



Diocese of Nelson Complaints Policy (March 2021)

A. Policy Statement

Policy

Those who undertake ministry for the Church are its public face. As such, we expect all those engaged in its work, paid and unpaid, to reflect by their words and actions a commitment to the mission and life of the Church as the earthly body of Jesus Christ.

Sometimes complaints may be received about the manner in which ministry or other work for the Church is undertaken. The Diocese of Nelson is committed to responding to such complaints respectfully, in accordance with agreed procedure and in a timely manner.

In particular, the Diocese is committed to acknowledging the abuse of anyone within its care, to providing redress where there has been wrongdoing, and to reviewing policies and procedures to prevent the recurrence of similar wrongs.

Scope

This policy applies to all who undertake work for the Diocese of Nelson, paid and unpaid. However, the procedure for addressing complaints will vary depending on who carried out the actions complained of.

Who do I complain to about someone's conduct?

1. If you are concerned about the conduct of –

- a Bishop or person licensed by the Bishop to perform ministry such as a clergy person or lay person licensed by the Bishop, or
- office bearers of the Church (ie, all those who have signed a declaration accepting the authority of the Church) such as vestry members, wardens and Synod representatives, or
- Diocesan or parish employees who are contractually bound by the complaint procedures in the rules of the Anglican Church known as 'Title D',

please address your concern to the Registrar of the Ministry Standards Commission. The Registrar will consider your concern independently from the Diocese under the rules of the Anglican Church known as 'Title D'. These are outlined in section **B2** below and in the diagram in **Appendix 1**. The Registrar can be contacted at the following address:

Ministry Standards Registrar
c/- P O Box 87188,
Meadowbank,
Auckland 1742

registrar@anglicanchurch.org.nz

2. If you are concerned about the conduct of an administrative staff member of a parish or the diocesan office, then please address your concerns to the Vicar or Wardens of the parish, or to the Executive Secretary of the Diocese (Ph. 03 548 3124 ext. 1). Your concern will be dealt with under general employment law.

3. If you are concerned about the conduct of other people carrying out work for the Diocese, such as volunteers and fellow parishioners, then please address your concerns to the Vicar or Wardens of the parish. Your concern will be dealt with under the procedure outlined under **B1** below and in the diagram in **Appendix 2**. The conduct in question will be assessed against the Diocesan Code of Ethics.

IF YOU DON'T KNOW WHERE TO GO FOR HELP, PLEASE CONTACT THE DIOCESAN EXECUTIVE SECRETARY (ph. 03 5483124) WHO WILL GUIDE YOU TO THE RIGHT PERSON TO HELP.

What if the conduct in question about happened some time ago?

Usually a complaint will only be addressed if it occurred in the previous three years. However there are exceptions to this where the complaint is sexual in nature or it would not be reasonable for it to be made within three years. For the purposes of this policy, the time limits imposed by Title D of the Anglican Church rules will apply to all complaints made within the Diocese.

B. Complaint Procedures

1. Complaints against unlicensed ministry volunteers, fellow parishioners and unpaid administrative staff

- a. Where a complaint is about the actions of a diocesan or parish employee who is neither licensed nor contractually bound by Title D, it will be dealt with by the employer (the parish or the diocese) under the relevant rules of employment law, including those for suspension. The employer will investigate and, depending on the nature of the complaint, may seek to resolve the matter between the parties themselves or may take disciplinary action.
- b. Where a complaint relates to an unlicensed ministry volunteer, a fellow parishioner or an unpaid administrator, the Vicar and/or Warden will follow the procedure outlined in **Appendix 2**. Conduct will be assessed against the **Diocesan Code of Ethics**.
- c. Where a complaint is serious, every effort must be made to encourage, empower and assist the complainant to refer it to the relevant civil agency, such as the Police. Where a complaint or suspicion of serious misconduct concerns a child, young person or adult lacking the ability to complain themselves to the Police, it is always preferable to involve the parent/guardian/caregiver in a referral decision. However if the concerns relate to the misconduct of a parent/guardian/caregiver, or there are immediate concerns for the vulnerable person's safety or the safety of others, the concerns must be referred immediately to the Police or Oranga Tamariki. If the complaint involves someone engaged in unlicensed voluntary ministry, they may be stood down from ministry until an investigation is complete.
- d. Where the complaint is not sufficiently serious to refer to an outside civil agency and involves someone engaged in unlicensed voluntary ministry, if the matter cannot be resolved by mediation or other attempts at resolution, the Vicar may stand the person concerned down from ministry.

