



# CODE OF CONDUCT

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Churches of Christ in NSW through the Fresh Hope network, provides you with an environment that inspires innovation, encourages collaboration and nurtures responsible behaviour.

**“Honouring God, serving others and  
being responsible in ministry and life”**

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# CHURCHES OF CHRIST IN NEW SOUTH WALES CODE OF CONDUCT

Effective From: 1 July 2011

## *Introduction*

1. This Code of Conduct is established by the Conference Executive for the Churches of Christ in New South Wales.
2. This Code contains:
  - Part 1, the basis for this Code;
  - Part 2, general principles underlying this Code;
  - Part 3, the subscribers to the Code;
  - Part 4, the grounds on which a Complaint may be made;
  - Part 5, the procedure for making a Complaint;
  - Part 6, the procedure for dealing with a Complaint;
  - Part 7, sanctions;
  - Part 8, disclosure of findings, orders and directions;
  - Part 9, the appeal procedure;
  - Part 10, provision for the establishment of the Professional Standard Unit;
  - Part 11, provision for pastoral support;
  - Part 12, provision for amendment of this Code;
  - Part 13, a glossary of terms used in this Code; and
  - Part 14, interpretation.
3. Any word in this Code written with the first letter capitalised usually indicates it is a defined term, the definition for which is contained in Part 13 of this Code.

## **PART 1 – Basis for Code**

### *Autonomy of Congregations*

4. Churches of Christ in New South Wales honours the history that has given local congregations freedom to decide how to function as the body of Christ in their own contexts. The appropriate place for the accountability of Christians to each other, and of Ministers to congregations, is within the life and structure of each individual congregation. While that is the case it is recognised that in certain circumstances, given the relationship of Ministering Persons and those to whom they exercise ministry, it is appropriate that a proper independent process of accountability in

respect of Ministering Persons be established. That is the principal purpose of this Code.

### ***The Privilege of being a Minister***

5. For the purpose of this Code it is accepted a Minister is a person who is:
  - (a) entrusted by God with special leadership and the care of His people;
  - (b) trusted by the community to be a person of virtue who can be relied upon to uphold Christian and ethical standards;
  - (c) trusted by the Church Body:
    - (i) to proclaim the Gospel of Jesus Christ;
    - (ii) to live a life that bears witness to and is consistent with Christian principles;
    - (iii) to baptise, marry and bury; and
    - (iv) to minister to people, in all circumstances and to represent in a particular way Jesus, the Church and the Church Body.

### ***Ministering Persons***

6. The general community, the Church and Church Bodies are entitled to expect that Ministering Persons will at all times exercise ministry in a professional and ethical manner. On that basis Ministering Persons recognise:
  - (a) they owe a duty of care to those to whom they minister;
  - (b) their behaviour may damage such persons, a congregation, as well as the good standing and reputation of the ministry, the Church, Church Bodies, the Conference and Christianity, and
  - (c) they are to be accountable to the Leadership of the Church Body by whom they are employed or engaged.

### ***The Responsibilities of being a Ministering Person***

7. A Church Body is entitled to expect:
  - (a) Ministering Persons will live with honesty and integrity;
  - (b) Ministering Persons will observe the fact that the relationship of a Ministering Person to those to whom a Ministering Person ministers is a particular relationship which requires the Ministering Person to refrain from exploiting the position of care and trust enjoyed by Ministering Persons;
  - (c) that every aspect of the Ministering Person's life will bear witness to the Gospel of Jesus Christ;

- (d) that Ministering Persons will hold themselves accountable to the Leadership of the Church Body by whom they are employed or engaged; and
- (e) that Ministering Persons will not engage in Misconduct.

## **PART 2 – General Principles Underlying this Code of Conduct**

### ***The Infinite Value of People***

- 8. Every human being ought to be treated with the respect and dignity implicit in God's action in Jesus, regardless of ethnicity, sex, age, beliefs and social, political or economic status.

### ***Natural Justice***

- 9. Any investigation under this Code must observe the principles of natural justice. On that basis:
  - (a) each Respondent is innocent of Misconduct until proven otherwise;
  - (b) each Respondent has the right to be informed in writing of:
    - (i) any Misconduct alleged against them;
    - (ii) the name of the person making the allegation; and
    - (iii) the facts and circumstances which comprise the allegation; and
  - (c) each Respondent must be given an adequate opportunity to answer each allegation.

### ***Appointment of, and Obligations of, PSU Co-ordinator***

- 10. Conference Executive must appoint, from time to time, a suitably qualified person to be the PSU Co-ordinator so that there is, so far as is reasonably possible, at all times, a person occupying that office. The determination of whether a person is suitably qualified to be the PSU Co-ordinator or Assistant PSU Co-ordinator is a matter for determination by Conference Executive. The PSU Co-ordinator must ensure, so far as possible:
  - (a) that this Code is observed and that the rights of Complainants and Respondents are respected and are exercised in the manner set out in, and contemplated by, this Code and that the obligations of Complainants and Respondents under this Code are fulfilled in accordance with this Code; and
  - (b) that Complainants make their Complaints in accordance with this Code and observe this Code and that Complaints are dealt with in accordance with this Code.

## **PART 3 – Subscribers to the Code and Withdrawal**

- 11. Any Ministering Person may subscribe to, bind themselves to, this Code by completing and signing a form of "**Subscription to Code of Conduct**" in terms substantially similar to the form in **Appendix B** and by giving the completed and

signed document to Churches of Christ in New South Wales (marked for the attention of the Executive Ministry Director). By doing so the Ministering Person:

- (a) acknowledges and agrees to the rights and the obligations of all persons referred to in the Code; and
- (b) agrees that the Ministering Person is subject to the Code as and from the date the Ministering Person subscribes to the Code until the date the Ministering person ceases to be subject to this Code pursuant to the provisions of this clause 11.

A Subscriber, as a person subject to this Code, is bound to observe, comply with and otherwise carry out all obligations under the Code arising out of the operation and implementation of this Code including the obligation to comply with any Sanctions imposed under it. Where there is a finding of Misconduct, in respect of the conduct of a Ministering Person who is a Subscriber, and the conduct was engaged in by the Ministering Person prior to becoming a Subscriber that Ministering Person shall be subject to this Code in respect of that conduct. For the avoidance of doubt that Misconduct, for the purposes of this Code, shall be deemed to have occurred while the Ministering Person was a Subscriber and in respect of that conduct the Subscriber shall be subject to this Code. Subject to the provisions of this clause a Subscriber shall cease to be subject to this Code upon a Withdrawal Notice, in the form in **Appendix C**, addressed to Churches of Christ in New South Wales, marked for the attention of the Executive Ministry Director, being received by the Executive Ministry Director. Notwithstanding the giving of a Withdrawal Notice a Subscriber shall remain subject to the Code, and bound to observe, comply with and otherwise carry out all obligations under the Code, including the obligation to comply with any Sanctions imposed under it arising out of any finding of any Misconduct which is at any time found, under this Code to have occurred on, or before, the date the Withdrawal Notice is received by the Executive Ministry Director even if the finding is made after the date the Withdrawal Notice is received by the Executive Ministry Director. For the avoidance of doubt this Code shall apply and may be carried into effect in respect of any Complaint (including any Complaint received after a Withdrawal Notice is received) where the Complaint is about any Misconduct alleged to have occurred on a date which is on or before the date the Withdrawal Notice is received. Notice of the receipt (and effect) of a Withdrawal Notice from any person may be Published by the Churches of Christ in New South Wales. Where a person gives a reason or reasons for withdrawal in a Withdrawal Notice the reason(s) may be Published. This clause 11 will have effect despite the receipt of a Withdrawal Notice.

Where a person who is a Subscriber (to this Code), becomes a Subscriber to the Churches of Christ in NSW & ACT Professional Conduct Protocols (the “**Professional Conduct Protocols**”) that person shall be deemed to have given a Withdrawal Notice under this Code on the date that person becomes a Subscriber to



the Professional Conduct Protocols.

## **PART 4 – Grounds on which a Complaint may be made**

### ***Complaints in respect of Misconduct***

12. A Complaint may be made about any Misconduct (see **Appendix H**) in respect of a person who, at the time of the alleged Misconduct was a Subscriber to this Code or who, at the date the Complaint is made is a Subscriber to this Code.

