUCT,  
ETHICS and INVESTIGATIONS**

Executive Officer of OPCEI:

- Provides information re professional standards and conduct of teachers in Catholic Education
- Provides advice and assistance as required to Catholic schools and offices
- Receives and manages complaints relating to Catholic schools
- Investigates complaints
- Provides a point of contact for support and advice involving Mandatory Reporting
- Liaises with appropriate organisations in order to provide accurate and quality advice
- Works in consultation with Legal and Industrial Relations Units as required
- Maintains accurate records of all complaints
- Provides referrals for appropriate professional counselling as required
- Provides support and assistance to CEOB as required, through Office of the Bishop

## 5) BISHOP'S OFFICE

1. If appropriate, advises the Director Professional Standards Resource Group (Victoria) (PSRG).

### *Explanatory Note:* **PROFESSIONAL STANDARDS RESOURCE GROUP (Victoria)**

Is a group established to advise the Director of Professional Standards responsible for a given state or territory.

Professional Standards are the qualities essential for the ethical and safe practice of pastoral ministry.

**Pastoral Ministry** includes all work involving the supervision or education of children and young people.

The bishops and leaders of religious institutes of the Catholic Church in Australia have established and shall maintain a Professional Standards Resource Group (PSRG) responsible for each State and the Northern Territory.

- 1) The PSRG shall consist of at least one priest or religious and a suitable number of other persons (no more than ten), both men and women, of diverse backgrounds and faith traditions, skilled in areas such as child protection, the social sciences, civil and Church law and industrial relations. Members of the PSRG shall be appointed by the bishops and leaders of religious institutes.
- 2) The PSRG shall have an advisory role in matters concerning professional standards to all Church bodies in the State or Territory.
- 3) In addition to responding to requests for assistance, the PSRG shall also act in a proactive manner. It shall be free to offer advice within its mandate to any Church body in the State or Territory.

(*Towards Healing*. 2010 Australian Catholic Bishops conference and Catholic Religious Australia)

## **6) OFFICE for PROFESSIONAL CONDUCT, ETHICS & INVESTIGATIONS (OPCEI)**

1. As soon as the Executive Officer of the Office for Professional Conduct, Ethics and Investigations (OPCEI) receives the Contact Record from the CEOB, s/he informs the Principal (or the Parish Authority if the Principal is the accused) and establishes a time-line for further advice.
2. The OPCEI, through investigation and discussion, determines:
  - the seriousness of the allegation;
  - the appropriate action, contingent on the allegation.
3. Any previous 'reports' pertaining to the employee's conduct or any previous 'reports' made by, or for, the complainant in relation to misconduct, should be accessed and reviewed.
4. It is the responsibility of the OPCEI to co-ordinate the response
  - Acknowledges in writing to the Director CEOB reception of the Contact Record.
  - Immediately convenes a meeting of the Education Consultant (if appropriate), Director CEOB and the Principal.
  - Contacts complainant to explain the process being undertaken.
  - Maintains contact with the Parish Authority.

## **7) CONSULTATION BETWEEN CEOB, OPCEI and PRINCIPAL**

1. The Principal must consult (either in person or by phone) with the Director of the CEOB and the Executive Office of OPCEI, to determine the appropriate action to be taken.

This may include consideration of whether it is in the interests of the employee and the school community to place the employee on leave with full pay. It may be appropriate to seek industrial advice from the Industrial Relations (IR) Unit of CECV.

The contact numbers:

Director of CEOB:	(03) 5337 7131
OPCEI	(03) 92670221
Industrial Relations:	(03) 92670228

2. The action to be taken will be dependent upon whether misconduct has occurred or, if it is established that it has occurred, the degree of seriousness.
3. To determine if further investigation by OPCEI is required to be undertaken if misconduct has occurred.
4. The Director of CEOB would normally brief and/or involve in discussions, the relevant Educational Consultant.
5. It is the responsibility of the OPCEI to co-ordinate the response:
  - Contacts complainant to explain the process being undertaken.
  - Maintains contact with the Parish Authority.