2. Complaints about a bishop, licenced clergy, licensed lay ministers, Church office bearers, and those contractually bound by Title D

PART ONE: RECEIVING A COMPLAINT AND MAKING AN INITIAL ASSESSMENT

- a. The standards of conduct expected of such persons are set out in the rules of the Anglican Church known as the 'Canons'. You can find a description of these standards of conduct in **Title D, Canon 1**.
- b. Anyone with a complaint about such persons should make their complaint in writing to the Registrar of the Ministry Standards Commission at the following address:

Ministry Standards Registrar
c/- P O Box 87188,
Meadowbank,
Auckland 1742
registrar@anglicanchurch.org.nz

- c. You can complain even if you are not the subject of the complaint. The Registrar is appointed by the Ministry Standards Commission to deal with complaints independently from the Diocese in which the complaint arose. A description of the roles of the Ministry Standards Commission and the Registrar can be found in [Title D, Canon II](#).
- d. If a complaint is received by any other person in the Diocese (eg, Vicar, Bishop, Diocesan Executive Secretary) they must immediately refer that complaint to the Registrar.
- e. Where appropriate those receiving a complaint (including a Vicar, the Bishop and the Registrar) should also advise complainants to take the matter to relevant civil agencies, such as the Police, the Human Rights Commission and the Privacy Commissioner's Office.
- f. The Registrar will assess the complaint to see if it needs further investigation and, if proven, would be **'misconduct'**. If so, the Registrar will recommend it is dealt with under the Church's disciplinary procedures. Please see [Title D, Canon III](#) for a full description of these procedures.
- g. Alternatively, the Registrar may decide the conduct is **'unsatisfactory conduct'**, which is less serious than **'misconduct'**. If so, the complaint will be referred back to the Bishop for resolution, investigation and reprimand, or a requirement that further training or counselling be undertaken.
- h. A complaint will usually only be dealt with by the Registrar if the conduct occurred in the past three years. However, there are exceptions to the three-year cut-off, such as where the conduct is sexual in nature, or it would not be reasonable to expect a complaint to be made within three years, or where there has been a conviction and the complaint is made within three years of the conviction.
- i. Similarly, the Registrar may decide to take no further action on a complaint for some other reason, such as when the complaint has already been actioned, there is insufficient substance to the complaint for it to proceed, or where it is vexatious.
- j. The Registrar will usually make an initial assessment within 30 days of receiving the complaint about whether the conduct complained of is likely to be misconduct or unsatisfactory conduct, whether it is time-barred, or for any other reason should not proceed. The complainant may ask the Ministry Standards Commission to review this decision.

PART TWO: POSSIBLE MISCONDUCT

- a. Where the Registrar recommends that disciplinary proceedings take place to investigate possible **misconduct**, the Bishop will be informed and the Registrar will appoint a Church lawyer, paid for by the Church, to conduct the case before a disciplinary tribunal. The Bishop will appoint the tribunal from a list of potential suitable members held by the Ministry Standards Commission. The tribunal will consist of a clergy person, a lay person and an experienced lawyer, who will chair the Tribunal.

- b. The Registrar may recommend suspension, in which case the Bishop will suspend the person being complained about from ministry or office until proceedings are complete.
- c. During the tribunal proceedings the Registrar will make sure that the person making the complaint and the person complained about are treated fairly, kept informed about procedure and progress of the complaint, and have the complaint dealt with without undue delay. However because the disciplinary process must be conducted fairly and the rights of both taken into account, it may take longer than first anticipated. The Registrar will also make sure that those involved have the support they need during the process.
- d. Following its investigation, if the Tribunal decides there has been misconduct, it may recommend that the Bishop takes one of the following main actions and the Bishop must follow that recommendation:
 - **Admonish** (reprimand) the person complained about
 - **Suspend** them from ministry or office for a certain period
 - **Deprive** them of ministry or office, making them incapable of performing that ministry or office or performing any function in the Church for a certain period
 - **Depose** them from ordained ministry (permanently removing their right to exercise any of the duties of Holy Orders)
- e. The Tribunal's decision (apart from information that identifies the complainant) will be made public at the end of an appeal period, unless the Ministry Standards Commission decides there are good reasons not to do so.
- f. An appeal against the determination of the Tribunal can be made to the Appeal Tribunal within 20 working days of the Tribunal's determination. The person complained about may appeal on questions of law or fact, and the Church lawyer on questions of law only.
- g. The Appeal Tribunal's decision (apart from identifying information about the complainant) will be made public, unless the Appeal Tribunal decides there are good reasons not to do so.