### ***Other actions not apparently constituting Misconduct***

13. Where an allegation is made by a person ("**Concerned Person**") which, in the opinion of the PSU Co-ordinator (on the information then available to the PSU Co-ordinator), does not apparently constitute Misconduct but, nevertheless, in the reasonable view of the PSU Co-ordinator, constitutes behaviour which is inappropriate on the part of a Ministering Person, the PSU Co-ordinator:
- (a) may offer pastoral assistance to the Concerned Person and to any person who is the subject of any such inappropriate behaviour (an "**Identified Person**"). It is recognised that a Concerned Person may also be an Identified Person
  - (b) may disclose the identity of any Concerned Person, any Identified Person and the nature of the allegations to the Ministering Person and to the Leadership of the Retaining Body of the Ministering Person:
  - (c) may confer with the Concerned Person and the Identified Persons;
  - (d) may confer with the Ministering Person;
  - (e) may confer with the Leadership of the Retaining Body of the Ministering Person in respect of that inappropriate behaviour
  - (f) may, where the PSU Co-ordinator considers it appropriate to do so, appoint an appropriate independent person to convene a meeting or meetings (to address and deal with the issues arising from the inappropriate behaviour) of the Concerned Person, of such of the Identified Person, the Ministering Person and the Leadership of the Ministering Person as the PSU Co-ordinator thinks fit provided the Ministering Person and the Identified Person consent to that course; and
  - (g) may convene an Interim Committee, pursuant to the provisions of clause 33, to have that Interim Committee determine whether the matter in respect of which the allegation is made should be dealt with by the PSU Co-ordinator as if it were a matter constituting Misconduct (see clause 16).

## **PART 5 – Procedures for making a Complaint and Other Matters giving rise to the Making of a Complaint**

### ***Who may complain***

14. The following persons may make a Complaint under this Code:

- (a) any person who is the subject of any Misconduct by a Ministering Person or who is adversely affected by the Misconduct of a Ministering Person;
- (b) any member of Conference Executive;
- (c) Conference Executive;
- (d) any employee of a Conference Body; and
- (e) any person in Leadership in relation to the person who is the subject of the Compliant.

### ***Self Reporting***

15. A Ministering Person may report his or her own actions which the Ministering Person considers constitute, or may constitute, Misconduct to the PSU Co-ordinator. Where a Ministering Person makes such a report the person reporting is a "**Self Reporting Person**" and the provision of that information is a "**Self Disclosure Report**" and where a Self Disclosure Report is made the provisions of clause 24 shall be implemented.

### ***Dealing with Allegations of acts possibly constituting Misconduct***

16. Where:
- (a) an allegation is made that a Ministering Person has acted in a manner which, in the opinion of the PSU Co-ordinator, may constitute Misconduct; or
  - (b) a person, specified in clause 14 as a person who may make a Complaint, seeks to make a Complaint; or
  - (c) acts which may constitute Misconduct come to the knowledge of the PSU Co-ordinator,

the PSU Co-ordinator must advise:

- (i) any person who is the subject of any action that may constitute Misconduct by a Ministering Person or who is adversely affected by any action on the part of a Ministering Person which may constitute Misconduct; and
- (ii) any person referred to in sub-clause (b),  
(each a "**Relevant Person**") of the existence of the Code and the manner in which a Complaint may be made under the Code.

### ***Referrals to the PSU Co-ordinator by other persons***

17. Where acts which may constitute Misconduct come to the knowledge of any other person they should be referred to the PSU Co-ordinator.

### *Anonymous Disclosure*

18. Where anonymous information concerning the actions of a Ministering Person which may constitute Misconduct is provided to the PSU Co-ordinator (the provision of that information is an "**Anonymous Disclosure**") the provisions of clause 25 shall be implemented

### *Mode of Complaint*

19. Any Identified Person and any Relevant Person must be advised by the PSU Co-ordinator that for any matter to be dealt with under the Code it must be the subject of a Complaint to The PSU Co-ordinator, Code of Conduct, Churches of Christ in New South Wales at such address as may be specified. In addition the PSU Co-ordinator must advise any Identified Person and any Relevant Person that assistance is available to them for the purpose of them preparing a Complaint. The PSU Co-ordinator will, as and when necessary, make appropriate arrangements for an appropriate person or persons to provide the assistance described under this clause. To the extent it is reasonably possible the PSU Co-ordinator must seek to ensure the Complaint contains, and deals with, the matters set out in **Appendix F**. The PSU Co-ordinator must ensure that adequate pastoral support is offered to, and if accepted is provided to, any Identified Person and any Relevant Person.

## **PART 6 - The Procedure for Dealing with Complaints, Self Disclosure Reports and Anonymous Disclosures**

### *PSU Co-ordinator's Responsibility*

20. The PSU Co-ordinator will be responsible for the implementation of the procedures for the handling of Complaints, Self Disclosure Reports and Anonymous Disclosures outlined in Part 5 of this Code.

### *Notification of Authorities*

21. Upon receipt of a Complaint, or a Self Disclosure Report or an Anonymous Disclosure which discloses or indicates:
  - (a) that a law has been broken in relation to a Child the PSU Co-ordinator must notify the appropriate authorities and if it is appropriate, the parents or guardians of the Child; or
  - (b) that a law has been broken in relation to a person (other than a Child) the PSU Co-ordinator must ensure assistance is given to the person who is the subject of the Misconduct to enable that person to notify the appropriate authorities.

If, at that time, there are any legal proceedings in respect of any matter the subject of a Complaint or a Self Disclosure Report or a Misconduct Report or an Anonymous Disclosure the PSU Co-ordinator must seek legal advice about whether to proceed with or delay the Hearing Procedure and the Pastoral Procedure. Despite the fact that there is a likelihood that legal proceedings, in respect of the subject matter of the Complaint, are likely, or have been commenced, or have been

completed, subject only to legal advice obtained under clause 22, the PSU Co-ordinator must, notwithstanding, deal with each Complaint made under this Code in the manner set down in this Code.

***Precedence of legal advice***

22. The PSU Co-ordinator may rely on the legal advice of a legal practitioner of over seven (7) years standing with respect to the manner of the implementation, or the interpretation, of this Code.

***Action Upon receipt of a Complaint***

23. Upon receipt of a Complaint the PSU Co-ordinator must as soon as reasonably possible:
- (a) make such enquiries of the Complainant and in respect of the Complaint as the PSU Co-ordinator considers appropriate
  - (b) interview (or appoint other persons to interview) each of the Complainant and the Respondent to determine whether the Complaint is *bona fide* and determine whether the Complaint should be referred to a Hearing Committee; and
  - (c) notify the Leadership of the Retaining Body that a Complaint has been made and the nature of the Complaint

***Action Upon Receipt of a Self Disclosure Report***

24. Upon receipt of a Self Disclosure Report the PSU Co-ordinator must, as soon as reasonably possible, make such enquiries of the Self Reporting Person and any person referred to in the Self Disclosure Report or who may have information relevant to the matters the subject of the Self Disclosure Report, in respect of the contents of the Self Disclosure Report as the PSU Co-ordinator considers appropriate and where the PSU Co-ordinator is of the view that it is appropriate to do so the PSU Co-ordinator must:
- (a) prepare a report setting out the information obtained by the PSU Co-ordinator arising out of the PSU Co-ordinator's enquiries (and annexing a copy of the Self Disclosure Report); and
  - (b) convene an Interim Committee to consider the PSU Co-ordinator's report and to determine and direct, based on the nature and circumstances of the acts which may constitute the Misconduct disclosed in the PSU Co-ordinator's report:
    - (i) that no action should be taken; or
    - (ii) that the PSU Co-ordinator should as soon as reasonably possible (and so far as possible within twenty one (21) days of the Interim Committee's direction to the PSU Co-ordinator):

- (1) make such enquiries of any person who may be adversely affected by the acts which may constitute Misconduct disclosed in the PSU Co-ordinator's report (an "**Affected Person**") in respect of the matters disclosed in, or arising out of the Self Disclosure Report as the PSU Co-ordinator considers appropriate; and
- (2) interview (or appoint other persons to interview) each Affected Person and the Self Reporting Person to determine whether the facts and circumstances which have become known to the PSU Co-ordinator are such as to warrant any Affected Person being informed of that person's right to make a Complaint under this Code in which event the PSU Co-ordinator shall advise any Affected Person of the person's right to make a Complaint under this Code.