## **8) PROFESSIONAL STANDARDS RESOURCE GROUP (PSRG)**

1. The appropriate action may include the direct involvement of PSRG (Vic) or a briefing of Director PSRG (1800 816030).
2. Contact with PSRG will be made by the Bishop's Office.

## **9) NO MISCONDUCT**

Following investigation by OPCEI, it is determined that the allegation and information reported does not constitute misconduct nor necessitates disciplinary action.

## **10) NO MISCONDUCT - ACTION**

1. The OPCEI will notify all relevant Church authorities and the person from whom the allegation came, that no further action will be taken at this time.
2. Confirmation of the conclusion to the matter is clearly communicated by the OPCEI to the complainant.
3. The Principal, along with the appropriate Parish Authority, informs the employee regarding the allegation and maintains that :
  - no documentation is kept on their file;
  - no notation on records
  - documentation exonerating them will be kept in a secure environment by the OPCEI
  - he/she has the right to pursue legal redress through Civil Law;
  - if dissatisfied he/she is entitled to request a review of the process. Concerns are to be addressed in writing to:  
The Convenor,  
Professional Standards Resource Group,  
The Bishop's Office,  
PO Box 121  
Ballarat, 3353.
4. The Church Authority confirms conclusion of the matter in writing to the Director CEOB and OPCEI.
5. Verbal communication of the same facts is given to the Principal and the Parish Authority.

## 11) MISCONDUCT

'Misconduct' is described as inappropriate conduct by an employee in relation to a student or students. In isolation, this inappropriate conduct may not be serious enough by nature to warrant the termination of employment, but may warrant other forms of disciplinary action. The repetition of this inappropriate conduct could make the employee liable for dismissal. Alleged misconduct is not a matter for the police nor does it come within the scope of the Children, Youth and Families Act 2005.

*The following are only examples of misconduct and NOT exhaustive.*

**Sexual:**

- inappropriate discussion of matters of a sexual nature with a student;
- sharing printed and/or electronic material with offensive inappropriate sexual images or references;
- any attempt to sexualise a teacher/student relationship.

**Physical:**

- use of inappropriate force in restraining a student.

**Emotional:**

- constant public humiliation of the student;
- inappropriate isolation of the student;
- acting towards a student in a manner which causes serious mental anguish.

## 12) MISCONDUCT - ACTION

Having regard to all the matters discussed, the appropriate person will implement the action(s) within the timeline agreed with the Director CEOB and the EO of OPCEI .

1. The Principal addresses the needs of the student and the student is linked to a support person at the earliest possible time.
2. The Principal shall inform the employee that an allegation has been made against him/her and that the matter has been referred to the OPCEI. The OPCEI is responsible for the conduct of the investigation in accord with the approved procedures. At no stage is the Principal required to undertake an investigative role.
3. At the earliest opportunity a representative of OPCEI will meet with the complainant to explain the process to be undertaken.
4. At the appropriate stage the OPCEI representative shall have a meeting with the employee and their representative, if they so desire, to discuss the allegation and to provide the employee with an opportunity to respond. If necessary, the employee will be referred to an appropriate adviser, such as the union or the employee's solicitor.
5. Upon completion of the investigation, the OPCEI will communicate the findings of the investigation to:
  - Church Authority
  - Director CEOB
  - Parish Authority
  - School PrincipalOrder of notification will depend on the seriousness of the allegation
6. OPCEI will convene a meeting of appropriate authorities to determine further actions.
7. The appropriate action may include the direct involvement of PSRG (Vic), or a briefing of its Director. Contact with PSRG will be made by the Bishop's Office.

## **13) MISCONDUCT – NOT SUBSTANTIATED**

Where the employee is found to be innocent of the allegation, every assistance is given to the employee to re-establish his/her credibility in the eyes of colleagues and the community and appropriate emotional support and pastoral care will be provided.