PART THREE: UNSATISFACTORY CONDUCT

- a. If after his/her initial assessment of a complaint the Registrar decides the conduct is '**unsatisfactory conduct**', the complaint will be referred back to the Bishop for resolution, investigation and admonishment, or a requirement that further training or counselling is undertaken.
- b. On referral back of the complaint, the Bishop will send the Registrar's report to the Diocesan Monitor with a direction to the Monitor to:
 - attempt to reconcile the parties
 - conduct an investigation, or
 - direct the person complained about to receive further training or counselling.
- c. The Monitor is appointed by the Bishop, in consultation with Standing Committee, and has the appropriate skills and experience in ministry standards and complaints procedures to process complaints referred by the Bishop.

- d. The Monitor will make sure the parties to the complaint have access to support while the complaint is dealt with. The Monitor may also arrange counselling for the complainant where this is appropriate.
- e. Where the Monitor is directed to attempt reconciliation, the Monitor may facilitate meetings between the parties or may appoint an independent facilitator to help the parties reach reconciliation.
- f. Any outcome the parties agree to through a reconciliation process must also be agreed to by the Bishop. If the parties cannot be reconciled, the Bishop will direct the Monitor to carry out an investigation.
- g. Where there is a direction to investigate the Monitor will:
- provide written notice of the investigation to both parties
 - obtain an outline of the complaint and supporting evidence from the person making the complaint
 - let the person complained about know all the allegations and obtain from him/her a response to the complaint and supporting evidence
 - make enquiries with possible witnesses as the Monitor thinks fit
 - prepare a written report to go to both parties and the Bishop, outlining the results of the investigation and recommending action, including further training or counselling or admonition.
- h. The Bishop is not bound to follow the Monitor's recommendations and may seek advice from the Registrar or the Ministry Standards Commission about an appropriate outcome.
- i. If in the course of handling a complaint about unsatisfactory conduct it becomes apparent that the complaint, if proven, would constitute **misconduct**, then the Monitor will notify the Bishop and refer the complaint immediately back to the Registrar.

C. Responding to Allegations of Abuse

- a. Title D proceedings focus on the actions of the accused and whether they warrant disciplinary action. They do not address redress for the survivor of abuse. Nor will all perpetrators of abuse in the Church be subject to Title D, for example where the perpetrator has died.

Relevant principles

- b. The principles and procedures in this policy give practical effect to our commitment to acknowledge wrongdoing in the form of abuse, to provide redress to those harmed by abuse, and to review policies and procedures to prevent similar wrongdoing in the future. For the purposes of these principles and procedures, abuse means either
- Physical abuse that would constitute a criminal offence at the time it occurred
 - Sexual abuse
 - Psychological abuse leading to a recognised psychological condition.
- c. The focus of these principles and procedures is on:
- Providing a process that is survivor centred while ensuring the principles of natural justice are followed
 - Establishing on the balance of probabilities what occurred
 - Acknowledging and accepting institutional responsibility where this is appropriate
 - Providing redress where this is appropriate, and
 - Making changes to practices and procedures to rectify any institutional failings.
- d. Our response to abuse will acknowledge the wrong that has been done to those who have suffered abuse:
- It must be informed by an understanding of the hurt that abuse imposes and of the long-term harm it may cause.
 - A compassionate response to the complainant must be the first priority in all cases of abuse. The person making the complaint must be heard sympathetically and sensitively. Even in cases where the complaint is mistaken or not sustainable, the person making the complaint must always be treated with compassion and respect
 - The Diocese has an ongoing role in seeking to ensure that offenders (where still living) are held accountable for what they have done, come to a true appreciation of the enduring harm they have caused, seek professional help in overcoming their problems, and do whatever is in their power to make amends.
 - Careful and sympathetic consideration should be given to any requests by survivors, even if all requests cannot be met.
 - An appointed person will be responsible for communication with the survivor and providing pastoral support where this is required.