***Action Upon Receipt of an Anonymous Disclosure***

25. Upon receipt of an Anonymous Disclosure the PSU Co-ordinator must as soon as reasonably possible make such enquiries of any Ministering Person referred to in the Anonymous Disclosure and any person referred to in the Anonymous Disclosure or who may possibly have information relevant to the matters the subject of the Anonymous Disclosure, in respect of the matters arising out of the Anonymous Disclosure as the PSU Co-ordinator considers appropriate, and where the PSU Co-ordinator is of the view that it is appropriate to do so the PSU Co-ordinator must:

- (a) prepare a report setting out the information obtained by the PSU Co-ordinator arising out of the PSU Co-ordinator's enquiries (and annexing a copy of the Anonymous Disclosure); and
- (b) convene an Interim Committee to consider the PSU Co-ordinator's report and to determine and direct, based on the nature and circumstances of the acts which may constitute the Misconduct disclosed in the PSU Co-ordinator's report:
  - (i) that no action is to be taken; or
  - (ii) that the PSU Co-ordinator should as soon as reasonably possible (and so far as possible within twenty one (21) days of the Interim Committee's direction to the PSU Co-ordinator):

- (1) make such enquiries of any person who may be adversely affected by the acts which may constitute Misconduct disclosed in the PSU Co-ordinator's report (an "**Affected Person**") in respect of the matters disclosed in, or arising out of the Anonymous Disclosure as the PSU Co-ordinator considers appropriate; and

- (2) interview (or appoint other persons to interview) each Affected Person and each person referred to in the Anonymous Disclosure or who may possibly have information relevant to the matters the subject of the Anonymous Disclosure, to determine whether the facts and circumstances which have become known to the PSU Co-ordinator are such as to warrant any Affected Person being informed of that person's right to make a Complaint under this Code in which event the PSU Co-ordinator shall advise any Affected Person of the person's right to make a Complaint under this Code.

***Interim Committee's Determinations under Clauses 24 and 25***

26. Where an Interim Committee:

- (a) determines under clause 24(b)(i) that no action is to be taken it may nevertheless direct the PSU Co-ordinator to:
  - (i) offer pastoral and/or counselling support to the Self Reporting Person and any Affected Person; and/or
  - (ii) consult with the Self Reporting Person and the Leadership of the Retaining Body of that Self Reporting Person with respect to ways and means of dealing, appropriately, with any matters arising out of the Self Disclosure Report; and/or
- (b) determines under clause 25(b)(i) that no action is to be taken it may nevertheless direct the PSU Co-ordinator to:
  - (i) offer pastoral and/or counselling support systems to any Ministering Person referred to in the Anonymous Disclosure and any Affected Person; and/or
  - (ii) consult with any such Ministering Person and the Leadership of the Retaining Body of any such Ministering Person with respect to ways and means of dealing, appropriately, with matters arising out of the Anonymous Disclosure.

***Referral to Conference Executive***

27. Where the procedures set out in clause 24 or clause 25 have been implemented and an Affected Person does not, within twenty eight (28) days of being informed of that person's right to make a Complaint under this Code, make a Complaint, the PSU Co-ordinator must refer the matter to Conference Executive for it to consider the making of (and if thought fit to make) a Complaint and for that purpose must disclose to Conference Executive all such information as is relevant to the matter and Conference Executive's considerations of the matter.

### ***PSU Co-Ordinator's Obligations on receipt of a Complaint***

28. Where any Complaint is made, unless the PSU Co-ordinator is satisfied in the exercise of the PSU Co-ordinator's discretion, the Complaint is not *bona fide* or the subject of the Complaint does not constitute Misconduct, the PSU Co-ordinator must, as soon as reasonably possible, refer the matter to a Hearing Committee. Despite the foregoing a Complaint made by Conference Executive pursuant to clause 27 must be referred by the PSU Co-ordinator to a Hearing Committee.

### ***Making of Misconduct Report or Refusal to Refer***

29. (a) Where the PSU Co-ordinator decides, in the exercise of PSU Co-ordinator's discretion:
- (i) it is appropriate to refer a Complaint to the Hearing Committee, the PSU Co-ordinator must make a report ("**Misconduct Report**") in respect of the Complaint and provide it to the Hearing Committee; or
  - (ii) it is inappropriate to refer a Complaint to a Hearing Committee, the PSU Co-ordinator must advise both the Complainant and the Respondent in writing of that decision and, also provide them with a written summary of the basis for that decision (the "**Non Referral Decision**"). Any Non Referral Decision must also be provided to the Executive Ministry Director and the Director of Health. The PSU Co-ordinator must, when providing the Non Referral Decision to the Complainant, also advise the Complainant of the Complainant's right to inform the Executive Ministry Director of the Complainant's dissatisfaction with the Non Referral Decision and that the right of the Complainant to inform the Executive Ministry Director of the Complainant's dissatisfaction with the Non Referral Decision may only be exercised by giving a notice in writing to that effect to the Executive Ministry Director within twenty one (21) days of the Complainant receiving the Non Referral Decision.
- (b) Where a Complaint is made by Conference Executive pursuant to clause 27 the PSU Co-ordinator must also prepare a Misconduct Report.
- (c) A copy of any Misconduct Report must be given to the Complainant, the Respondent, the Executive Ministry Director and the Director of Health.

### ***Review of Refusal to Refer***

30. The Complainant may, within twenty one (21) days of receiving the Non Referral Decision, advise the Executive Ministry Director in writing of the Complainant's dissatisfaction with the Non Referral Decision. Unless the Complainant does so, within that twenty one (21) day period, the Complainant shall be deemed to be satisfied with the Non Referral Decision. If either the Complainant or the Executive Ministry Director is dissatisfied with the Non Referral Decision the Executive

Ministry Director must convene a committee of three (3) persons comprising three (1) persons drawn from the following:

- (a) the Executive Ministry Director;
- (b) the Director of Health;
- (c) the Director of Leadership; and
- (d) the members of Conference Executive,

to review the Non Referral Decision and, where that committee considers it appropriate, direct the PSU Co-ordinator in writing to convene a Hearing Committee to conduct an inquiry into the Complaint in accordance with this Code. The PSU Co-ordinator must implement that direction.

### ***Convening of Hearing Committee***

31. When the PSU Co-ordinator has completed the preparation of the Misconduct Report, (and without limitation a Misconduct Report prepared under clause 29) or receives a direction under clause 30, the PSU Co-ordinator must convene a Hearing Committee to conduct an inquiry into the Complaint. Where the PSU Co-ordinator receives a direction under clause 30 the PSU Co-ordinator must provide the Hearing Committee with a copy of that direction together with the Non Referral Decision and any written advice of the Complainant's dissatisfaction with the Non Referral Decision.

### ***Composition of Hearing Committee***

32. The Hearing Committee must comprise five (5) persons made up of persons, chosen by the PSU Co-ordinator, from the following persons or classes of persons:
- (a) Ministering Persons subject to this Code of Conduct or a Religious Practitioner the subject of a similar code administered by a Christian denomination;
  - (b) the members of Conference Executive;
  - (c) professional counsellors who are members of an appropriate professional association;
  - (d) persons admitted to practice as a legal practitioner, or a person with an academic degree, or diploma, in law;
  - (e) the Director of Health; and
  - (f) the Director of Leadership

The Hearing Committee, unless in the opinion of the PSU Co-ordinator for any reason it is impractical:



- (i) must include at least two (2) members of each sex and in any event must contain at least one (1) female;
- (ii) must contain a person described in clause 32(c);
- (iii) must contain a person described in clause 32(d);
- (iv) may not contain more than two (2) of the persons described in clause 32(a); and
- (v) may not contain more than two (2) of the persons described in clause 32(b).

