



Pathways Victoria

Restorative Journeying with Survivors
of Abuse within the Catholic Church

Foreword

Looking back to the past, no effort to beg pardon and to seek to repair the harm done will ever be sufficient. Looking ahead to the future, no effort must be spared to create a culture able to prevent such situations from happening, but also to prevent the possibility of their being covered up and perpetuated. The pain of the victims and their families is also our pain, and so it is urgent that we once more reaffirm our commitment to ensure the protection of minors and of adults at risk.

- Pope Francis, Letter of His Holiness Pope Francis to the People of God, 20 August 2018

In this pastoral journey, we acknowledge with great remorse the immense harm and loss of trust and faith when the Church community fails in the call received from the Gospel and the mission given by the Risen Christ. The abuse of others by members of the Catholic Church is contrary to all that has been given by the Spirit. It ruptures the lives of those who are hurt and wounded, and it tears the fabric of community. The damage that is occasioned for those who have been abused, their families and the broader community can be incalculable.

Everyone, but particularly those with responsibility for the care of others, must be accountable for any situation in which a safe environment is diminished or threatened. The National Protocol for Church Authorities Responding to Concerns and Allegations of Abuse by Personnel of the Catholic Church in Australia is a most important commitment to the development of a culture of safety, defined by transparency and accountability. It is the basis for Pathways Victoria, which is the new model for the Church's response to allegations of abuse. This we owe to those whose lives have been forever affected by abuse, their families, their loved ones and the entire People of God.

This document is an overview of the Pathways model. Terms of reference, policies and procedures will be developed subsequent to this.

We acknowledge that this work has been undertaken on the lands of our traditional peoples. We pay our respects to elders past present and emerging.

This model for Pathways Victoria has been developed by a project group chaired by Ms Janet Cribbes and Stephanie McShane Executive Officer. With input from a range of professions and experiences, including legal, psychological, social work, safeguarding, survivor voices and Church Authorities. The development was overseen and guided by a Provincial Working Group co-chaired by Bishop Shane Mackinlay (Diocese of Sandhurst) and Sister Monica Walsh RGS (Provincial, Good Shepherd Sisters), with Archbishop Peter Comensoli (Archdiocese of Melbourne) and Sister Veronica Hoey SGS (President, Victorian Towards Healing Association).

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1. Introduction

Everyone, but particularly those with responsibility for the care of others, must be accountable for any situation in which a safe environment is diminished or threatened.

The National Protocol for Church Authorities Responding to Concerns and Allegations of Abuse by Personnel of the Catholic Church in Australia is a most important commitment to the development of a culture of safety, defined by transparency and accountability. This we owe to those whose lives have been forever affected by abuse, their families, their loved ones and the entire People of God.

- *National Response Protocol, January 2021*

1. We humbly acknowledge the significant harm that has been caused by sexual abuse of children and commit to preventing such abuse in the future, acknowledging there are people in the community who are yet to come forward to disclose abuse in the past.
2. Through Pathways Victoria, participating institutions of the Catholic Church in Victoria takes responsibility for addressing the trauma experienced by those who have been abused by ministers, employees or volunteers in the church. The model responds to those who wish to have a pastoral connection with a care coordinator as they navigate their survivor journey. It facilitates a compassionate approach with the opportunity to restore faith and trust.
3. The Melbourne Response and Towards Healing processes are coming to a conclusion (except for Carelink, which will continue to provide services to its current clients). A new entity, called Pathways Victoria, will implement a set of compassionate, just and appropriately resourced processes that implement the National Response Protocol. The Pathways Model will offer an alternative to existing mechanisms such as the National Redress Scheme and civil litigation.
4. The development of Pathways Victoria considered a number of reviews of the Melbourne Response and Towards Healing models, along with public consultation and direct engagement with advocacy groups. There has been specific focus on the impact of abuse on individuals and the effect and nature of the trauma. The need for restoration and connection between survivors, victims, and the Church, to offer a much-needed road to healing has been acknowledged.
5. The framework for Pathways is underpinned by the National Catholic Safeguarding Standards (NCSS) which have been adopted by all Catholic Entities and which explicitly incorporate the recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse Recommendations particularly paragraphs 6.3.2, 6.3.8 and 6.3.9: www.cpsltd.org.au/safe-church/national-catholic-safeguarding-standards/standard-six. Further, Pathways is designed to implement the Catholic Church's National Response Protocol,¹ <https://www.catholic.org.au/nationalresponseprotocol>.
6. Pathways will manage allegations of abuse of minors and adults at risk and sexual misconduct within the Catholic Church in Victoria as well as their claims for resolution. It will be distinct from Australian Catholic Safeguarding Ltd, which sets standards to avoid or minimise the risk of sexual abuse of minors and adults at risk and audits and reports on Catholic institutions in their observance of those standards. The functions of these two bodies will complement one another.
7. Pathways has three distinct functions: engagement and support for people, responding to allegations of abuse and resolution of matters including a monetary payment. It will respond to a person making an allegation related to current or historical child sexual abuse and adult sexual misconduct, conducting investigations that respect the primacy of police processes and comply with any requirements set by the Commissioner for Children and Young People (CCYP) or by Canon Law.

