

A large, stylized leaf graphic in shades of blue and green, positioned behind the title text. The leaf has a central vein and several smaller veins branching off. The background is a dark blue gradient with a vertical lime green bar on the left side.

*Te Houhanga Rongo*

# A PATH TO HEALING

CATHOLIC CHURCH IN AOTEAROA NEW ZEALAND

Principles and procedure for responding to complaints  
of sexual abuse and sexual misconduct against clergy or  
religious in the Catholic Church in Aotearoa New Zealand

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# 1. INTRODUCTION

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## *Jesus' Vision and Acknowledgment of Wrongdoing*

Jesus loved and cared for all people, especially children. Jesus was a source of blessing for children, and they, for him, were a sign of the kingdom of God. Children felt safe in his presence. Jesus gives the Church a vision of safe pastoral care.

Despite this vision of safe pastoral care, it is with deep sadness and much regret that the bishops and leaders of religious congregations of the Catholic Church in Aotearoa New Zealand acknowledge a number of clergy and religious have sexually abused children, adolescents and adults who have been in their pastoral care. To these victims we offer our sincere apology. We acknowledge the wrongdoing and that victims have been betrayed and harmed.

Sexual abuse can have a devastating and long-lasting effect on the victim. It affects their relationships with others, with God and our Church. Those who have been violated in this way can suffer feelings of fear, shame and confusion. They can feel guilty, blame themselves and feel that they are responsible for what has happened. They can suffer confusion in the process of determining their sexual identity, and even their identity as people. They can live with long periods of silence and/or denial before they are ready to come forward and speak about their experience of sexual abuse. Sometimes they are not believed when they tell their story, and this can reinforce their sense of guilt and shame.

## *Te Houhanga Rongo - A Path To Healing*

***We are committed to justice and healing for all those who have been affected by sexual abuse within the Church.***

*Te Houhanga Rongo - A Path To Healing*, contains the principles and procedures by which we respond to complaints of sexual abuse and sexual misconduct against clergy or religious in our Church. It was first adopted in 1993 and has been continually reviewed since that time. It is a "living" document that will continue to be reviewed and improved as experience and practice dictate. What remains central is ensuring that a compassionate and fair response is made to complainants. We also need to treat those who are accused of offending with fairness and compassion. A thorough investigation is required to ensure that any final outcome is fair, considered and appropriate.

In 2017, our Church adopted the *Guidelines for the Prevention of and Response to Sexual Abuse in the Catholic Church in Aotearoa New Zealand* (National Safeguarding Guidelines). These Guidelines are based on our Christian belief that every person is created in the image and likeness of God and this implies a duty to value all people and protect them from harm. *Te Houhanga Rongo - A Path To Healing* demonstrates our commitment to the National Safeguarding Guidelines and provides a path for responding to complaints of sexual abuse or sexual misconduct by clergy and members of religious orders,

It is our sincere hope that the processes outlined in *Te Houhanga Rongo - A Path to Healing* will enable compassionate responses to allegations of sexual abuse or sexual misconduct and assist the Church to live out more authentically Jesus' care for children and all people.

This document will be reviewed every three years, or earlier if necessary, to ensure our Church response follows best practice<sup>1</sup>.

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<sup>1</sup> Appendix 1: List of Bishops of New Zealand who approve these principles & procedures

<sup>2</sup> Appendix 2: List of New Zealand Congregations who accept these principles & procedures

## **2. PRINCIPLES FOR DEALING WITH COMPLAINTS OF SEXUAL ABUSE OR SEXUAL MISCONDUCT**

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These are the 4 principles that we apply in dealing with complaints of sexual abuse or sexual misconduct against clergy or religious in the Catholic Church in Aotearoa New Zealand (our Church).

### ***PRINCIPLE 1: Looking after people***

***Our first priority is a compassionate response to a Complainant: we will treat all people involved through a complaint with compassion, respect and fairness.***

- a. Our first priority is a compassionate response to a Complainant where sexual abuse or sexual misconduct is alleged. Complaints against clerics and religious will be taken seriously. The Complainant will be heard sympathetically and sensitively.
- b. If it is established, either by admission or by proof, that sexual abuse did take place, we will ensure that a Complainant is given the assistance demanded by justice and compassion. Careful and sympathetic consideration will be given to any requests by a Complainant, even if all requests cannot be met.
- c. Other persons involved in a complaint such as the Respondent, the family of the Complainant; the family and colleagues of the Respondent; and the parish, school community or agency in which the Respondent works or has worked will also be treated with fairness, compassion and respect.
- d. If the complaint is upheld, then the Complainant and other people involved throughout the complaint process will have their different needs recognised and they will be offered appropriate assistance so that they can find healing and come to terms with what has happened.
- e. If the complaint is not upheld (for example the Complainant is found to be mistaken), the Complainant and other people involved throughout the complaint process will have their different needs recognised and they will be offered appropriate assistance so that they can find healing and come to terms with what has happened.

### ***PRINCIPLE 2: The Sanctity of Pastoral Relationships***

***Any attempt to sexualise a pastoral relationship is a betrayal of trust, an abuse of authority, and professional misconduct.***

- a. Clergy and religious are in a special position of trust and authority in relation to those who are in their pastoral care.
- b. Incidents of sexual abuse or sexual misconduct by clerics or religious are a betrayal of that trust and of their calling to follow and imitate Jesus. It is a betrayal of the Christian community which has entrusted them with authority and a responsibility for the care of God's people. Society expects them to behave according to clearly defined moral standards as well as legal standards
- c. Any form of sexual behaviour with someone under 18 years of age is considered to be sexual abuse.

- d. For clergy and religious, any form of sexualised behaviour is misconduct. Our Church has clear moral guidelines in this respect, and we expect our clergy and religious to honour their witness to chastity as well as our Church's teachings.
- e. If sexual behaviour occurs in the context of a pastoral relationship, then this will be viewed more seriously in terms of outcomes. Those seeking pastoral care are in a vulnerable position and any form of sexual behaviour by the cleric or religious is deemed to be an abuse of power. Even when an adult seems to be a willing partner, it is the professional responsibility of the cleric or religious to guard the boundary against any improper sexual behaviour.

### ***PRINCIPLE 3: Fairness and Natural Justice***

***In any inquiry the quest for the truth will be paramount, and will be based on the principles of natural justice.***

- a. Those making the inquiry must keep an open mind until the facts are established. The receiving of a complaint and the investigation of a complaint should always be carried out with discretion and respect for confidentiality. The Complainant and the Respondent should be assured of this and should be told how their personal information will be managed including who will be informed and what information will be disclosed, unless such disclosure would interfere with the investigation. All people involved in the inquiry will be sensitive to the safeguarding of the reputations of the Complainant, the Respondent, and any other person involved directly or indirectly.
- b. If the complaint is placed in the hands of the police, we will suspend the investigation while any criminal investigation or prosecution by a state agency such as the police is underway. We will not do anything to protect the Respondent from the processes of the law.
- c. The Complainant and the Respondent will be advised of support available to them during the inquiry. The Respondent will be advised of their right to have independent canonical and other legal advice.
- d. If it is found that an accusation is mistaken or without foundation, positive steps will be taken to ensure that the Respondent is cleared of any suspicion affecting their good name and character, so that they may continue in their ministry or office.
- e. The inquiry will ensure compliance with the Privacy Act 1993 or any subsequent legislation.