### ***Interim Committee's Powers and Duties***

33. Where under this Code it is necessary for an Interim Committee to exercise any power or function the PSU Co-ordinator must convene an Interim Committee that:

- (a) consists of three (3) persons selected by the PSU Co-ordinator comprising any three (3) of the following:
  - (i) the PSU Co-ordinator;
  - (ii) the Executive Ministry Director;
  - (iii) the Director of Health;
  - (iv) the Director of Leadership; and
  - (v) any members of Conference Executive (provided then not more than two (2) such members shall be members of any Interim Committee that is formed at any time);
- (b) will be chaired by such member of it as the Interim Committee appoints;
- (c) will duly consider any report and information provided to it by the PSU Co-ordinator (the "**Interim Committee Material**");
- (d) will require any person who it considers would be able to assist it in its consideration of the Interim Committee Material ("**Assisting Person**") to do so including any Ministering Person who is referred to in the Interim Committee Material;
- (e) will require any Assisting Person to give an undertaking in the form set out in **Appendix G**;
- (f) will determine if it is inappropriate for any Ministering Person who is referred to in the Interim Committee Material (a "**Subject Ministering Person**") to continue to carry on that person's role with the Retaining Body of that person and if it so determines the Interim Committee must request the Retaining Body of that person, in writing, to direct the Subject Ministering Person to take leave of absence (either with or without pay) or cease to carry on the role for which the Subject Ministering Person is Retained and if so directed by the Retaining Body the Subject Ministering Person agrees:

- (i) the Subject Ministering Person is bound to carry out the direction so given and must do so; and
  - (ii) the Subject Ministering Person will not make any claim against (or seek compensation from) the Retaining Body arising out of that direction having been given;
- (g) will make decisions by a resolution of the members of the Interim Committee of which a majority of the members of the Interim Committee is in favour; and
- (h) will ensure, before making any decisions concerning a Subject Ministering Person, that the Interim Committee gives the Subject Ministering Person the opportunity to consider the Interim Committee Material and must give the Subject Ministering Person the opportunity to make representations to the Interim Committee. For the purpose of making any decision the Interim Committee may ask questions of the Subject Ministering Person who may answer, or decline to answer, the questions put. No prejudice must flow to the Subject Ministering Person as a consequence of the Subject Ministering Person declining to answer any question.

### ***Convening of Hearing***

34. A Hearing must be conducted at a place which the PSU Co-ordinator determines is most convenient having regard to the places of residence of the Complainant and the Respondent. The Hearing must be set down at a date and time which, in the determination of the PSU Co-ordinator is convenient, so far as possible, to the Complainant, the Respondent, and the Hearing Committee ("**Hearing Parties**"). If the Hearing cannot, despite the best endeavours of the PSU Co-ordinator, be set down at a date and time convenient to all of the Hearing Parties the determination of the PSU Co-ordinator as to the date and time for hearing shall be final and binding.

### ***Hearing Timetable***

35. The following timetable must, so far as possible, be observed:
- (a) the Misconduct Report must be prepared within twenty one (21) days of receipt of the written Complaint; and
  - (b) the Hearing must be set down and conducted within twenty one (21) days of the date on which the Misconduct Report is distributed under clause 29 of this Code, but, must not be set down and conducted less than seven (7) days after the date on which the Misconduct Report is provided to the Respondent.

Each person who has a right, responsibility or obligation under this Code will use their best endeavours to ensure the above timetable is properly observed.

### ***Right to Attend Hearing***

36. The following persons may attend a Hearing:

- (a) the Complainant;
- (b) the Complainant's parents where the Complainant is a Child;
- (c) the Respondent;
- (d) a person nominated by the Respondent to provide assistance to the Respondent answering the Complaint ("**Respondent's representative**");
- (e) the Respondent's spouse;
- (f) the members of the Hearing Committee;
- (g) such witnesses as the Respondent and the Hearing Committee seek to have present;
- (h) the Executive Ministry Director and/or his nominees;
- (i) the Director of Health; and
- (j) the PSU Co-ordinator.

Where the Hearing Committee considers it appropriate the following persons may also attend a Hearing:

- (i) a person nominated by the Complainant to provide support for the Complainant;
- (ii) the Complainant's spouse;
- (iii) the Leader, Ministers Care Network; and
- (iv) up to two (2) persons in Leadership of the relevant Retaining Body.

### ***Hearing Committee's Powers and Duties; Hearing Procedure***

37. The following procedure will apply in respect of the Hearing:

- (a) the Hearing will be held in such manner as the Hearing Committee determines is appropriate and in making that determination the Hearing Committee, subject to the matters in (b), will have regard to the matters in (c) to (m) inclusive;
- (b) the Hearing Committee:
  - (i) will be chaired by such Member of it as the Hearing Committee appoints ("**Chairperson**");
  - (ii) may make directions with respect to the conduct of the Hearing as it considers appropriate to ensure the Hearing is:

- (1) conducted promptly and, without limitation, may require the adjournment of the Hearing, the attendance of persons and the production of documents at the Hearing; and
  - (2) conducted in a manner which has regard to the rights and interest of the Complainant and the Respondent. In that regard the Hearing Committee may determine the appropriateness of any request for the adjournment of the Hearing by the Complainant or the Respondent and the appropriateness of questions put to either the Complainant or the Respondent.
- (c) only persons described in clause 36 may attend the Hearing. The Hearing will be held in private;
  - (d) no person present at the Hearing may communicate any matter, fact or thing in respect of the Hearing or its conduct otherwise than as permitted under this Code. Nothing will preclude disclosure under compulsion of law, in the exercise of a legal right or the discharge of a legal obligation, for the purpose of obtaining medical treatment or in the case of a Complainant on a confidential basis to the Complainant's family or person's closely associated to the Complainant and in the case of a Respondent on a confidential basis to the Respondent's family or persons closely associated to the Respondent;
  - (e) the Respondent may be assisted by the Respondent's Representative but that person may not be a person with Legal Qualifications or a person who acts or has acted as an industrial advocate;
  - (f) the rules of natural justice will, so far as possible, be observed;
  - (g) the Respondent may request that the Complainant give the Complainant's evidence in the presence of the Respondent and unless the Chairperson (in the exercise of the Chairperson's discretion) decides otherwise the Complainant must do so. The Chairperson may only allow the Complainant to give the Complainant's evidence without the Respondent present where the Chairperson is of the view that if the Complainant was to do so in the presence of the Respondent the Complainant could be adversely affected in a significant manner;
  - (h) the Hearing Committee may, if the Respondent agrees to this course, dispense with the requirement that the Complainant be present in person at the Hearing and, on that basis, the Hearing Committee may have regard to the contents of the Complaint and the Misconduct Report and treat their contents as, prima facie, accurate;
  - (i) the Hearing Committee must give the Respondent and the Respondent's Representative the opportunity to respond to the Complaint, the Misconduct

Report and any evidence given at the Hearing by the Complainant and any witnesses.

- (j) Without limitation and despite sub-clause (g) the Respondent, or the Respondent's Representative, may ask questions of the Complainant and any witnesses present at the Hearing;
- (k) the Hearing Committee may ask questions of the Respondent.
- (l) The Respondent may answer, or decline to answer, any questions put to the Respondent under subclauses (j) and (k). No prejudice must flow to the Respondent as a consequence of the Respondent declining to answer any question; and
- (m) subject to the foregoing procedure, the Hearing Committee may seek clarification of any matter from the Complainant in the absence of the Respondent and from the Respondent in the absence of the Complainant.

#### ***Complaint by, or in respect of, a Child***

38. Where the Complaint is by a Child or is in respect of actions towards a Child the Hearing Committee, in its absolute discretion, may determine to vary any of the provisions of sub-clauses (b) to (m) of clause 37 where it considers it is in the interests of the Child to do so. This also applies in respect of actions toward a child in a Self Disclosure Report or in an Anonymous Disclosure. In making its determination the Hearing Committee must, nevertheless, so far as possible, ensure that the principles of natural justice are observed while at the same time the Child is appropriately protected.

#### ***Rights of Parents and Guardians***

39. If the Complainant is a Child the parents of the Child or the guardians of the Child shall be afforded the same rights under this Code as the Child. This also applies in respect of actions toward a child in a Self Disclosure Report or in an Anonymous Disclosure.

#### ***Persons and Hearing bound under this Code***

40. To ensure, so far as possible, that this Code is observed and properly carried into effect each person who seek to be present at the Hearing and who seeks to participate in the Hearing must at the outset of the Hearing acknowledge themselves bound to observe the relevant provisions of Code by way of a written undertaking to the Hearing Committee in the form set out in **Appendix D**. Persons present at the Hearing must observe the determinations of the Hearing Committee. Unless any such person gives such a written undertaking to the Hearing Committee the Hearing Committee may refuse to allow the relevant person to be present at, or to participate in, the Hearing.

### ***Other Persons bound under this Code and avoidance of conflicts of interest***

41. Without limiting clause 40 or any other provision of this Code each of
- (a) the PSU Co-ordinator;
  - (b) the Executive Ministry Director and any nominee of the Executive Ministry Director,;
  - (c) the Director of Health;
  - (d) each member of any Interim Committee;
  - (e) each member of any Hearing Committee;
  - (f) each person appointed to mediate or provide assistance or pastoral care or exercise any other function under this Code; and
  - (g) the representatives of any relevant Retaining Body:
    - (i) by taking any step or action under or pursuant to this Code agrees to observe this Code in the performance of their duties and responsibilities under it; and
    - (ii) must not act in any circumstance where that person has any conflict of interest.