1. Introduction

Continued

To redeem the suffering of so many who have been affected by sexual abuse, the Catholic community must continue facing this problem directly and honestly. The Church cannot undo all of the harm done in the past, but it has the responsibility to do all that is within its power to create an environment in which people will treat other people with respect, dignity and justice. The healing that is necessary involves a long process and will take courage, compassion, openness, patience and forgiveness.

Above all it will take faith – faith in one another and faith that God is with us in this journey.

– Sr Maree Marsh csb 2017, Reflections from the Royal Commission into Institutional Child Sexual Abuse

8. While it is anticipated that most allegations will be made by adults, Pathways Victoria recognises the necessity to be aligned to child safety requirements and the reportable conduct scheme now set out in legislation.
9. The impact on the spiritual wellbeing of some survivors has created internal conflict for individuals between their faith and their relationship to Catholic institutions.
10. This internal conflict can extend to a loss of connection to a person's sense of self, family, and community. As part of the healing process, Pathways can facilitate an individual survivor's connection to pastoral care with a spiritual advisor to support the spiritual journey toward restoration and wellbeing. The Care Coordinator can coordinate trauma informed pastoral, religious or spiritual support or counselling for a person who may wish to renew their spiritual connectedness.
11. The priority of the rights and dignity of the individual making an allegation is embedded in the organisation's values and underpinning frameworks. This is reflected in a commitment to support survivors from initial engagement with Pathways through to the resolution stage. A person who engages with the Pathways process will be given assistance and care throughout funded by the Catholic Church in Victoria.
12. The Provincial Working Group of Pathways Victoria sincerely thanks all who participated in the consultations: survivors, families, advocates, organisations, and institutions who provided feedback to the draft proposal. In reviewing these responses a variety of points of view held by contributors have been carefully considered and have contributed to further work on this model.
13. The autonomy of the entity that will govern Pathways Victoria has been further clarified with a detailed explanation of the independence of the investigation process.

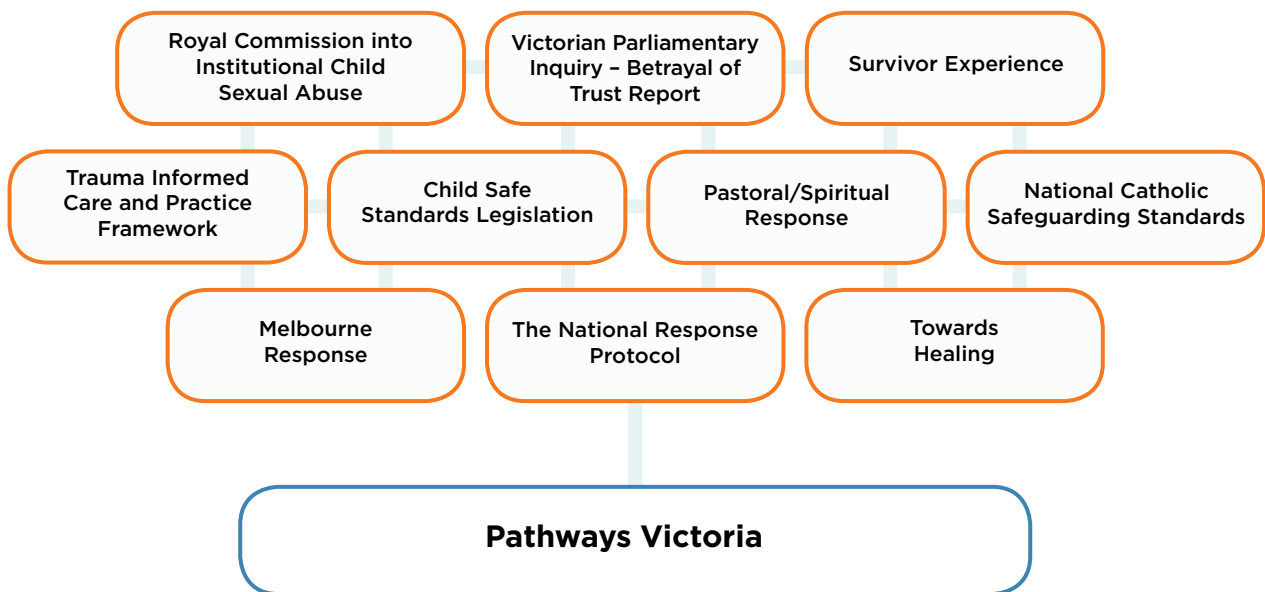
The model comprises a 3-step process which will be outlined further in this document.