1. The OPCEI notifies all relevant authorities and the person from whom the allegation came, that no further action will be taken, at this time.
2. Confirmation of the conclusion to the matter is clearly conveyed by the OPCEI to the complainant.
3. The Church Authority confirms conclusion of the matter in writing to the Director CEOB and OPCEI.
4. The Principal, along with the appropriate Parish Authority, informs the Employee that:
  - no documentation is kept on their file;
  - no notation on records, or his / her Personnel Record Card;
  - documentation exonerating them will be kept in a secure environment by the OPCEI
  - he/she has the right to pursue legal redress through Civil Law;
  - if dissatisfied he/she is entitled to request a review of the process.

Concerns are to be addressed in writing to:

The Convenor,  
Professional Standards Resource Group,  
The Bishop's Office,  
PO Box 121  
Ballarat, 3353.

3. It is not appropriate for the Principal to attempt to negotiate an outcome or reconciliation between the student and the employee. However, in some circumstances, there is value in a negotiated outcome, but this should only be attempted through a specialist facilitator. This can be arranged with assistance of the Catholic Education Office.
4. A referral for counselling for the student, or the employee, is automatic and essential. The names of appropriate specialists can be provided through the CEOB. The involvement of the Employee Assistance Program (EAP) is also available.

## **14) MISCONDUCT – SUBSTANTIATED**

1. If the OPCEI establishes that the behaviour of the employee constitutes misconduct, disciplinary action may occur. Such action may take the form of a written warning or a note on the employee's file.
2. Consideration is to be given as to whether the proven allegation constitutes serious misconduct. If this is the case, procedures for responding to allegations of serious misconduct are implemented.
3. The Principal communicates the details of the misconduct and the disciplinary action to the employee in writing.
4. The Executive Officer of OPCEI shall maintain a report of the allegation and all matters relating to it in a secure setting.
5. An employee has the right to pursue grievance procedures should he/she feel that the process has not been correctly adhered to. Such procedures are detailed in the current industrial agreements for Victorian Catholic Education.
6. Alternatively, if dissatisfied he/she is entitled to request a review of the process. Concerns are to be addressed in writing to  
The Convenor,  
Professional Standards Resource Group,  
The Bishop's Office,  
PO Box 121  
Ballarat, 3353.
7. A repeat instance(s) of the misconduct shall be discussed immediately with the OPCEI and the Director CEOB.

## 15) SERIOUS MISCONDUCT

'Serious misconduct' is described as unlawful and/or inappropriate conduct by an employee when undertaking the duties or associated duties of their contract of employment. It is of such a serious nature that, if proven, could lead to dismissal.

Depending on type/degree of the serious misconduct, it may involve notification to the Police.

*If the complaint concerns an alleged crime, the Church has a strong preference that the allegation be referred to the police so that the case can be dealt with appropriately through the justice system.*

*The following are only examples of serious misconduct and NOT exhaustive:*

### **Sexual:**

- Any form of sexual behaviour with a child or young person, is always sexual abuse. It is both immoral and criminal. Any attempt to sexualise a teacher/student relationship is a breach of trust, an abuse of authority and professional misconduct. Such sexualisation may take the form not only of sexual relations, but also harassment, molestation, and any other conduct of a sexual nature which is inconsistent with the integrity of a teacher/student relationship.
- Sharing printed and/or electronic material with explicit offensive/inappropriate sexual images or references.

### **Physical:**

- Action by another person, causing physical harm to a student e.g. bruises, cuts, burns or fractures.

### **Emotional:**

- When a constant attitude or behaviour by another person towards a student harms the student emotionally and may delay or impair his/her physical and intellectual development. It can include terrorising, isolation and continued belittling of the student.

## **16) REFERRAL TO POLICE / DEPARTMENT OF HUMAN SERVICES**

1. After consultation with the Director CEOB and the OPCEI depending on the nature of the allegation, the first action of the Principal may be to contact the Police.
  - If the Principal wishes the Police to attend the situation ring 000.
  - If you are wanting to report the allegation contact Sexual Offences and Child Abuse Investigation Team (SOCIT).

The Principal will then make contact with the Church Authority (Parish Priest/Canonical Administrator).