A conflict of interest will only be considered to arise as a result of a personal relationship between any such person and the Complainant, or as a result of a personal relationship between any such person and the Respondent, such that the relationship is likely to materially influence the manner in which that person exercises any role or function under this Code.

### ***No Liability in Respect of Persons Acting Bona Fide***

42. Where any of the PSU Co-ordinator, the Assistant PSU Co-ordinator, the Executive Ministry Director, any nominee of the Executive Ministry Director, the Director of Health, any member of any Interim Committee, any member of any Hearing Committee and any person appointed to mediate or provide assistance or pastoral care or exercise any other function under this Code exercises his or her role or function under this Code in the manner set out in this Code and in doing so acts in a bona fide manner that person will not be liable in respect of any claim for damages arising out of the person's actions or omissions arising out of the exercise of his or her role or function under this Code. Without limiting any other provision of this Code any of the PSU Co-ordinator, the Executive Ministry Director, any nominee of the Executive Ministry Director, each member of any Interim Committee and each member of any Hearing Committee and each person appointed to mediate or provide assistance or pastoral care or exercise any other function under this Code, may, in the exercise of his or her role or function under this Code, make disclosure

of information for the purposes of this Code and for the purpose of implementing the Code and achieving the objectives and purposes of the Code.

## **PART 7 – Sanctions**

43. Each Ministering Person agrees that the Hearing Committee may make findings, orders and directions in the terms set out in clause 44 and each Ministering Person agrees that if the Hearing Committee makes any findings, orders or directions in accordance with this Code the Ministering Person agrees to be bound by, and to comply with, the terms of any such findings, orders or directions. Each Ministering Person agrees that the Interim Committee (established under clause 33) may exercise the powers conferred on it in clause 33 and each Ministering Person agrees to be bound by, and to comply with, directions or orders made by the Interim Committee under, and in accordance with, clause 33.

### ***Finding and Sanctions***

44. (a) Where it is satisfied, on the balance of probabilities, that a Respondent has engaged in conduct which constitutes Misconduct the Hearing Committee may make findings that the Respondent has engaged in conduct which constitutes Misconduct.
- (b) If the Hearing Committee makes any findings that a Respondent has engaged in conduct which constitutes Misconduct ("**Findings**") the Hearing Committee, in its discretion, may make any or all of the following orders or directions set out in subclauses (i) to (v) of subclause (c) hereof ("**Sanctions**"):
- (c) the Hearing Committee may require that the Respondent, to the satisfaction of the Hearing Committee, do one or more of the following:
- (i) make a formal and full acknowledgment of the Respondent's Misconduct, including, if so required make a public acknowledgment;
  - (ii) pay for counselling or treatment for the Complainant;
  - (iii) undertake counselling or some other form of treatment, training or method of rehabilitation;
  - (iv) reimburse the Complainant for any expenses incurred by the Complainant in obtaining medical treatment directly referable to the Misconduct provided that no order shall be made under this sub-clause where any legal proceedings (whether criminal or civil) in relation to matters involved in the Complaint have commenced prior to the date of the Hearing; and
  - (v) reimburse to any person any monies improperly obtained by the Respondent as a consequence of the Misconduct;

In imposing any requirement under this sub-clause (c) the Hearing Committee must have regard to the respective financial circumstances of the Complainant and the Respondent and not impose unreasonable requirements.

- (d) the Hearing Committee may recommend that the Respondent's membership of any professional association in relation to any ministry be terminated, that any endorsement of the Respondent under any statute in relation to any ministry be withdrawn and that any endorsement of the Respondent by Conference or any Conference Body or under any statute in relation to any ministry be withdrawn and that any endorsement of the Respondent necessary to carry out any function of the type usually undertaken by a Ministering Person be withdrawn for such period as the Hearing Committee determines and in that respect the Hearing Committee may recommend that the period of any termination or withdrawal of endorsement be permanent;
- (e) the Hearing Committee may require the Respondent to resign from any position held by the Respondent with the Retaining Body of the Respondent;
- (f) the Hearing Committee may require the Respondent to give undertakings to the Hearing Committee, the Executive Ministry Director, the Director of Health and the Retaining Body of the Respondent in such form as the Hearing Committee determines to be appropriate;
- (g) the Hearing Committee may recommend to the Retaining Body of the Respondent that:
  - (i) in the event the Respondent fails to observe a requirement to resign under this Code that the Retaining Body terminate the engagement by the Retaining Body of the Respondent;
  - (ii) certain steps should be taken to ensure the supervision of the Respondent;
  - (iii) restrictions should be placed on the conduct of the Respondent to reduce the likelihood of further Misconduct; and
  - (iv) the Respondent's Misconduct makes it inappropriate for the Respondent to continue to be retained by the Retaining Body; and
- (h) the Hearing Committee may:
  - (i) postpone, defer, or make conditional, the operation of any orders and directions which it makes under subclauses (c) to (g) (inclusive) of this clause 44, or any of them, for such period and on such terms as it sees fit and may make any such postponement, deferral, or conditional operation, of the operation of those orders and directions subject to the



- Respondent observing any orders and directions of the Hearing Committee and without limitation impose a Conditional Deferment;
- (ii) make any orders and directions such as to require the Respondent to provide information as to compliance with any orders and directions; and
  - (iii) require as a term of any orders and directions that the Respondent appear before the Hearing Committee at a subsequent time and provide information as to compliance with any orders and directions.

***Right to be heard concerning Sanctions***

45. Before making any orders or directions constituting Sanctions under clause 44 the Hearing Committee must give the Respondent an opportunity to make representations to the Hearing Committee as to what orders or directions should be made.

**PART 8 – Disclosure of Findings, Orders and Directions**

46. (a) The PSU Co-ordinator must, by a notice in writing, notify the Respondent, the Complainant, the Director of Health and the Executive Ministry Director of the Findings and any orders or directions constituting Sanctions as soon as it is reasonably practicable to do so after the Findings and Sanctions are made. That notice in writing is the "**Hearing Outcome Notice**". The Hearing Committee, the Executive Ministry Director, the Director of Health and the PSU Co-ordinator and each of them (each a "**Disclosing Party**") may respectively, in the discretion of the relevant Disclosing Party, after the expiration of the time for the lodging of an appeal in respect of the Findings and Sanctions, publish particulars of any Findings and Sanctions under this Code in such manner and to such persons as it considers fit.
- (b) Without limiting subclause (a), the Hearing Committee may publish particulars of any findings and sanctions in writing providing they are signed by the Chairperson of the Hearing Committee, or the PSU Co-ordinator but, subject to that, nothing in this clause permits any individual member of the Hearing Committee to personally publish any particulars of any Findings and Sanctions. In making a determination under this clause the Chairperson, the PSU Co-ordinator and each Disclosing Party will seek, so far as possible, to only communicate the Findings and Sanctions to those persons who the relevant Disclosing Party considers have a need to know or may be affected at the time or in the future by the Findings and Sanctions which are made. Without limiting the foregoing the Chairperson, and each Disclosing Party, may communicate the Findings and Sanctions to the Retaining Body of the Respondent and any person who at any time is considering employing, or who is likely to employ, the Respondent. For the avoidance of doubt any

Respondent the subject of any Findings and Sanctions consents to publication by the persons specified in this clause in the manner specified in this clause.

## **PART 9 – Appeal Procedure**

### ***Right of appeal***

47. A Respondent, in respect of whom Findings and/or Sanctions are made, will have a right of appeal in respect of the Findings and/or Sanctions. The right of appeal will be limited to the following:
- (a) that the Respondent was not afforded rights of natural justice in the conduct of the Hearing;
  - (b) that the Findings were not made having regard to the matters put before the Hearing Committee;
  - (c) that information which was not available at the Hearing, but which is relevant to the matters the subject of the Hearing, has become available; and
  - (d) that the Sanctions were not appropriate or were excessive in all the circumstances.

### ***Method of appeal***

48. Any appeal must be in writing and in the form set out in **Appendix E ("Appeal Notice")**. It must be received by the Executive Ministry Director within twenty one (21) days of the date on which the Hearing Outcome Notice is given to the Respondent. A Hearing Outcome Notice shall be deemed to have been given to the Respondent:
- (a) on the date the Hearing Outcome Notice is handed to the Respondent or delivered to the residential address of the Respondent; or
  - (b) seven (7) days after it is posted to the residential address of the Respondent.