### ***PRINCIPLE 4: Responsibility***

***Any person responsible for abuse will be held to account.***

- a. We will take all reasonable steps to have offenders accept responsibility for their actions and acknowledge the harm they have caused. This may include providing professional help or treatment for the type of offending and assisting/encouraging them to do whatever is in their power to make amends.
- b. If guilt has been admitted or the complaint upheld, our Church's response will be appropriate to the seriousness of what has happened, and appropriate sanctions will be imposed which may include removal from active ministry. Sanctions will be imposed with reference to the principle that offenders will not be given back the power they have abused.

### **3. PROCEDURES FOR DEALING WITH COMPLAINTS OF SEXUAL ABUSE OR SEXUAL MISCONDUCT**

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#### ***Introduction***

- 3.1 These are our procedures for dealing with all complaints of sexual abuse or sexual misconduct by clergy or a member of a religious order. In putting these procedures into practice, we will follow:
  - a. the principles for dealing with complaints of sexual abuse or sexual misconduct;
  - b. the provisions of canon law; and
  - c. any directions of the Congregation for the Doctrine of the Faith<sup>2</sup> or the Congregation for the Evangelization of Peoples<sup>3</sup>.
- 3.2 If a complaint concerns a criminal offence, we will try to ensure that we do not interfere with or obstruct the operation of a criminal investigation or prosecution by a state agency such as the police. With that in mind, we will suspend these procedures until any criminal investigation or prosecution by a state agency has been completed and we will let the Complainant, or their representative know.
- 3.3 If there is a word or phrase that does not make sense, please refer to the definitions list at the end of these procedures. Otherwise contact the National Office for Professional Standards (**NOPS**) who can help you with this.
- 3.4 Our expectation is that during an investigation, all those involved keep information confidential except as necessary to inform support people such as a lawyer or counsellor or doctor or other support person (including friends or family members). Support people should also be reminded of the need for confidentiality. This is because there is risk that the process may be affected by disclosure to 3rd parties which prevents the Independent Investigator from completing the investigation in a fair way to everyone, including the Respondent. In this situation, NOPS may decide not to proceed with the investigation and/or refer the matter to the Chairperson of the Complaints Assessment Committee (**CAC**) for determination.

#### ***Receiving a Complaint***

- 3.5 Complaints may be made to a diocese, religious order, or a Church organisation or directly to NOPS by email, post, telephone call, or in person. All complaints not made directly to NOPS should be referred to NOPS as soon as possible.

#### ***Looking after the Complainant***

- 3.6 At the earliest possible time, the Complainant will be assured of the following:
  - a. Our Church takes complaints of this nature seriously, and the complaint will be carefully and fairly assessed and investigated.
  - b. Our Church recognises that making a complaint can be daunting. Support will be offered to the Complainant to assist them through the investigative process. Advice will be given regarding the availability of counselling or therapy, and access to a diocesan-based Pastoral Companion whose role is to help the Complainant with the process.

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<sup>2</sup> [http://www.vatican.va/roman\\_curia/congregations/cfaith/documents/rc\\_con\\_cfaith\\_pro\\_14071997\\_en.html](http://www.vatican.va/roman_curia/congregations/cfaith/documents/rc_con_cfaith_pro_14071997_en.html)

<sup>3</sup> [http://www.vatican.va/roman\\_curia/congregations/cevang/documents/rc\\_con\\_cevang\\_20100524\\_profile\\_en.html](http://www.vatican.va/roman_curia/congregations/cevang/documents/rc_con_cevang_20100524_profile_en.html)

- c. Our Church is concerned for the welfare of the Complainant, their family, and others affected. The Complainant will be kept informed of the progress of the investigation.
  - d. The Complainant may appoint and have present a support person or persons during any part of the investigation.
  - e. Justice requires that the Respondent be heard and given a fair opportunity to respond to the complaint including seeing relevant information. The Complainant will be told of those who may have access to the Complainant's information including the Respondent, and the confidentiality directions given to the Respondent.
  - f. The Respondent will be told not to contact the Complainant or the Complainant's family/friends.
  - g. If the complaint is made against a person who is no longer a priest or religious, every attempt will be made to investigate the matter thoroughly. It is acknowledged that a Church Authority has no power to compel compliance and cooperation from the Respondent in this situation.
    - i. The Complainant always retains the right to report their complaint to a state authority such as the police.
    - ii. A Complainant may appoint and have present a lawyer during any part of the investigation.
    - iii. Respecting the Complainant's privacy, we will tell the Complainant the purposes for collection of their personal information, the sources of information for the investigation, who may have access to their personal information, where their information is held, and the Complainant's right to request access and to request correction of their personal information.
- 3.7 NOPS will initially talk with the Complainant to see if the complaint falls within the definition of Sexual Abuse or Sexual Misconduct.
- a. **Sexual misconduct** is any conduct of a sexual nature that is inconsistent with a witness to chastity or a breach of professional standards.
  - b. **Sexual abuse** is any conduct that involves:
    - i. a criminal (sexual) act against the laws of New Zealand;
    - ii. performing sexual acts with a child or a vulnerable adult. This includes forcing or enticing a child to take part in sexual activities (penetrative, e.g. rape, and non-penetrative, e.g. kissing, touching, masturbation) as well as non-contact acts such as involving children in the looking at or production of sexual images, sexual activities and sexual behaviours, exposing children to sexting (electronic sexual messages or pictures) and grooming, which is the deliberate action to befriend and establish an emotional connection with a child to lower their inhibitions in order to sexually abuse the child; or
    - iii. the production, exhibition, possession or distribution, including by electronic means, of child pornography, as well as by the recruitment of or inducement of a child or a vulnerable adult to person to participate in pornographic exhibitions; or
    - iv. forcing someone, by violence or threat or through abuse of authority, to perform or submit to sexual acts.
- 3.8 If, in the opinion of NOPS, the complaint does come within the definition of sexual abuse or sexual misconduct, NOPS will appoint an Independent Investigator and initiate the investigation steps set out below.
- 3.9 If, in the opinion of NOPS, the complaint does not come within the definition of Sexual Abuse or Sexual Misconduct, with the Complainant's consent, the complaint will be referred to the relevant diocesan bishop, leader of a religious congregation, or their authorised representative (Church Authority) to respond to the complaint.

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<sup>4</sup> As documented in *'Integrity in Ministry'* (2000) or any subsequent edition

- 3.10 If there is uncertainty about the status of a complaint and whether it fits within the scope of this protocol, NOPS may refer the matter to the Chairperson of the CAC for determination.
- 3.11 If the Complainant is not the subject of the alleged sexual abuse or sexual misconduct, these procedures will be adapted to reflect the circumstances of the complaint in consultation with the relevant people and as appropriate.

## ***Next Steps and Notifications***

### ***Church Authority***

- 3.12 NOPS will notify the relevant Church authority of the complaint.
- 3.13 If the complaint is relevant to the work of the Congregation for the Doctrine of the Faith or the Congregation for the Evangelization of Peoples, then the complaint may be referred to either of these organisations in consultation with the Complainant. These organisations may provide direction to the Church Authority on how the investigation is to occur. NOPS and the Church Authority will be required to follow any such direction which will be discussed with the Complainant and the Respondent.