Discussions with the Police might include the nature of the allegation, procedures followed to date, and the requesting of advice. Full co-operation is to be provided to the police.

The Principal does not initiate, during a time of police involvement, any investigation at the school level, even though a prima facie case may exist. To do so may jeopardise the Police investigation, ie. they should not interview the child or any other student or advise the person against whom the allegation has been made.

2. Where Police advise that the matter will be investigated, the Principal will:
  - provide the name and address of the student, the alleged offender, and any other relevant parties
  - ascertain when and where any interviewing is to take place
  - ascertain the process and timeline of Police procedures

(N.B. Under the 'single-track' policy applying in Victoria, the police will advise the Department of Human Services of the report made to them).

3. The parent or guardian of the student central to an allegation of serious misconduct will be contacted by the Police. On the advice of the Police the Principal may contact the parent/guardian(s) to inform them of a forthcoming contact by the Police.

## **17) SERIOUS MISCONDUCT – NOT SUBSTANTIATED**

Where the employee is found to be innocent of the allegation, every assistance will be given to the employee to re-establish his/her credibility in the eyes of colleagues and the community and appropriate emotional support and pastoral care will be provided.

1. The OPCEI will notify all relevant Authorities and the person from whom the allegation came that no further action will be taken at this time.
2. Confirmation of the conclusion to the matter is clearly conveyed by the Executive Officer of OPCEI to the complainant.
3. The Church Authority confirms conclusion of the matter in writing to the CEO of OPCEI.
4. The Principal, with the appropriate Parish Authority, informs the Employee regarding the allegation and maintains that:
  - no documentation is kept on his/her file;
  - no notation on records or his / her Personnel Record Card;
  - documentation exonerating them will be kept in a secure environment by the OPCEI he/she has the right to pursue legal redress through Civil Law;
  - if dissatisfied he / she is entitled to request a review of process. Concerns are to be addressed in writing to:  
The Convenor,  
Professional Standards Resource Group,  
The Bishop's Office,  
PO Box 121  
Ballarat, 3353.
5. It is not appropriate for the Principal to attempt to negotiate an outcome or reconciliation between the student and the employee. However there is value, in some circumstances, of a negotiated outcome, but this should only be attempted through a specialist facilitator.
6. A referral for counselling for the student, or the employee, is automatic and essential. The names of appropriate specialists can be provided through the CEOB. The involvement of the Employee Assistance Program (EAP) is also available.

## **18) SERIOUS MISCONDUCT – NO CHARGE**

A decision by the Police not to lay charges may be made where:

(a) there is no evidence to support the charge, following Police investigation

OR

(b) there is insufficient evidence to proceed to court with the charge. An example may be a case where the student and/or parents are unwilling for the student to appear as a witness in any court proceedings.

1. In such an event, responsibility lies with the OPCEI to examine the allegation thoroughly and to conduct its own investigation.

\*\* The employee is entitled to have a support person present during the investigation.

Of particular concern will be the Church's duty of care to the student, employee and others who may be affected by the alleged behaviour.

2. For the purposes of protecting a child, the standard of proof required to support an allegation of misconduct is different from that required to secure a conviction in criminal justice proceedings. There may be sufficient standard of proof to support an allegation in the absence of a charge or conviction.

## **19) SERIOUS MISCONDUCT – NO CHARGE BUT SUBSTANTIATED**

1. After investigation by the OPCEI, there may be sufficient standard of proof to support an allegation of serious misconduct in the absence of a charge. In such a case, action may still be taken in accordance with the current Industrial Agreement for Victorian Catholic Education relating to the termination of an employee's contract of employment .
2. If termination of employment occurs, the Director CEOB will notify the manager of the Victorian Institute of Teaching.
3. The lesser level of misconduct might be sustained and acted upon in accord with Section 14 Misconduct – Substantiated.

## **20) SERIOUS MISCONDUCT – CHARGE**

1. If charged, the employee is not required to present him/herself for duty until such time as the charge is heard, but will remain on full pay.
2. If guilt is admitted, the employee is dismissed immediately according to the current Industrial Agreement for Victorian Catholic Education.
3. The Director CEOB will notify the manager of the Victorian Institute of Teaching.