Notwithstanding any appeal, unless a group of not less than three (3) persons who were members of the Hearing Committee (convened by the PSU Co-ordinator to determine the issue) orders otherwise, the Findings and Sanctions of the Hearing Committee will remain in effect until the appeal process has been completed. A Respondent may request the making of an order that the implementation of the sanctions be stayed pending the completion of the appeal process but whether an order is made is at the discretion of the group (convened by the PSU Co-ordinator to determine the issue). On the receipt of an appeal the Executive Ministry Director must appoint an Appeal Committee.

### ***Appeal by Re-Hearing***

49. The Respondent may elect, in the Appeal Notice, to have the appeal determined by way of a re-hearing or in accordance with the procedure set out in clause 50. If an Appeal Notice is received which seeks a rehearing the provisions of this Code relating to the conduct of a Hearing will apply so far as possible with such changes made as need to be made to facilitate the proper conduct of the appeal. Those changes will be determined by the Appeal Committee in its complete discretion. For the purposes of any Appeal a reference to the Hearing Committee in any relevant provision of this Code will be deemed to be a reference to the Appeal Committee.

### ***Appeal other than by Re-Hearing***

50. If the Respondent elects to have the appeal conducted otherwise than as a rehearing, the Respondent, and/or a representative of the Respondent, must make written representations to the Appeal Committee within seven (7) days of the date the Appeal Notice is received by the Executive Ministry Director. The written representations should contain such matters as the Respondent seeks to have the Appeal Committee consider in determining the Appeal and, without limitation, must, where the Appeal is against the Sanctions, contain representations concerning the Sanctions and what Sanctions should be imposed. If the Respondent does not make any written representations the Appeal Committee may, notwithstanding, proceed to determine the Appeal. The Appeal Committee may, in determining the appeal, have regard to the Complaint, the Misconduct Report, the Findings and Sanctions of the Hearing Committee and the representations of the Respondent.

### ***Matters relating to the Appeal***

51. The Appeal Committee:
- (a) may in its discretion require the Respondent to appear before the Appeal Committee and answer questions related to the appeal. The Respondent may answer, or decline to answer, the questions put. No prejudice must flow to the Respondent as a consequence of the Respondent declining to answer any question;
  - (b) may, in determining the Appeal, in its discretion, do any of the following:
    - (i) endorse the Findings of the Hearing Committee;
    - (ii) endorse the Sanctions imposed by the Hearing Committee;
    - (iii) make substitute Findings for those of the Hearing Committee;
    - (iv) impose substitute Sanctions, in substitution for the Sanctions imposed by the Hearing Committee, and without limitation may do one or more of the following:
      - (1) do any one or more of the matters set out in subclause (i) to (v) of clause 44(c) of this Code and in doing so must have regard to

the respective financial circumstances of the Complainant and the Respondent and not impose unreasonable requirements;

- (2) recommend that the Respondent's membership of any professional association in relation to any ministry be terminated, that any endorsement of the Respondent by Conference or any Conference Body or under any statute in relation to any ministry be withdrawn and that any endorsement of the Respondent necessary to carry out any function of the type usually undertaken by a Ministering Person be withdrawn for such period as the Appeal Committee determines and in that respect the Appeal Committee may recommend that the period of any termination or withdrawal of endorsement be permanent;
  - (3) require the Respondent to resign from any position held by the Respondent with the Retaining Body of the Respondent;
  - (4) require the Respondent to give undertakings to the Appeal Committee, the Executive Ministry Director, the Director of Health and the Retaining Body of the Respondent in such form as the Appeal Committee determines to be appropriate;
  - (5) recommend to the Retaining Body of the Respondent that:
    - (A) in the event the Respondent fails to observe a requirement to resign under this Code that the Retaining Body terminate the engagement by the Retaining Body of the Respondent;
    - (B) certain steps should be taken to ensure the supervision of the Respondent;
    - (C) restrictions should be placed on the conduct of the Respondent to reduce the likelihood of further Misconduct; and
    - (D) the Respondent's Misconduct makes it inappropriate for the Respondent to continue to be retained by the Retaining Body; and
- (c) may,
- (i) postpone, defer, or make conditional, the operation of any orders and directions which it makes under clause 51(iv) for such period and on such terms as it sees fit and may make such postponement, deferral, or conditional operation of the operation of these orders and directions

subject to the Respondent observing any orders and directions of the Appeal Committee;

- (ii) make any orders and directions such as to require the Respondent to provide information as to compliance with any orders and directions;
  - (iii) require as a term of any orders and directions that the Respondent appear before the Appeal Committee at a subsequent time and provide information as to compliance with any orders and directions;
- (d) may, where an appeal is disallowed, order the Respondent to pay to the Conference Executive an amount to defray the costs of the conduct of the Hearing and the Appeal. The amount so payable must not exceed two (2) times the amount of the Respondent's weekly gross remuneration from the Retaining Body; and
- (e) must so far as possible seek to ensure the appeal process is completed within twenty-eight (28) days of the date the Appeal Notice is received by the Executive Ministry Director.

#### **PART 10 – Establishment of the Professional Standards Unit ("PSU")**

52. Provisions relating to the PSU are contained in **Appendix A**.

#### **PART 11 – Provision of Pastoral Support**

##### ***Recipients of Pastoral Support***

53. Where a Ministering Person engages in conduct constituting Misconduct, there is a high cost to be borne by the Church, the Church Body, the Ministering Person, the members of the family of the Ministering Person, the Retaining Body of the Ministering Person and any person who suffers as a result of the Misconduct. To seek to ameliorate the consequences of any Misconduct which is alleged (or any Misconduct which is found to have occurred) after a Complaint is received the Director of Health will appoint appropriate persons to be responsible for:

- (a) supporting the Complainant and that person's family;
- (b) supporting the Respondent and that person's family; and
- (c) supporting the Leadership of the Retaining Body.

The persons appointed to provide that support may not serve, or have served, on any relevant Interim Committee, the relevant Hearing Committee or the relevant Appeal Committee.

##### ***Form of Pastoral Support***

54. The Director of Health will be responsible to ensure that appropriate support processes are established for the entities and persons referred to in clause 53. This support may take such form as the Director of Health determines is appropriate and, without limitation, may take the form of any of the following:

- (a) pastoral care, counselling services, educational resources, leadership advice, specialist psychological treatment and other training; and/or
- (b) assistance to a person in respect of the preparation of a Complaint or any response to a Complaint or any representations in respect of a Complaint or any appeal under this Code.

The Director of Health may delegate any task and responsibility under this clause to the PSU Co-ordinator or any suitably qualified persons as the Director of Health determines to be appropriate for the task and responsibility.

#### **PART 12 – Provisions for Amendment**

55. This Code may be amended from time to time by the Conference Executive and this Code, as amended, will be binding on all Subscribers to it thirty (30) days after any amendment of it is published by the Conference Executive. The publishing of any amendment shall be effected in such manner as the Conference Executive determines is reasonably likely to bring the amendment to the notice of the Subscribers and for that purpose, without limitation, publication on the website of Churches of Christ in New South Wales will constitute publication under this clause.

#### **PART 13 – A Glossary of Terms**

**Act** means the Churches of Christ in New South Wales Incorporation Act 1947;

**Anonymous Disclosure** has the meaning set out in clause 18;

**Affected Person** has the meaning set out in clause 24 or 25 (as the case may be);

**Appeal Committee** (refer clause 48) means a committee of four (4) persons appointed by the Executive Ministry Director comprising two Eligible Persons (who are not members of Conference Executive) and two members of Conference Executive, of which one (1) of the four (4) persons appointed must have Legal Qualifications;

**Assistant PSU Co-ordinator** has the meaning set out in **Appendix A**;

**Child** means any person under the age of 18 years;

**Church** means the Christian Church universal;

**Church Body** means, as the case may be, a Church of Christ or a Conference Body;

**Church of Christ** means any congregation affiliated with the Conference;

**Complaint** means a complaint in writing that any Ministering Person has acted in a manner which may constitute Misconduct;

**Complainant** means a person who makes a Complaint;

**Concerned Person** has the meaning set out in clause 13;

**Conditional Deferment** is a form of Sanction that may be used particularly (but not limited to) when there are deemed to be factors mitigating a breach of the Code. In accordance with clause 44(h)(i) the findings of a Complaint may be kept on file for a designated period and no other action taken unless there is further evidence of a breach. Conditional Deferment is most likely to be suitable where the Ministering Person Self Reports, where the Misconduct is not serious, and there is deemed to be a very low risk of any further breach of the Code.