### ***Police***

- 3.14 If a complaint concerns behaviour which may constitute criminal conduct or a breach of New Zealand law, this is what will happen:
- a. If the Complainant is under 18 years of age at the time of making their complaint:
    - i. the Complainant and/or their parents/guardians/caregivers will be advised and assisted to report the complaint to the New Zealand Police; and
    - ii. as it is recognised that our Church has a duty of care to other children and young people, the Church Authority or NOPS will report the complaint to the police if the Complainant does not do so. Any report to the police will be notified to the Complainant and/or their parents/guardians/caregivers as appropriate by NOPS. In deciding whether to notify the report and to whom, NOPS will consider all the relevant circumstances including the age of the Complainant, their understanding of the situation, and any potential negative impact on the Complainant by notifying parents/guardians/caregivers.
  - b. If the Complainant is aged over 18 years of age at the time of making their complaint, and the Respondent is still alive:
    - i. the Complainant will be advised to report this to the police;
    - ii. if the Complainant chooses not to report to the police, then the complaint will be dealt with under these procedures.
    - iii. the Complainant will be advised that at any stage they may report the complaint to the police.
    - iv. if NOPS considers that a Respondent is at risk of causing harm to the Complainant or any other person, the Church Authority or NOPS may report the complaint to the police. If practicable, this will be done in consultation with the Complainant and any report to the police will be notified to the Complainant by NOPS. The Church Authority and NOPS will decide who will make the report to the police.

### ***Respondent***

- 3.15 The Respondent will be notified by NOPS of the complaint as soon as practicable once the substance of the complaint has been confirmed. It may be necessary for the Complainant to be interviewed before the Respondent is notified by NOPS of the complaint.



- 3.16 Notifying the Respondent should be done by letter, preferably hand delivered in person by someone nominated by the relevant diocesan bishop or congregational leader.
- 3.17 The Respondent will be provided with a Respondent's Information Sheet and Looking After Confidential Information form (see Appendix 3: Forms).
- 3.18 Notification of the complaint to the Respondent should be kept separate from any formal interview with the Respondent. The Respondent may waive this right, but only after the Respondent has been given the opportunity seek legal advice.
- 3.19 The Independent Investigator will allow the Respondent to view, as soon as practicable, all relevant information about the complaint that the Independent Investigator is considering and at least 7 days before any interview, unless the Respondent has waived this right.
- 3.20 The Respondent is to be advised of the following:
- a. what is alleged to have been done and the identity of the Complainant;
  - b. the right to have legal counsel including canonical counsel and of the right to remain silent;
  - c. direction to have no contact with the Complainant, or family/friends of the Complainant, while the complaint is being investigated; and
  - d. direction to keep all information confidential, except as is necessary to obtain legal support or personal support. Confidentiality also includes the following:
    - i. The Complainant's name should only be released to legal counsel.
    - ii. The Complainant's name should not be released to the Respondent's supporters, except to a supporter who may be with the Respondent when the Respondent is answering any part of the complaint against them. This supporter will also be asked to complete a Looking after Confidential Information form (see Appendix 3: "Forms").
    - iii. If the Respondent wishes a potential witness to be interviewed, then this must be referred to the Independent Investigator. The Respondent must not contact any potential witness unless authorised by the Independent Investigator.
- 3.21 The Respondent will also be advised of the purposes for collection, the sources of information for the investigation (when known), who may have access to their personal information, where their information is held and their right to request access and to request correction of their personal information.

### ***Placing Respondent on Leave***

- 3.22 If NOPS considers that there may be a risk of harm to any person or reputational harm to the Church Authority or Church body, a recommendation will be made to the Church Authority for the Respondent to take leave from their position or ministry or be directed into non-contact duties until it is ascertained that there is no risk.
- 3.23 In making a recommendation as to whether the Respondent should take leave from their position or ministry or be directed into non-contact duties, NOPS shall have regard to:
- a. the credibility of the Complainant and any witnesses;
  - b. whether or not there are other complaints against the Respondent (previously made or concurrent);
  - c. corroborative evidence;
  - d. the seriousness of the complaint, e.g. rape, child abuse;
  - e. the current role held by the Respondent and whether this involves ministry with children or vulnerable adults; and
  - f. any other factor that NOPS thinks is relevant.
- 3.24 If the Respondent is placed on leave or directed into non-contact duties, this will be managed confidentially. It is important that no public statements are made at this time by any of the parties including the Complainant.

## ***Conducting an Investigation***

### **Independent Investigator**

- 3.25 NOPS will appoint an independent person to conduct the investigation. NOPS may also appoint an assistant to the Independent Investigator. Consideration of suitable gender and ethnicity will be part of the appointment process and Complainants will be consulted on those points. NOPS will provide the Independent Investigator with a scope of the investigation and reporting requirements.
- 3.26 At any stage of the investigation process, NOPS may seek canonical advice without revealing the names of the respondent or complainant.
- 3.27 The Independent Investigator is required to comply with the Privacy Act 1993 and any subsequent legislation.

### **Interviewing the complainant**

- 3.28 The Independent Investigator (and assistant if appointed) will arrange to interview the Complainant, who will be invited to have a support person present.
- 3.29 If a Complainant requires assistance either to make or to articulate a complaint, then the Independent Investigator will ensure that a suitably skilled person provides that assistance and is informed of the importance of confidentiality.
- 3.30 The Independent Investigator will ask for written authorisation from the Complainant for the CAC to proceed to deal with the complaint.
- 3.31 The Independent Investigator will ask the Complainant to nominate any person that they consider has knowledge or information that will help in the investigation of their complaint. These may include family members, friends or others in whom the complainant has confided.
- 3.32 The Complainant may also provide the Independent Investigator with notes or certificates from professionals from whom they have received help such as counsellors or doctors. The Complainant will be asked to give written consent for the Independent Investigator to speak to them and/or obtain records.
- 3.33 If the police have been involved in investigating the complaint the Complainant may be invited to give written consent for the Independent Investigator to discuss the complaint with the police.
- 3.34 The Independent Investigator may make further enquiries in order to corroborate or clarify the substance of the complaint. This may include making enquiries of diocesan or religious orders' archives. The Independent Investigator will discuss with the Complainant the names of people and agencies who the Independent Investigator wishes to approach.

### **Interviewing the Respondent**

- 3.35 The Independent Investigator (and assistant if appointed) will arrange to interview the Respondent, who will be invited to have a support person (which may include legal counsel) present at the interview.
- 3.36 If the Respondent instructs legal counsel, any costs are the responsibility of the Respondent. It is up to the Respondent to discuss the payment of costs with their bishop or congregational leader.
- 3.37 The Respondent has a right to know the identity of the Complainant and details of what has been alleged.
- 3.38 The Respondent must be advised of who may see the response made by the Respondent including the Complainant, the bishop of any relevant diocese or the relevant congregational leader.