Investigation of allegation

- e. All investigations of abuse will be carried out in accordance with the following principles. Where the allegation is against a Bishop, a person holding a ministry licence from a Bishop (clergy or lay), an office bearer in the Church, or a person contractually subject to Title D procedures, and that person is living, the complaint will be referred to the Registrar of the Ministry Standards Commission and dealt with by that office.
- Those making the inquiry will keep an open mind until the facts are established.
 - The receipt and investigation of a complaint should always be carried out with discretion and respect for confidentiality. Those who make a complaint should be assured of this and should be told explicitly who will need to be informed. All people involved should be sensitive to safeguarding the reputations of the complainant/survivor, the accused, and any other person involved directly or indirectly.
 - The person accused of abuse will always be treated fairly and with respect. While the accusation is being investigated, his / her rights as a person and member of the church community will be respected and every effort made to preserve his or her good name.
 - Investigations must be carried out consistent with the principles of natural justice, including the principles that the accused is fully informed of the allegations and has an opportunity to respond to any material or information relied on in assessing the complaint.
 - If the accused person is asked or chooses to step aside from appointment / employment until the matter is resolved, it is to be clearly understood and stated that the person is on leave pending investigation/resolution of the complaint and that no admissions are implied by this fact alone.
 - A complaint is proven when it is established on the balance of probabilities, but there should not be too much emphasis on minor inconsistencies in evidence or failures of memory.
 - Complaints are to be dealt with in a timely manner
- f. Where the alleged offender is living and disciplinary action is taken under Title D, the findings of the disciplinary investigation will be relied on by the Bishop to determine the facts and as a basis for decisions about redress.
- g. Where no disciplinary action is taken because the alleged offender has died, or does not otherwise fall within the jurisdiction of Title D, the findings of
- any other civil decision-making body (such as a conviction resulting from a Police prosecution, or a finding of the Human Rights Commission or Human Rights Review Tribunal), or

- any employment investigation arising from the complaint
- will be relied on by the Bishop to determine the facts and as a basis for decisions about redress. The Bishop will decide on the basis of potential risk to others, whether the alleged offender should be suspended from duties until the investigation is concluded.
- h. Where no robust inquiry into a complaint of abuse has been carried out (either by the Church or any other civil body) and the alleged perpetrator is no longer alive, then the Bishop will refer the complaint to a suitably qualified Diocesan Monitor to inquire into the allegation of abuse in accordance with the principles of natural justice. The Monitor will report to the Bishop whether, on the balance of probabilities, s/he considers the complaint to be proven.
 - i. Regardless of whether an investigation of abuse is carried out under (e), (g) or (h), the Bishop will refer the matter to the Diocesan Monitor to assess and report back on:
 - what responsibility, if any, the parish and/or diocese had for allowing the abuse to occur
 - what they consider an appropriate resolution
 - what changes, if any, are needed to policies and procedures to prevent similar misconduct from occurring in the future.

Considerations for Bishop

- j. In all cases, whether or not an investigation finds the allegation of abuse to be proven, the Bishop will consider:
 - a suitable way of acknowledging and/or apologising for a proven complaint
 - what support and assistance is needed by the survivor and his/her friends and family
 - what support, treatment or rehabilitation is needed by the accused
 - any shortcomings in parish or diocesan procedures that the case has revealed that need to be remedied
 - any other matter relevant to the complaint.
- k. Where the accused person admits guilt or an investigation finds the allegation of abuse to be proven, the Bishop's focus will be on:
 - The survivor's wellbeing and recovery (as far as possible) from the harmful effects of the abuse, including an apology and, if appropriate, the offer of counselling assistance. The Monitor will assist the complainant to explore the possibility of payment for counselling for sexual abuse under ACC and, in appropriate cases, a payment towards counselling may be made directly by the Church.
 - The possibility of financial redress for the survivor.
 - Removal of risk to others, including where the investigation is inconclusive.
 - Reducing the risk of re-offending by addressing the offender's rehabilitative issues.
 - Putting in place procedures and safeguards to lessen the risk of similar offending by others.
 - Providing the opportunity for restorative justice where both parties are willing, and a voluntary apology (in person or in writing).

- l. Responses to the offender must be commensurate with the degree of harm caused by the abuse.

- m. Should the accused person be vindicated by evidence establishing that he / she is innocent of abuse, the Bishop will make available full support, including counselling and ministry support. If appropriate, the complainant may also be offered ongoing pastoral support.