**Conference** means the Conference of Churches of Christ in NSW and has the meaning set out in the Constitution;

**Conference Body** means Conference Executive, any Ministry Team, committee, sub committee or other group of persons established pursuant to, or referred to in, the Act or pursuant to the Constitution or by Conference or Conference Executive on whom some authority or power is conferred by Conference, Conference Executive or pursuant to the Constitution;

**Conference Executive** has the meaning set out in the Constitution;

**Constitution** means the Constitution of Churches of Christ in NSW;

**Director of Health** means the person holding that office with Conference;

**Director of Leadership** means the person holding that office with Conference;

**Eligible Person** means any person who falls within the description of the persons in clause 32 who was not a member of the Hearing Committee;

**Executive Ministry Director** means the person holding that office with Conference;

**Findings** has the meaning set out in clause 44(b);

**Hearing** means a hearing to consider and determine a Complaint in accordance with the procedure set out in Part 6;

**Hearing Committee** means a group of five chosen by the PSU Co-ordinator under, and in accordance with clause 32;

**Hearing Outcome Notice** has the meaning set out in clause 46;

**Hearing Procedure** means the procedure in relation to Hearings set out in Part 6;

**Identified Person** has the meaning set out in clause 13;

**Inappropriate Sexual Behaviour** has the meaning set out in **Appendix H**;

**Interim Committee** means the Committee of that name convened from time to time pursuant to clause 33;

**Interim Committee Material** has the meaning set out in clause 33;

**Leader, Ministers Care Network** means the person holding that office with Conference or a person nominated by the Director of Health in substitution for that person;

**Leadership** means a person (or persons) authorised to exercise any administrative oversight or control or who take responsibility for the administration of a Church Body or other entity which employs or engages a Ministering Person;

**Legal Qualifications** are those possessed by a person admitted to practice as a legal practitioner, or a person with an academic degree, or diploma, in law;

**Minister** means a Religious Practitioner generally with theological training, employed by a Church Body or a Church of Christ;

**Ministering Person** in this Code means each of the following:

- (i) a Minister;
- (ii) any person who is formally recognised by a Church Body in the role of Minister on a voluntary basis;
- (iii) any person employed to undertake, or engaged to undertake, and remunerated for undertaking, Pastoral Duties;
- (iv) any person recognised by Churches of Christ in NSW as an endorsed minister in any classification
- (v) a person currently undertaking theological training and having endorsement by Churches of Christ in NSW
- (vi) a person in Leadership in a Church Body; and
- (vii) any person who subscribes to this Code

**Ministry Team** has the meaning set out in the Constitution;

**Misconduct** has the meaning set out in **Appendix H**;

**Misconduct Report** has the meaning set out in clause 29;

**Non Referral Decision** has the meaning set out in clause 29;

**Para-Minister** means a Ministering Person who is accountable to a Church Body but is employed or engaged as a chaplain or by another entity (such as a government, an education entity, a not for profit or an entity providing health, welfare or counselling services) to provide religious teaching or to communicate religious beliefs, to provide counselling or emotional or spiritual guidance or support or similar pastoral duties;

**Pastoral Duties** means duties associated with the spiritual care of the members of the congregation of a Church of Christ. The following are examples of pastoral duties:

- (i) communication of religious beliefs;
- (ii) teaching and counselling adherents and members of the surrounding community;



- (iii) providing adherents and members of the surrounding community with spiritual guidance and support; and
- (iv) meeting with and visiting adherents, the sick, the poor, or persons otherwise in need of emotional or spiritual support;

**Pastoral Procedure** means the procedure for the provision of Pastoral Support set out in Part 11;

**PSU** means the Professional Standards Unit;

**PSU Co-ordinator** means the person appointed, to that position from time to time, by Conference Executive to administer this Code;

**Published** means published by letter or written announcement sent to the Church Bodies or posted on the web site of Churches of Christ in New South Wales;

**Relevant Person** has the meaning set out in clause 16;

**Religious Practitioner** has the meaning of that expression as it is in the Fringe Benefits Tax Assessment Act 1986;

**Respondent** is a person against whom a Complaint is made;

**Retaining Body** is a Church Body by which a Ministering Person (other than a Para-Minister) is appointed to perform Pastoral Duties;

**Sanctions** has the meaning set out in clause 44;

**Self Disclosure Report** has the meaning set out in clause 15;

**Self Reporting Person** has the meaning set out in clause 15;

**Sexual Harassment** has the meaning set out in **Appendix H**;

**Subject Ministering Person** has the meaning set out in clause 33;

**Subscriber** means any person who acknowledges themselves bound by the provisions of this Code.

## **PART 14 – Interpretation**

In this Code unless the context otherwise indicates:

- (a) words importing the singular shall include the plural and vice versa;
- (b) words importing a gender shall include other genders;
- (c) references to a person shall be construed as references to an individual, firm, body corporate or association (whether incorporated or not);
- (d) references to any document (including this Code) are references to that document as amended, consolidated or supplemented from time to time;
- (e) references to any office are references to that office and any successor or office in substitution for that office and where necessary in the event any

office ceases to exist or there is any dispute about the office, shall be the office, or office in substitution, specified by Conference Executive;

- (f) where in this Code there is a reference to a particular office with Conference and no one, at the relevant time, holds that office that reference shall for all purposes be deemed to be such other office or person as Conference Executive determines;
- (g) where any word or phrase is given a defined meaning in this Code, any other part of speech or other grammatical form in respect of such word or phrase shall have a corresponding meaning; and
- (h) references to any statute, ordinance or other law shall include all regulations and other instruments thereunder and all consolidations, amendments, re-enactments or replacements thereof.

## APPENDIX A

### The Professional Standards Unit (PSU) [refer clause 52]

The PSU is a body established by resolution of Conference Executive to administer this Code. It has the role of upholding the professional and ethical behaviour of Ministering Persons retained by Church Bodies. In addition it has the necessary powers to undertake the role and responsibilities of the PSU contained in this Code.

The PSU will comprise of the PSU Co-ordinator and such other persons as Conference Executive may from time to time appoint. Of those other persons one person will be nominated by Conference Executive as the "**Assistant PSU Co-ordinator**". In the event, at any time, there is no PSU Co-ordinator or the PSU Co-ordinator is for any reason unable to act (including in circumstances where the PSU Co-ordinator has a conflict of interest) the Assistant PSU Co-ordinator will undertake the role of the PSU Co-ordinator under this Code and in that instance each reference, apart from in this clause, to the PSU Co-ordinator will be deemed to be a reference to the Assistant PSU Co-ordinator.

The PSU, PSU Co-ordinator, the Assistant PSU Co-ordinator and each other member of the PSU will be accountable to the Conference Executive through the Director of Health and will be subject to this Code.

The PSU will nominate appropriately qualified people (to assist the PSU to fulfil its roles and responsibilities under this Code) to Conference Executive, from time to time. Subject to Conference Executive approving any such persons who are nominated the PSU may arrange for those persons to assist the PSU to fulfil its roles and responsibilities under this Code.

Without limiting any provision of this Code the PSU will be responsible for:

- (a) managing the implementation of this Code;
- (b) arranging training for persons necessary to carry out the provisions of this Code;
- (c) reviewing this Code every four (4) years and making recommendations to Conference Executive as to any amendment to this Code and the implementation of the provisions of this Code;
- (d) providing training for Ministering Persons and the leaders of Church Bodies in relation to appropriate professional and ethical behaviour of Ministering Persons and leaders of Church Bodies. This training may be conducted in conjunction with the Australian College of Ministries;
- (e) ensuring, in conjunction with the Director of Ministry Health, ongoing professional training for Ministering Persons in relation to the matters subject of this Code and arising out of this Code;

- (f) raising the consciousness of Ministering Persons and leaders of Church Bodies for the need to maintain, and what is involved in maintaining, appropriate professional and ethical standards as are fitting for Ministering Persons and leaders of Church Bodies; and
- (g) provision of educational research and resources to support Church Bodies in the awareness of the issues involved in Misconduct by Ministering Persons.