- 3.39 The Respondent should be invited to respond to the allegations but is not bound to do so. An oath is not to be administered. The Independent Investigator will receive from the Respondent (either personally or through a representative) any explanation or account of events which he/she may wish to make.
- 3.40 If the Respondent admits the truth of the allegations contained in the complaint, or part/some of the allegations, the Independent Investigator will convey the admission to the CAC as part of their report.
- 3.41 If the Respondent denies the allegation, they will be offered the opportunity to provide corroboration or support for that position. The Respondent may nominate other persons to be interviewed who may corroborate or support the Respondent's testimony. The Respondent shall not contact such persons without consent from the Independent Investigator as this may influence the evidence they will give to the Independent Investigation. Any decision to interview a witness is at the discretion of the Independent Investigator.
- 3.42 If the Respondent denies the allegation and there is no other person who may corroborate their position, or there is no evidence available due to the passage of time, then it may be necessary for the Independent Investigator to speak to the Complainant again. In this situation the Complainant should be told that the Respondent denies the allegation. This is an opportunity for the Complainant to provide further information.

#### **Sharing documents and Confidentiality**

- 3.43 Due to the importance of confidentiality, these are the guidelines with respect to sharing copies of documents.
- 3.44 The Complainant's statement or a statement of any witness to the investigation will be made available to the Respondent for viewing only. This means that the statement will be provided to the Respondent to read while in the presence of the Independent Investigator. If this is not possible, the Church Authority (or delegate) or Respondent's solicitor may be provided with the statement (by secure means) and they will be asked to facilitate the Respondent being able to view the statement. As much time as necessary is to be provided for the Respondent to view and consider the statement. Before the statement is provided to the Respondent's solicitor or Church Authority, an undertaking must be provided to NOPS that an electronic or physical copy will not be provided to the Respondent or any third party and that the document(s) will be securely destroyed or deleted when they are no longer required for the inquiry.
- 3.45 Other documents may be provided to the Respondent at the discretion of the Independent Investigator and NOPS. If any information is made available in either documentary or electronic form, is it not to be copied, reproduced or electronically stored.
- 3.46 A copy of the Respondent's statement or any other witness to the investigation may be made available to the Complainant for viewing only (on the same basis as set out in clause 3.44 above). Other documents may be provided at the discretion of the Independent Investigator and NOPS.
- 3.47 The Independent Investigator will ensure the Respondent has had fair opportunity to consider all documents and to seek independent legal advice prior to giving any response.

#### **Issues to consider if the Respondent is deceased**

- 3.48 If the Respondent is deceased, an investigation can still be undertaken. There will be some occasions where no conclusions are able to be drawn. On other occasions, it will be possible to determine the complaint. Matters to consider include:
- a. the credibility of the Complainant and any witnesses;
  - b. whether or not there have been other similar complaints against the Respondent;

- c. corroboration from any source, e.g. medical records, witnesses who saw the alleged offence or events immediately before or after the alleged offence or can provide other relevant information; and
- d. Church or other records which may show whether the Respondent was ministering in the locality at the time.

### **Witnesses**

- 3.49 Any decision to interview a witness is at the discretion of the Independent Investigator.
- 3.50 The Independent Investigator will take all reasonable steps to ensure third party enquiries are kept confidential.
- 3.51 Witnesses will be advised of the purposes for collection; the sources of information for the investigation; who may have access to their personal information; where their information is held; and the witnesses' right to request access and to request correction of their personal information.

### **Recording of Interviews**

- 3.52 The Independent Investigator must record as accurately as possible the statement of any person being interviewed. This will be by way of audio recording unless the taking of a written statement of the interviewee is more practicable in the circumstances. The interviewee will be invited to sign their written statement or a transcript of the audio recording. If an interviewee declines to sign for whatever reason, this should be noted in the report.
- 3.53 Any written statement or transcript of a recording should be signed as a true record by the person making the statement. Should the person decline to sign, this should be noted on the document.

### **Investigation Report**

- 3.54 On completion of the investigation, the Independent Investigator will prepare a draft written report.
- 3.55 The report should include amongst other things:
  - a. the strengths and weaknesses of the evidence;
  - b. the existence or otherwise of corroboration;
  - c. an assessment of the credibility and reliability of the Complainant;
  - d. an assessment of the credibility and reliability of the Respondent and other witnesses;
  - e. documentary evidence; and
  - f. any other aspects of the evidence the Independent Investigator considers relevant.
- 3.56 The Independent Investigator is not asked to determine if the complaint is proven.
- 3.57 The investigation process undertaken by the Independent Investigator should be discussed with the Complainant and the Respondent for their final feedback to ensure anticipated lines of inquiry have been considered.
- 3.58 The draft report should then be provided to the Professional Standards Officer at NOPS to identify any areas that may require further investigation or clarification before the report is finalised.
- 3.59 When any outstanding matters have been completed, a final report is sent to the Professional Standards Officer at NOPS.
- 3.60 The final report shall remain confidential to the parties, and their support people.

### Complaints Assessment Committee - Recommendations

- 3.61 The Complaints Assessment Committee must consider all the material received from the Independent Investigator contained in their report, and come to a conclusion, on the balance of probabilities, as to whether or not the complaint should be upheld.
- 3.62 The Complaints Assessment Committee then must make a recommendation in writing to the bishop/congregational leader whether the complaint should be upheld on the balance of probabilities.
- 3.63 The Complaints Assessment Committee may make recommendations to the Church Authority with regard to the resolution of the complaint, including:
- a. whether the complaint is upheld on the balance of probabilities;
  - b. a suitable way of acknowledging and/or apologising for an upheld complaint;
  - c. support and assistance as sought by the Complainant and their family or friends or otherwise;
  - d. what penalty for the Respondent, if appropriate;
  - e. what form of restitution may be recommended for healing;
  - f. what treatment or rehabilitation is recommended that the Respondent be directed to undertake;
  - g. identification of any shortcomings in Church structures or procedures which the case has revealed and which should be remedied to help avoid further offences; and
  - h. any other matter relevant to the complaint.

### Church Authority - Where the Complaint is Upheld or Admitted

- 3.64 Upon receipt of the Complaints Assessment Committee's recommendation, the Church Authority will contact the Complainant.
- 3.65 The decision as to what form of resolution follows is a decision of the Church Authority. If the complaint is upheld, the needs and concerns of the Complainant are of primary importance and must always be listened to with respect, even when they cannot be met in full.
- 3.66 There will be an appropriate response to the offending in accordance with canon law and the principles and procedures in this document. This includes the removal of risk of harm to others and reducing the risk of re-offending; attending to the needs of others affected by the offending (for example: family of victim, parish community, religious congregation, school, etc.); putting into place procedures and safeguards to lessen the risk of similar offending by others; and ultimately the healing of all parties affected by the abuse.
- 3.67 The above responses may involve disclosure of personal information although steps will be taken to protect the identity of the Complainant. If the Church Authority believes the Offender needs to be identified then the Church Authority must take into account the public interest and, if appropriate, the impact on the interests and privacy of:
- a. the Complainant;
  - b. the family of the Complainant;
  - c. other witnesses;
  - d. parish/school communities if applicable;
  - e. religious order if applicable;
  - f. relatives of the Offender; and
  - g. the Offender.