## **21) SERIOUS MISCONDUCT – CHARGE - NO CONVICTION**

1. The failure of a court to record a conviction against an employee charged with criminal act does not necessarily signal that the charge was unwarranted or that the employee has no case to answer.

Failure to return a conviction may result from any one of a number of circumstantial events, unrelated to the original allegation e.g. refusal of the child to give evidence.

2. In such an event, responsibility lies with OPCEI to examine the allegation thoroughly and to conduct its own investigation.

\*\* The employee is entitled to have a support person present.

3. After investigation by the OPCEI, there may be sufficient standard of proof to support an allegation of serious misconduct in the absence of a conviction. In such a case, action may still be taken in accordance with the current Industrial Agreement for Victorian Catholic Education relating to the termination of an employee's contract of employment.

4. If termination of contract occurs, the Director CEOB will notify the manager of the Victorian Institute of Teaching.

5. The lesser level of misconduct might be sustained and acted upon in accord with Section 14 Misconduct - Substantiated (14).

## **22) SERIOUS MISCONDUCT – CONVICTION**

1. A conviction in a court of law will result in the summary dismissal of the employee.

2. Action on dismissal must not proceed without the Principal making contact with the Director CEOB.

3. The OPCEI is to be informed of this action by the Director CEOB.

4. Termination of employment is to be in accord with the current Industrial Agreement for Victorian Catholic Education.

5. The Director CEOB will notify the Manager of the Victorian Institute of Teaching.

# Appendix A

## CONTACT RECORD – DIOCESE OF BALLARAT

Parish/School

Date

Time

Contact Name

Address

Telephone Number

Person Contacted

Method  Telephone  Written  Personal

Substance of Conversation

Has contact been made with a statutory authority?  YES  NO

If YES:

Name of authority:

Contact Person:

Telephone Number

Date

Time

Signed: \_\_\_\_\_ Date

*(Photocopy as needed)*

# Appendix B

## DIOCESAN SUPPORT PLAN CATHOLIC EDUCATION

The Diocesan Support Plan exists to support the individual school/ parish community in times of crisis following allegations of staff misconduct against children by personnel involved in ministry or employment in the name of the Catholic Diocese of Ballarat.

### *The Diocesan Support Plan responds to the invitation of the local community.*

The Plan is implemented by the Support Team which consists of:

- Co-ordinator – Critical Incidents, CEOB
- Civil Lawyer
- Counsellor/Psychologist - CEOB
- Public Relations Officer - CEOB

1. The CEOB Director may activate the Diocesan Support Plan if it is considered appropriate.
2. After being contacted by the CEOB Director, the co-ordinator of the Diocesan Support Plan makes contact with the Principal to offer strategies for the local school / parish community to respond to:
  - the need for the local community to have accurate information whilst taking into account legal / criminal requirements;
  - requests from the media for information;
  - the need for counselling services to be provided.
3. The co-ordinator of the Diocesan Support Plan will offer to the parish/school community on-going support through:
  - organisation of appropriate community gathering(s);
  - possible provision of counselling services.

# Contact Addresses & Phone Numbers

Bishop of Ballarat	(03) 53377121	Bishop's Office, PO Box 121, Ballarat, 3353
Catholic Education Office Ballarat	(03) 53377135	Catholic Education Office PO Box 576 Ballarat, 3350
Professional Standards Resource Group (Vic)	1800 816030	C/O The Bishop's Office, PO Box 121, Ballarat, 3353
Victim Support Line	(03)8684 6700	Department of Justice GPO Box 4349QQ Melbourne Victoria 3001
Employee Assistance Program: ACCESS	1800 222125	25 Lansdowne Street East Melbourne Vic 3002
Office for Professional Conduct, Ethics and Investigations	(03) 92670221	C/O Catholic Education Office, Melbourne PO Box 3 East Melbourne Vic 8002
Police: Sexual Offences and Child Abuse Investigation Team (SOCIT)	(03) 53366055	Ballarat