APPENDIX B

Form of "Subscription to Code of Conduct" [refer clause 11]

"CHURCHES OF CHRIST IN NEW SOUTH WALES CODE OF CONDUCT  
SUBSCRIPTION TO CODE OF CONDUCT"

**PRIVACY STATEMENT** Each person signing this document consents to the information in it being included in the Churches of Christ NSW records, printed or electronic, to be stored and /or released by the Executive Ministry Director.

**MINISTER'S/MINISTERING PERSON'S SECTION - [this section is to be completed and signed by a person who is a Ministering Person (as defined in the Code)].**

I, ..... [print name of Ministering Person] ("**Subscriber**")  
am a Ministering Person subscribing to the Churches of Christ in New South Wales Code of Conduct. I have read the Code and agree to be bound by it. I recognise, and will be accountable to, the Leadership of the Church of Christ known as:

..... [print details] (the "**Church**"). I further declare I am/am not\* [\*delete as applicable] a Para-Minister as defined in the Code.

Signed: ..... [Ministering Person] Date: .....

**LEADERSHIP SECTION - [this section is to be completed and signed by leaders of the Church Body to which the Subscriber is accountable]**

We, .....

and .....  
[print details of relevant persons<sup>1</sup>] being two (2) of the persons who form part of the Leadership of the Church each acknowledge we have read the Code and being aware of its requirements, we recognise our responsibility to the Subscriber referred to above.

Signed: ..... Date: .....

Signed: ..... Date: .....

**OFFICE USE ONLY**

Ministry Category:

- Minister (including Senior, Associate & Youth - full time or part time)
- Program Leadership
- Elder
- Chaplain
- Student Minister
- Retired Minister
- Other Ministering person (as defined by the Code)

Reviewed by: \_\_\_\_\_ Date: \_\_\_\_\_ Celebrant Number: \_\_\_\_\_

<sup>1</sup> Two persons in leadership to sign with the agreement of the other person(s) in leadership.



**APPENDIX C**  
**Form of "Withdrawal Notice" [refer clause 11]**

"To the Churches of Christ in New South Wales:

**WITHDRAWAL NOTICE UNDER THE CHURCHES OF CHRIST IN NEW SOUTH WALES CODE OF CONDUCT**

I..... *[print name]* hereby give notice that I withdraw as a subscriber to the Churches of Christ in New South Wales Code of Conduct and I agree this notice only has effect when received by the Executive Ministry Director of Churches of Christ in New South Wales.

I desire that the following reason(s) for my Withdrawal as a subscriber be published:

.....  
.....  
.....  
.....  
.....  
.....  
.....

Signed: .....*[sign here]*

Residential Address .....  
.....*[insert Residential address]*

Date:..... *[insert date]*"

**APPENDIX D**

**Form of "Undertaking to Hearing Committee" [refer clause 40]**

"To the Hearing Committee established under the Churches of Christ in New South Wales Code of Conduct in respect of a Complaint concerning:  
.....[print name of Respondent]

I.....[print name]

have read the relevant provisions of the Churches of Christ in New South Wales Code of Conduct as pertain to the conduct at Hearings being clauses 36 to 40 [and particularly clause 37(d)] and I undertake and agree to observe those provisions.

Signed: .....[sign here]

Date:..... [insert date]"

**APPENDIX E**

**Form of "Appeal Notice under the Code of Conduct" [refer clause 48]**

"To the Executive Ministry Director Churches of Christ in New South Wales:

*Appeal Notice: against Findings and/or Sanctions under the Code of Conduct*

I.....[print name] pursuant to the provisions of the Churches of Christ in New South Wales Code of Conduct appeal against the Findings and/or Sanctions of the Hearing Committee in relation to the Hearing involving me held on \_\_\_\_\_[insert date].

The basis of the Appeal is:

- (a) that I was not afforded rights of natural justice in the conduct of the Hearing;
- (b) that the Findings were not made having regard to the matters put before the Hearing Committee;
- (c) that information which was not available at the Hearing, but which is relevant to the matters the subject of the Hearing, has become available;
- (d) that the Sanctions were not appropriate or were excessive in all the circumstances.

*[delete such of (a), (b), (c) and (d) on which you do not seek to rely]*

I elect to have the Appeal determined:

- (a) by way of a re-hearing in accordance with clause 49 of the Code; or
- (b) in accordance with clause 50 of the Code.

*[delete one of (a) or (b)]*

I acknowledge that if I elect to have the Appeal determined in accordance with clause 50 of the Code that I must make written representations to the Appeal Committee within seven days of the date of the lodgement of this Notice.

Particulars of my contact details are:

*[Address for posted items]. .....*

*[Address for confidential emails] .....*

Signed: .....[sign here]

Date:..... [insert date]"



## APPENDIX F

### Matters to be dealt with in a Complaint [refer clause 19]

- (a) The Complaint is to be addressed to the PSU Co-ordinator.
- (b) It must be provided to the PSU Co-ordinator in an envelope marked "**Private & Confidential**".
- (c) It must state/contain:
  - (i) the name, address, phone number, age and sex of the Complainant;
  - (ii) (as applicable) the name, address and phone number of the Church Body with which the Complainant is associated;
  - (iii) the name, address and phone number of the person in respect of whom the Complaint is made ("**Respondent**");
  - (iv) the name, address and phone number of the Retaining Body of the Respondent;
  - (v) the actions which allegedly constitute the Misconduct (the "**Acts Complained Of**") and the date of the Acts Complained Of.
  - (vi) copies of any documents pertaining to the Acts Complained Of; and
  - (vii) the names, addresses and phone numbers of any persons who likely have knowledge of the Acts Complained Of and who may assist in the investigation of the Complaint.
- (d) It must be dated and signed by the Complainant.

**APPENDIX G**

**Form of "Undertaking to Interim Committee"[refer clause 33]**

"To the Interim Committee established under the Churches of Christ in New South Wales Code of Conduct in respect matters concerning.....*[print name of the person whose actions are under consideration by the Interim Committee]*

I.....*[print name]*

undertake and agree to keep confidential all matters disclosed to me as a result of my dealings with the Interim Committee.

Signed: .....*[sign here]*

Date:..... *[insert date]"*

## APPENDIX H

### Misconduct as defined in this Code [refer Part 13]

- (a) **Misconduct** means each and all of the following:-
- (i) any Inappropriate Sexual Behaviour;
  - (ii) any act which constitutes a crime;
  - (iii) any act of deceit;
  - (iv) any breach of any fiduciary duty owed by a Ministering Person or any actions on the part of a Ministering Person which seriously conflict with the interests of the Retaining Body;
  - (v) any act which is likely to discredit or bring into disrepute the Church or a Church Body;
  - (vi) any sexual relationship outside of marriage;
  - (vii) any act which constitutes Sexual Harassment or Inappropriate Sexual Behaviour;
  - (viii) any financial dishonesty;
  - (ix) any breach of trust in respect of the property of the Retaining Body;
  - (x) any discriminatory, bullying, intimidatory act or act of physical violence against a person; and
  - (xi) any abuse by a Ministering Person of that position such as to manipulate any Member of the Ministering Person's Congregation for the purpose of seeking personal gain or self-gratification;
- (b) **Inappropriate Sexual Behaviour** includes:
- (i) any acts of voyeurism,
  - (ii) indecent exposure,
  - (iii) indecent suggestions in respect of sex,
  - (iv) the use of obscene language of a sexual nature,
  - (v) intimate conversation with respect to matters concerning sex other than in a counselling or similar role,
  - (vi) use of pornography,
  - (vii) repeated unwelcome physical contact; and
  - (viii) sexual activity involving a Member of the Ministering Person's Congregation:

Each of (i) to (viii) individually and together constitute "**Inappropriate Actions**" and for the purpose of determining what constitutes "**Inappropriate Sexual**

**Behaviour**" regard must be had to the circumstances in which the Inappropriate Actions occurred, the person the subject of any Inappropriate Actions, and the relationship of the Ministering Person to any person the subject of any Inappropriate Actions;

- (c) **Sexual Harassment** means any sexual advances, requests for sexual favours or sexual conduct that could reasonably be judged in the circumstances as unwelcome, inappropriate, offensive, humiliating or intimidating by the person the subject of the behaviour;

**Note:** In this Appendix H the expression "**Member of a Ministering Person's Congregation**" means:

- (a) any person who is a Member of, or regular attender at meetings or events conducted by, the Church of Christ which is the Retaining Body of the relevant Ministering Person; and
- (b) any person to whom the Ministering Person, as a pastor, owes any duty.