**Step 1:
Engagement**

**Step 2:
Response**

**Step 3:
Resolution**

Underpinning Frameworks



National Response Protocol

14. In late 2019 the Catholic Church in Australia commenced a process to develop a new, nationally consistent approach for:
 - a). responding to concerns and allegations of sexual abuse and other misconduct,
 - b). improving the outcomes for people bringing forward concerns and,
 - c). providing clear guidance to those responsible for responding to concerns and allegations of sexual abuse and other misconduct.
15. The Protocol was drafted with input from many stakeholders, including survivors and their supporters.
16. The Australian Catholic Bishops Conference adopted the National Response Protocol in November 2020, which was then implemented from February 1, 2021.
17. The Protocol sets out the expectations for how a process will be managed for all those involved in responding to concerns and allegations of child abuse – historical and contemporary. This includes:
 - those who raise concerns and allegations of abuse, whether they are the person alleging abuse or who is at risk of abuse, or a third person;
 - those subjected to childhood abuse, and others directly impacted by abuse such as their family members;
 - respondents who are the subject of a concern or allegation of child abuse;
 - legal representatives;
 - other members of the community.
18. Pathways Victoria implements the National Response Protocol within Victoria, for participating institutions, and extends the scope of abuse to include adult survivors of sexual misconduct.

Every member of the Church, and especially its leadership, is entrusted, then, with the imperative to foster and develop a culture of safety for everyone. At every level we must work together, especially to protect children and adults from abuse or harm.

– National Response Protocol, September 2020

Safeguarding

19. This Framework is informed by the work of the Royal Commission into Institutional Responses to Child Sexual Abuse (the Royal Commission), and The Victorian Parliamentary Inquiry into the Handling of Child Abuse by Religious and Other Non-Government Organisations. This includes the Betrayal of Trust report, and ongoing regulatory and best-practice reforms for child safety, both within the Catholic community and the broader society. It is informed by the statutory Child Safe Standards in Victoria and by the principles of the United Nations Convention on the Rights of the Child.

Pathways Victoria's Framework, Policies and Procedures address:

20.
 - Responding to disclosures from children (including reportable conduct matters and mandatory reporting)
 - Sourcing external health service providers with appropriate expertise and experience to care for and support children and young people
 - Obtaining informed consent from children and young people and their parents/guardians
 - Obtaining feedback from children and young people and supporting their right to be heard
 - Using a child-centred, rights-based approach and establishing a child-friendly environment.

Trauma-informed Practice

21. The Pathways Model is underpinned by trauma-informed care and practice principles. Trauma-informed care has emerged from the growing awareness of the impacts of trauma on survivors of child sexual abuse and recognition that human service systems need to avoid inadvertently re-traumatising survivors of child sexual abuse.
22. As a trauma-informed service, Pathways aims to implement an understanding of trauma in all aspects of service delivery and prioritise the individual's safety, choice and control, while establishing connectedness through a relationship built on trust.
23. Trauma-informed care is a cultural and systemic change in approach that is reflected at all levels of the service system:

“to provide trauma-informed services, all staff of an organisation, from the receptionist to the direct care worker to the board of directors, must understand how violence impacts on the lives of the people being served, so that every interaction is consistent with the recovery process and reduces the possibility of re-traumatisation.”

(Elliot et al., 2005, p.462).
24. Trauma-informed care has been expressed in the Australian context in similar terms. For example, the Mental Health Complaints Commissioner (MHCC) states that trauma-informed care:

“exemplifies a ‘new generation’ of transformed mental health and human service organisations and programs that serve people with histories of trauma. Responding appropriately to trauma and its effects requires knowledge and understanding of trauma, workforce education and training, and collaboration between consumers and carers, policymakers and service providers, and crosses service systems. It involves not only changing assumptions about how we organise and provide services, build workforce capacity and supervise workers, but creates organisational cultures that are personal, holistic, creative, open, safe and therapeutic.

(MHCC, 2013, p.5).

- Pathways will take great care to individualise its practice to the survivor by understanding their needs.
- Pathways will seek to understand what makes a safe environment for each survivor's experience, given the context of their abuse. Safety also relates to relationships, the experience of authority figures and psychological wellbeing.

Safety

- Trust that is broken takes time to rebuild.
- Pathways will provide clear and transparent information to survivors about the process and collaboratively work together to understand their needs and how we can assist.
- Decisions are made with the goal of building and maintaining trust.

Trustworthiness and Transparency

- Pathways will seek to level power differences between staff and survivors and among organisational staff to support shared decision making.
- Pathways will seek to find ways to work in collaboration with survivors and their supports.