- 3.68 If a complaint against a Respondent of sexual abuse or sexual misconduct is upheld under *Te Houhanga Rongo - A Path to Healing*, the Church Authority will take such action as the situation and the seriousness of the offence demand. This will mean that if the Offender has abused the power given by a ministerial position, that power will not be given back. If they are a cleric, it could include a request that they apply to return to the lay state, or the commencement of a canonical penal process.
- 3.69 The Church Authority will require the offender to address the issue of restitution to the victim and to the Church community.
- 3.70 Only the Bishop can decide whether or not a priest or religious who has had a complaint of sexual abuse or sexual misconduct upheld under *Te Houhanga Rongo - A Path to Healing* or is convicted under canon and/or civil law of sexual abuse, can resume public ministry in their diocese. Each case must be decided individually. Important factors to be taken into consideration are:
- a. the risk of re-offending;
  - b. whether the Offender has undergone treatment by a recognised professional specialising in the assessment and treatment of this offending;
  - c. if treatment took place, the diagnosis and prognosis and the opinion of those who supervised the treatment;
  - d. the opinion of the Complainant;
  - e. the opinion of the bishop's council of priests, and of other priests of the diocese or, in the case of a religious, the opinion of the Congregational Leader and of the other members of the religious congregation; and
  - f. the opinion of a representative body of lay persons (e.g. a diocesan pastoral council, or the parish council of the parish community in which the offender would be ministering if re-entry is permitted).
- 3.71 In order to re-admit an Offender to public ministry the bishop would have to be satisfied that:
- a. the Offender has recognised and accepted the offending and that he or she is willing to receive treatment for the offending if they have not already done so (such treatment to be undertaken by a recognised professional specialising in the assessment and treatment of this type of offending);
  - b. there will be adequate probation time between any period (or other penal sanction) and eventual acceptance for re-entry;
  - c. an effective system of monitoring and supervision is in place; and
  - d. any ministerial assignment will not bring the priest or religious into contact with potential victims (e.g. individuals or groups with characteristics similar to the previous victims).
- 3.72 If the Church Authority judges that the offence is such that a return to ministry is not an option, or if the Offender does not meet the conditions necessary for a return to pastoral ministry, then they should be told so. The Church Authority should, either in person or through a representative, meet with the Offender to discuss honestly and openly their future options. The Offender is entitled to be accompanied by a support person and/or legal representative. The options include the following:
- a. to remain as a priest or religious under a formal prohibition of exercising any pastoral ministry whatsoever;
  - b. to retire, if they have reached the age to do so;
  - c. to ask for laicisation voluntarily; or
  - d. to accept canonical penal proceedings which could result in being removed from the clerical state.
- 3.73 A bishop or congregational leader is required to report certain complaints of abuse by clergy to the Congregation for the Doctrine of the Faith in Rome (*Motu Proprio Sacramentorum Sanctitatis Tutela* issued in 2001 and modified in 2010).

## Ex Gratia Payments

- 3.74 A Complainant may ask for financial assistance to help rebuild their lives. The following should be considered:
- a. The primary concerns of the Church Authority should be directed towards healing and reconciliation, not compensation, punishment or penalty.
  - b. The Complaints Assessment Committee is not a court of law and should not assume the functions of a court of law.
  - c. Complainants should be encouraged and assisted to seek what they are entitled to under Accident Compensation Corporation law.
- 3.75 If payment is made, the payment may be accompanied by a Deed of Settlement.
- 3.76 Where a complainant makes more than one complaint against a cleric or member of a religious order it is appropriate that the diocese and the religious order work together in offering a united ex-gratia payment accompanied by a Deed of Settlement.

## Restorative Justice as an Option

- 3.77 If there is a situation where an Offender is willing to make an apology and a Complainant is ready to receive an apology, this may be referred to a restorative justice process with the consent of both parties.
- 3.78 It is essential that the Complainant and Offender are willing participants. A competent and experienced restorative justice facilitator should be used to conduct a restorative justice process.

## Reporting Requirements

- 3.79 It will be the responsibility of the Church Authority to make the following reports:
- a. If the Respondent is a cleric and involves an upheld complaint of sexual abuse, the matter must be reported to the Congregation for the Doctrine of Faith in Rome.
  - b. If the Respondent is a member of a religious congregation and involves an upheld complaint of sexual abuse, the matter must be reported to the congregational leader with a recommendation that the religious brother or sister be dismissed from the religious institute (Canons 695 and 1395).
  - c. If the Respondent is either a cleric or a religious and involves a complaint of sexual misconduct that resulted in the fathering of a child, the matter must be reported to the Congregation for the Evangelisation of the Peoples if the respondent is a cleric, and the Congregation for Religious and Secular Institutes for religious if the respondent is a brother.

## Church Authority - When the Complaint against Respondent is Not Upheld

- 3.80 If the Respondent denies the allegations and the complaint is not upheld on the balance of probabilities, the Church Authority, the Respondent and the Complainant are to be advised.
- 3.81 If a police investigation and/or a Church investigation makes it clear that a Respondent remains innocent of the alleged offence, the Church Authority will take whatever steps are appropriate to restore the reputation of the Respondent.
- 3.82 In either situation above, the protection of the reputation of the Respondent is of primary importance and this should be discussed with the Respondent to ensure the Respondent understands the process that has been undertaken and that his/her good name and reputation will be upheld.
- 3.83 Support, including counselling, and ministry, will be made available.
- 3.84 If appropriate, the Complainant may also be offered on-going pastoral support.



### Church Authority - When The Complaint Against Respondent Is Not Resolved

3.85 If the complaint is not resolved, either through the processes of civil law or through an investigation by the Complaints Assessment Committee, the Church Authority must decide whether it is appropriate for the Respondent to continue in ministry.

### Other Persons Affected

3.86 Prompt and appropriate assistance will be offered to family of the Complainant. They should be consulted with regard to their needs and the Church Authority should endeavour to meet them as far as reasonably possible and the way left open for further approaches should help be needed after the conclusion of the process.

3.87 The Church Authority should offer prompt and appropriate assistance to the family and close friends of the Respondent/Offender who are named by the Respondent/Offender for such an approach. These people often do not know how to relate appropriately to the Respondent/Offender once they learn about the situation.

3.88 The effects on a parish community when their priest is accused of sexual abuse or sexual misconduct can be devastating, leading to confusion, loss of confidence and trust in Church Authority, and even deep divisions within the parish. An appropriate pastoral response, as directed by the bishop, will be provided, with due regard to the right of privacy of those directly involved, and to the administration of justice.

### Review of Process

3.89 A review may be requested by the Complainant or the Respondent. The request must be made in writing to the Chairperson of the National Safeguarding & Professional Standards Committee setting out the reasons. The request must be made within 4 months from receipt of the decision made by the Church Authority.

3.90 A review is not an independent evaluation of whether there is substance in any of the grounds for complaint, but whether the procedures of *Te Houhanga Rongo - A Path to Healing* have been followed. A review of process is not a review of the outcomes reached by the Complaints Assessment Committee or the Church Authority.

3.91 It is the role of the National Safeguarding & Professional Standards Committee to appoint a Reviewer and set the terms of reference for the review.

3.92 NOPS will provide the Reviewer with the necessary material and documentation held by NOPS .

3.93 If further information is received by the Reviewer which was not available to the Complaints Assessment Committee, which the Reviewer considers might have affected the recommendation of the Committee, the Reviewer may refer the complaint back to the Complaints Assessment Committee for further consideration.

3.94 A review report will be produced for the National Safeguarding & Professional Standards Committee, who will consider any recommendations contained in the report. A copy of the report will be sent to the person who requested the review, along with any decision resulting from the recommendations.