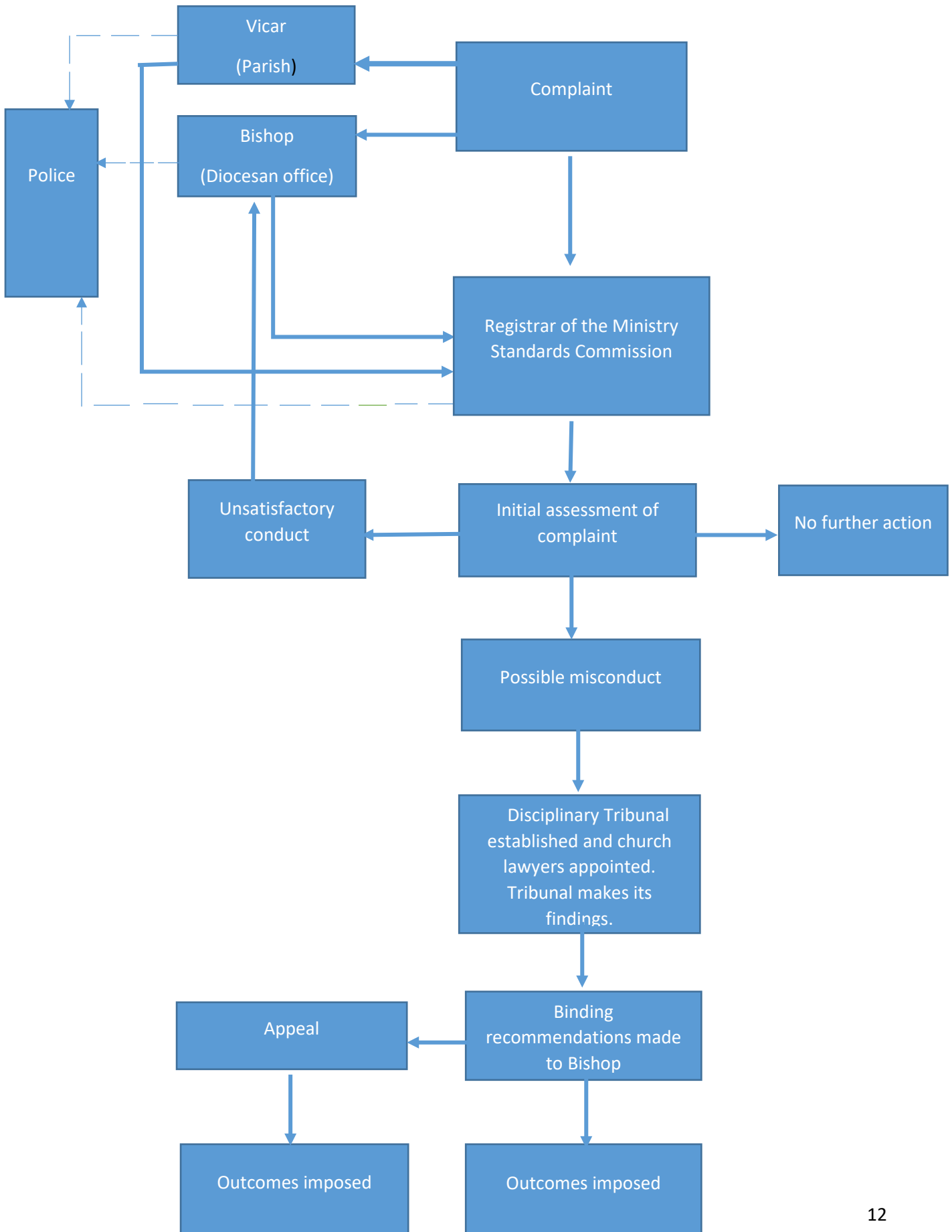
- n. At the conclusion of an investigation the Bishop will advise the complainant and accused/offender in writing of any actions the Bishop decides to take in response to the allegation of abuse, following consideration of the matters in (j) to (m).

D. Record keeping

- a. Privacy laws require that a person has a right to know what information about them is being kept in an archive. Therefore, an investigator should not tell any person, when obtaining statements from them, that the statement or information will remain confidential.
- b. Once a case is concluded, there must be a good reason to retain documents. Experience shows that sometimes further complaints are made against the same person many years after an original complaint. This is good reason to ensure that all complaint documentation is retained. The diocesan policy is to retain such documents securely in archives for at least 30 years.
- c. If they ask, the complainant and the accused have a right to know which documents concerning them personally are being retained.
- d. If a complainant seeks historical personal records, then:
 - To the extent that information is provided, it should be presented to the complainant sensitively, preparing him/her for the fact that records often do not correlate precisely with memories, for a variety of good reasons.
 - If no information is held or is not available, the complainant should be advised sensitively, as this may cause disappointment.

APPENDIX 1

Complaints against Bishop, licensed clergy, licensed lay ministers and office bearers (Title D processes)



APPENDIX 2

Complaints against parishioners, unlicensed ministry volunteers and unpaid administrative staff