### A Complaint Concerning Bishops & Major Superiors of Congregations (Vos Estis Lux Mundi, VELM)

3.95 When a complaint is received concerning sexual abuse or sexual misconduct by a bishop or the superior of a congregation, or of the failure to act on a complaint of sexual abuse by one of these Church leaders, the complaint must be referred to the Metropolitan Archbishop of Wellington, the Congregation for the Doctrine of the Faith (or the appropriate dicastery) and the National Office for Professional Standards.



- 3.96 A complaint of failing to act on a complaint of sexual abuse means conduct consisting of actions or omissions which interfered with or avoided a civil or canonical investigation against a cleric or a religious person accused of sexual abuse.
- 3.97 The Metropolitan may have a conflict of interest because he feels too close to the Respondent. In this circumstance, he must inform the Congregation for the Doctrine of the Faith of this conflict of interest.
- 3.98 Upon examination of the complaint, the Metropolitan may decide the complaint is manifestly unfounded. He is to inform the Complainant and the papal nuncio of this.
- 3.99 If the Metropolitan decides the complaint is not manifestly unfounded, he is to request direction from the Congregation for the Doctrine of the Faith (or the appropriate dicastery) on how to proceed with the investigation.
- 3.100 The Metropolitan may be appointed to direct an investigation on behalf of the dicastery. If this occurs, the Metropolitan may appoint a delegate(s) to help carry out the investigation. The delegate(s) may come from a list of suitable people prepared by the New Zealand Bishops Conference. If the circumstances of the complaint suggest using someone else, the Metropolitan is free to choose someone else as delegate.
- The delegate(s) will be paid and have their expenses met through funding by the New Zealand Catholic Bishops Conference.
- 3.101 If the investigation is carried out on behalf of the Congregation for the Doctrine of the Faith (or the appropriate dicastery), the Metropolitan will provide a report to the dicastery on the progress of the investigation every month and ensure the investigation is completed within 90 days. The Metropolitan bishop will then write a votum giving his opinion about the complaint and the evidence collected, before forwarding the whole file to the Holy See as soon as possible.
- 3.102 The Congregation for the Doctrine of the Faith (or the appropriate dicastery) will then follow its own procedures to decide the issue.
- 3.103 If the Congregation for the Doctrine of Faith (or the appropriate dicastery) direct that the complaint does not fall within the scope of *Vos Estis Lux Mundi*, the Metropolitan will direct an investigation to be carried out according to the provisions of *Te Houhanga Rongo - A Path to Healing*.
- 3.104 When a complaint is received concerning sexual abuse, sexual misconduct or of the failure to act on a complaint of sexual abuse of the Metropolitan archbishop, the complaint must be referred to the National Office for Professional Standards, the Congregation for the Doctrine of the Faith and the senior suffragan bishop in New Zealand and he will then follow the procedures of this clause.
- 3.105 The Complainant will be informed promptly of any decisions made during this process.

### **Keeping of Records**

- 3.106 The NOPS Privacy Policy sets out what information shall be collected under *Te Houhanga Rongo - A Path to Healing* and the purpose for its collection. A copy of this Privacy Policy will be made available to the Complainant and Respondent for their information.
- 3.107 All NOPS complaint files will be held securely for 50 years and will then be securely destroyed at that time.

## 4. DEFINITIONS

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- 4.1 **Absolution of an Accomplice** meaning when a priest gives absolution for any sexual misconduct.
- 4.2 **Child** refers to anyone under the age of 18 years of age or who is considered in New Zealand law to be a child.
- 4.3 **Chastity** refers to that virtue which all Christians are called to live by and give witness to (Canon 277, 672). In living a chaste, celibate life, clerics and religious must:
- avoid actions or language that could be interpreted as sexually provocative;
  - never seek to initiate sexual behaviour;
  - reject any invitation to participate in sexual behaviour;
  - avoid situations and relationships that place undue stress on one's ability to remain committed to the virtue of chastity.
- 4.4 **Church Authority** refers to a diocesan bishop, a leader of a religious congregation, or their authorised representative.
- 4.5 **Church body** refers to a diocese, a religious congregation, or any other juridical person generally perceived to be part of the Catholic Church.
- 4.6 **Cleric** refers to any person who has been ordained as a Roman Catholic deacon, priest or bishop. For the purposes of this document, the term "cleric" includes a seminarian preparing for priesthood.
- 4.7 **Complainant** refers to the person who has alleged sexual abuse or sexual misconduct against a cleric or religious. This includes the person against whom the sexual abuse or sexual misconduct was allegedly directed.
- 4.8 **Complaints Assessment Committee** refers to a committee whose members are appointed by the New Zealand Bishops and Congregation Leaders. The principal function of the Complaints Assessment Committee is to consider complaints received and investigated under *Te Houhanga Rongo - A Path to Healing* and to make recommendations to the diocesan bishop or congregational leader regarding the resolution of the complaint.
- \*\* Please note that the Society of Mary Sexual Abuse Protocol Committee carries out the function of the Complaints Assessment Committee regarding any complaint made against a member of the Society of Mary.*
- 4.9 **Confidential Information** refers to all information provided to complainants, respondents, witnesses and any third party as part of the inquiry.
- 4.10 **Congregation of the Doctrine of Faith:** The activities of the Holy See are conducted through various offices or congregations. The Congregation for the Doctrine of the Faith has as its duty the promotion and safeguarding of Catholic faith and morals.
- 4.11 **Criminal abuse** is sexual conduct with a child, young person or adult which is unlawful under the Civil law of New Zealand.
- 4.12 **Independent Investigator** refers to someone engaged by the National Office for Professional Standards to investigate a complaint. This will be a lay person with appropriate investigative experience.
- 4.13 **Inquiry** means the entire process of this document, from initial complaint through to a recommendation being made by the Complaints Assessment Committee to a bishop/ congregational leader.
- 4.14 **Investigation** means the part of the process where NOPS engages an Independent Investigator to investigate the complaint.
- 4.15 **NOPS** refers to the National Office for Professional Standards. It is the role of NOPS staff to coordinate

a response to complaints according to the procedures detailed in this document. This includes managing the receipt and investigation of any complaint that comes within the scope of *Te Houhanga Rongo - A Path to Healing*. NOPS will ensure any complaint that is not within the scope of *Te Houhanga Rongo - A Path to Healing* is referred to the appropriate Church authority for response.

*\*\*Please note that it is the Delegate for Society of Mary SM (and not the role of NOPS) who coordinates the response to complaints on behalf of the Society of Mary in carrying out the procedures set out within this document.*

- 4.16 **Offender** refers to a person who has admitted sexual abuse or sexual misconduct or has had a complaint upheld against them.
- 4.17 **Pastoral Companion** refers to someone who is available to support the Complainant through the process of *Te Houhanga Rongo - A Path to Healing* by answering questions and responding to any concerns about the process. It is not the role of a Pastoral Companion to provide counselling or to support a Complainant in interviews.
- 4.18 **Religious** refers to a member of a religious congregation, or a society of apostolic life recognised by the Catholic Church. For the purposes of this document, it shall also include any person formally admitted into an institute's programme of formation.
- 4.19 **Respondent** refers to the person against whom a complaint of sexual abuse or sexual misconduct is made.
- 4.20 **Reviewer** is someone who may be appointed by the National Safeguarding & Professional Standards Committee to undertake a review of process of any complaint should this be requested by either the Complainant or the Respondent.
- 4.21 **Sexual abuse** is any conduct that involves:
- v. a criminal (sexual) act against the laws of New Zealand; or
  - vi. performing sexual acts with a child or a vulnerable adult. This includes forcing or enticing a child to take part in sexual activities (penetrative, eg rape, and non-penetrative eg kissing, touching, masturbation) as well as non-contact acts such as involving children in the looking at or production of sexual images, sexual activities and sexual behaviours, exposing children to sexting (electronic sexual messages or pictures) and grooming which is the deliberate action to befriend and establish an emotional connection with a child to lower their inhibitions in order to sexually abuse the child; or
  - vii. the production, exhibition, possession or distribution, including by electronic means, of child pornography, as well as by the recruitment of or inducement of a child or a vulnerable adult to person to participate in pornographic exhibitions; or
  - viii. forcing someone, by violence or threat or through abuse of authority, to perform or submit to sexual acts.
- 4.22 **Sexual misconduct** is any conduct of a sexual nature that is inconsistent with a witness to chastity or a breach of professional standards<sup>5</sup>.
- 4.23 **Solicitation**, meaning an invitation to another to commit a sexual sin. It involves the suggestion or invitation of a priest in the context of the sacrament of penance to a penitent to commit a sin against the Sixth Commandment with the priest.
- 4.24 **State authority** means members of the New Zealand police as well as officials of New Zealand government departments responsible for social welfare and child protection, and for the administration of laws relating to complaints of sexual abuse.
- 4.25 **Support Person** means the professional advisors (eg lawyer, doctor, counsellor) and/or family members/personal friends who are supporting a party or witness to the inquiry.
- 4.26 **Vulnerable Person** means any person in a state of infirmity, physical or mental deficiency, or deprivation of personal liberty which, even occasionally, limits their ability to understand or to act or otherwise resist the offence.

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<sup>5</sup> As documented in *'Integrity in Ministry'* (2000) or any subsequent edition

## ***APPENDIX 1***

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### ***List of Bishops of New Zealand who accept this Protocol:***

Diocese of Palmerston North	Archdiocese of Wellington
Diocese of Hamilton	Diocese of Christchurch
Diocese of Auckland	Diocese of Dunedin

## ***APPENDIX 2***

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### ***List of New Zealand Congregations which accept this Protocol:***

Adorers of the Sacred Heart of Montmartre OSB	Mill Hill Missionaries MHM
Assumptionist AA	Nga Whaea Atawhai O Aotearoa, Sisters of Mercy NZ RSM
Capuchin Friars OFMCap	Redemptorists CSSR
Cenacle Sisters rc	Religious of the Sacred Heart RSCJ
Christian Brothers CFC	Rosminians IC
Cistercians OSCO	Sister Disciples of the Divine Master PDDM
Columban Fathers	Sisters of Nazareth CSN
Congregation of Our Lady of the Missions RNDM	Sisters of St. Brigid CSB
Carmelite Monastery (Auckland)	Sisters of St. Joseph of Cluny SJC
Daughters of Our Lady of Compassion DOLC	Sisters of St. Joseph, Whanganui RSJ
De La Salle Brothers FSC	and Sisters of St. Joseph of the Sacred Heart RSJ
Discalced Carmelite Nuns OCD (Christchurch)	Sisters of the Good Shepherd RGS
Divine Word Missionaries SVD	Sisters of the Holy Faith CHF
Dominican Friars OP	Sisters of the Presentation of the Blessed Virgin Mary PBVM
Dominican Sisters OP	Society of Christ SCHR
Franciscan Friars OFM	Society of Mary SM
Hospitaller Brothers of St John of God OH	Workers of Christ the Worker WCW
Little Company of Mary LCM	Mission Society of the Philippines MSP
Little Sisters of the Assumption LSA	Missionaries of Charity MC
Little Sisters of the Poor LSP	Missionary Sisters of St. Peter Claver SSPC
Marist Brothers FMS	Missionary Sisters of the Society of Mary SMSM
Marist Sisters SM	

## **APPENDIX 3 - RELEVANT FORMS**

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### **Form 1: Complainant's consent form**

I, .....[insert name of complainant], confirm I have been provided with access to a copy of *Te Houhanga Rongo - A Path To Healing* and I understand the principles and procedures. I have had the opportunity to ask questions and they have been answered.

I have read or had read to me and understand the NOPS Privacy Policy which sets out what information may be collected under *Te Houhanga Rongo - A Path to Healing* and the purpose for its collection.

In consenting to the National Office for Professional Standards and the Complaints Assessment Committee undertaking an investigation into my complaint, I understand that:

#### **General**

1. The Church takes complaints of this nature seriously, and I have been assured my complaint will be carefully and objectively investigated.
2. The Church is concerned for my welfare, my family's welfare, and the welfare of others directly affected.
3. The Church recognises that making a complaint can be daunting. Support will be offered to assist me through the investigative process. Advice will be given to me regarding the availability of counselling or psychotherapy.
4. I will be kept informed of the progress of the investigation.
5. If the complaint is made against a person who is no longer a priest or religious, every attempt will be made to investigate the matter thoroughly even though the Church Authority has no power to compel compliance and cooperation from the Respondent in this situation.

#### **Support People**

6. I may seek support from a professional advisor such as a lawyer, a doctor or a counsellor or from a family member or friend.
7. I am entitled to appoint and have present such support people during any part of the inquiry.

#### **Referral to a Civil Authority**

8. I always retain the right at any time during the Church's inquiry to report my complaint to a civil authority (New Zealand Police, or New Zealand government department responsible for social welfare, child protection, and/or complaints of sexual abuse). If I refer the complaint to a civil authority, then the Church's inquiry will be suspended. The Church will cooperate with any investigation by a civil authority.

**Privacy**

- 9. The purposes of collecting personal and health information about me is for the conduct of an investigation into my complaint.
- 10. Personal information and health information may be collected about me from people relevant to the investigation. The names of people and agencies who may be approached will be discussed with me.
- 11. Justice requires that the Respondent be heard and be given a fair opportunity to respond to my complaint including seeing relevant information.
- 12. The Respondent and other witnesses may see or be provided with all or part of my statement and other information I supply as part of the investigation. The Independent Investigator will first discuss all such disclosures with me.
- 13. My personal and health information is accessible by the relevant staff of the National Office of Professional Standards, the Independent Investigator (and any assistant appointed), the Complaints Assessment Committee, the relevant Bishop/Congregation Leader (or their delegate); the relevant Head of Order (or their delegate); and any Review Officer appointed under this document.
- 14. My personal and health information will be held securely by those agencies identified in (13) above and whose contact details have been provided to me.
- 15. If my complaint involves sexual abuse or sexual misconduct by a bishop or the superior of a congregation, or of the failure to act by one of these church leaders, I understand the complaint must be referred to the Metropolitan Archbishop of Wellington and the Congregation for the Doctrine of the Faith (or the appropriate dicastery).
- 16. I have a right to request access and to request correction of my personal and health information.

**Confidentiality**

- 17. I should keep the complaint and any reports or decisions from the Independent Investigator, the National Office for Professional Standards, the Complaints Assessment Committee, and any Review Officer as confidential as possible. I am able to share information with support people such as my lawyer, my counsellor, my doctor, and family and friends who are supporting me. I will let them know that they should keep this information confidential.

..... (sign here)

Name of Complainant: .....

Date: .....

## ***Form 2: Respondent's Information Sheet***

A complaint has been received by the National Office of Professional Standards. Details of the complaint have been provided to you or will be provided to you as soon as practicable.

With this Information Sheet, you are given access to a copy of *Te Houhanga Ronga - A Path To Healing* which contains the principles and processes of the inquiry.

The following is highlighted.

### **Disclosure**

1. You will be required to sign a Looking After Confidential Information form as part of this inquiry. This will not prevent you from obtaining professional support from a lawyer or a doctor or a counsellor. You are also entitled to have personal support during the inquiry. The complainant's name must be kept confidential except in the limited circumstances set out in *Te Houhanga Rongo - A Path To Healing*.
2. The Independent Investigator will arrange for you to view, as soon as practicable, the relevant information about the complaint that the Independent Investigator is considering.
3. You are entitled to have this information at least 7 days before any interview, unless you have waived this right, having had the opportunity to seek legal advice first.
4. Due to the importance of confidentiality, these are the guidelines with respect to sharing copies of documents:
  - a. The Independent Investigator will ensure you have had fair opportunity to read and consider all documents and to seek independent legal advice prior to giving any response;
  - b. If your lawyer wishes to use or access the documents for any other purpose, then this must be via a Court order.
5. You are advised as follows:
  - a. You are entitled to know what it is alleged to have been done, and the identity of the Complainant. This information will either be provided to you with this information sheet or as soon as practicable afterwards.
  - b. You have the right to have legal (canonical and civil) counsel and of the right to remain silent;
  - c. You are directed to have no contact with the Complainant, or family/friends of the Complainant, while the complaint is being investigated; and
  - d. You are directed to keep all information confidential, except as is necessary to obtain legal support or personal support. Confidentiality also includes the following:
    - The Complainant's name should only be released to legal counsel;
    - The Complainant's name should not be released to your supporters, except to a supporter who may be with you when you are answering any part of the allegation against you. This supporter must sign a Looking After Confidential Information form;

- If you wish a potential witness to be interviewed, then this must be referred to the Independent Investigator. You must not contact any potential witness unless authorised by the Independent Investigator.

## Privacy

6. The purposes of collecting personal and health information about you is for the conduct of an investigation into a complaint.
7. Personal information and health information may be collected about you from people relevant to the investigation. The names of people and agencies who may be approached will be discussed with you.
8. The Complainant and other witnesses may see all or part of your statement and any other information you supply as part of the investigation. The Independent Investigator will discuss all such disclosures with you.
9. Your personal and health information is accessible by the relevant staff of the National Office of Professional Standards, the Independent Investigator (and any assistant appointed), the Complaints Assessment Committee, the relevant Bishop/Congregation Leader (or their delegate); and any Review Officer appointed under this document.
10. Your personal and health information will be held securely by those agencies identified in (g) above and whose contact details have been provided to you.
11. You have a right to request access and to request correction of your personal and health information.

## If you are to be placed on leave

12. If NOPS considers that there may be a risk of harm to any person; or reputational harm to the Church authority or Church body, a recommendation will be made to the Church authority for you to take leave from your position or ministry or you may be directed into non-contact duties until it is ascertained that there is no risk.
13. In making a recommendation as to whether you should take leave from your position or ministry or directed into non-contact duties, NOPS shall have regard to:
  - a. the credibility of the Complainant and any witnesses;
  - b. whether there are other complaints against you (previously made or concurrent);
  - c. corroborative evidence;
  - d. the seriousness of the complaint, e.g. rape, child abuse;
  - e. the current role held by you and whether this involves ministry with children or vulnerable adults; and
  - f. such other factors as NOPS thinks fit.
14. If you are placed on leave or directed into non-contact duties, this will be managed confidentially. It is important that no public statements are made at this time by any of the parties.



### ***Form 3: Looking After Confidential Information (Respondent)***

#### **Background**

- a. An enquiry by The National Office of Professional Standards (NOPS) into a complaint about sexual abuse or sexual misconduct is highly sensitive and confidential.
- b. Confidential Information is to be shared with you as part of the NOPS inquiry into a complaint about sexual abuse or sexual misconduct.
- c. In consideration of NOPS providing Confidential Information to you, you agree to look after information as set out below.

#### **It is Agreed:**

- 1. Confidential Information means all information provided to you as part of the NOPS inquiry.
- 2. You will keep the Confidential Information and the existence of the Confidential Information strictly confidential except to the extent that disclosure is allowed as follows:
  - a. To professional support people such as a lawyer, a doctor, or a counsellor; and
  - b. To family/friends on the grounds they are providing personal support; and they will be advised they must agree to keep the information confidential.
- 3. The name of the Complainant must not be disclosed to anyone except a professional support person or to a person who is with you in support during an interview with an Independent Investigator appointed in respect of the NOPS inquiry.
- 4. You may only use the Confidential Information for the purpose of the inquiry and not for any other purpose.
- 5. If you become legally compelled to disclose any Confidential Information, you will give NOPS written notice as soon as practicable about the requirement to disclose so that NOPS can take steps to oppose disclosure which it may, at its sole discretion, elect to do.
- 6. If information is made available to you in either documentary or electronic form, then you undertake not to copy, reproduce, or electronically store that information. You agree to securely destroy such Confidential Information once the inquiry process is completed.
- 7. No failure, delay or indulgence by NOPS in exercising any power or right under this agreement concerning Confidential Information shall operate as a waiver of that power or right.

Date: .....

Signature: .....

Name of Recipient of Confidential Information: .....

**Form 3: Looking after Confidential Information**  
**(for Witnesses and any Third Party)**

**Background**

- a. An enquiry by The National Office of Professional Standards (NOPS) into a complaint about sexual abuse or sexual misconduct is highly sensitive and confidential.
- b. Because of this, NOPS wants to bring to your attention how important it is that if you are willing to help our Investigator with information that you have, then you keep the fact of the investigation confidential and do not generally disclose this information.
- c. This does not mean you cannot talk to an adviser or support person; however, they need to keep this confidential as well.
- d. In consideration of NOPS providing Confidential Information to you, you agree to look after information as set out below.

**It is Agreed:**

- 1. Confidential Information means all information provided to you as part of the NOPS inquiry.
- 2. You will keep the Confidential Information and the existence of the Confidential Information strictly confidential except to the extent that disclosure is allowed as follows:
  - a. To professional support people such as a lawyer, a doctor, or a counsellor; and
  - b. To family/friends on the grounds they are providing personal support and they will be advised that they must agree to keep the information confidential.
- 3. At no time may the name of the Complainant be disclosed to anyone except as part of the Investigation.
- 4. You may only use the Confidential Information for the purpose of the investigation and not for any other purpose.
- 5. If you become legally compelled to disclose any Confidential Information, you will give NOPS written notice as soon as practicable about the requirement to disclose so that NOPS can take steps to oppose disclosure which it may, at its sole discretion, elect to do.
- 6. If information is made available to you in either documentary or electronic form, then you undertake not to copy, reproduce, or electronically store that information. You agree to securely destroy such Confidential Information once the investigation process is completed.
- 7. No failure, delay or indulgence by NOPS in exercising any power or right under this agreement concerning Confidential Information shall operate as a waiver of that power or right.

Date: .....

Signature: .....

Name of Recipient of Confidential Information: .....



**National Office for  
Professional Standards**

The Catholic Church in Aotearoa New Zealand