Collaboration and Mutuality

- Pathways will seek to find opportunities for survivor voices to be heard in a variety of ways by:
- Integrating those with a lived experience of abuse in to each level of Pathways from the Board, Advisory Panel, Staffing and other areas identified.
- Providing space for survivors to share their experience or voice through its website, newsletters, meetings and other avenues.

Empowerment Voice and Choice

- Pathways will take great care to customise its practice to each survivor by responding to their particular needs.
- Staff are expected to abide by the Pathways Code of Conduct and additionally attend external training to assist them in recognising these factors, how it impacts on those who have suffered abuse and to be aware of their own biases.

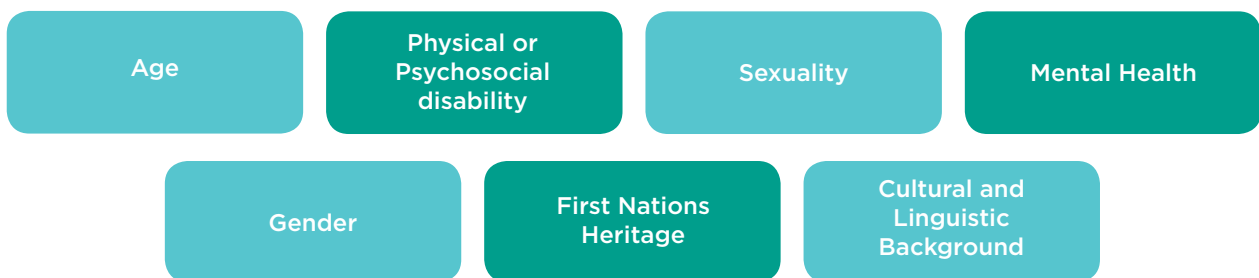
Cultural, Historical and Gender Issues

- Pathways acknowledges that abuse can be an extremely isolating experience and will provide opportunities for peer support which can help break down this isolation and create pathways for understanding and healing. It will do this through:
- Regular peer meetings
- Engagement with external victim and advocacy groups
- Support through Care Coordination services to access professional practitioners

Peer Support

Provision of a Safe Environment

25. When engaging with people it is important to avoid making assumptions about their priorities, experiences and beliefs, and how they have dealt with their situation. It is always important to be attuned to each persons culture, ethnicity, gender, disability, sexual preference and lived experience.
26. Pathways will seek to provide an open and inclusive environment that is accessible for a range of diverse backgrounds. Pathways is located in a context where confidentiality is maintained and offers a warm, inviting space that promotes safety and well-being.
27. Pathways understands that persons engaging in this process may not be seeking any spiritual component and will not introduce these elements without clear invitation.



“Love allows understanding to dawn, and understanding is precious. Where you are understood, you are at home. Understanding nourishes belonging. When you really feel understood, you feel free to release yourself into the trust and shelter of the other person’s soul.”

— John O’Donohue, *Anam Cara: A Book of Celtic Wisdom*

Key Values



28. Pathways seeks to provide a compassionate, fair, transparent and accountable process for responding to allegations of abuse that is:

- person centred
- trauma-informed
- timely
- accessible
- an alternative to an adversarial civil court approach
- respectful of the primacy of police investigations
- compliant with legislative and regulatory requirements such as administered by the Commission for Children and Young People
- Upholding of safeguarding measures relating to children and adults at risk
- In matters involving a child, the protection of children is the paramount consideration, as stated in the Child Wellbeing and Safety Act 2005 (Vic), s 16B(1).

Scope of Misconduct

Which groups of Church personnel are subject to the process?

29. An allegation may be made about the conduct of any person who is or was at any relevant time, in relation to a participating Church Authority:
- a member of the clergy
 - a member of a religious institute
 - a lay pastoral minister
 - a seminarian or ordinand
 - a Church employee, office holder or volunteer
 - any of the above who are deceased.

What misconduct does the Pathways Model cover?

30. The process covers a wide range of misconduct by Church personnel including:
- sexual abuse of children or adults at risk
 - neglect or maltreatment, and physical or psychological abuse of children or adults at risk causing significant physical or psychological harm
 - other acts of a sexual nature which may be an offence under Victorian legislation, except for acts of a lay employee in their workplace
 - adult sexual misconduct
 - sexual misconduct, such as grooming or possessing child pornography, as defined in the Crimes Act 1958 (Vic)
 - 'Inappropriate or unreasonable acts or omissions of Church personnel who had knowledge of conduct of another Church person involving child abuse.'²

31. Where an allegation is made against a current employee, the Pathways process will only apply if the allegation is not subject to another statutory authority or to a contractual employment relationship, unless the allegation is referred to Pathways by an employer.
32. If an allegation is made that is outside the scope of Pathways, it will be referred promptly to the relevant Head of Entity for appropriate action.

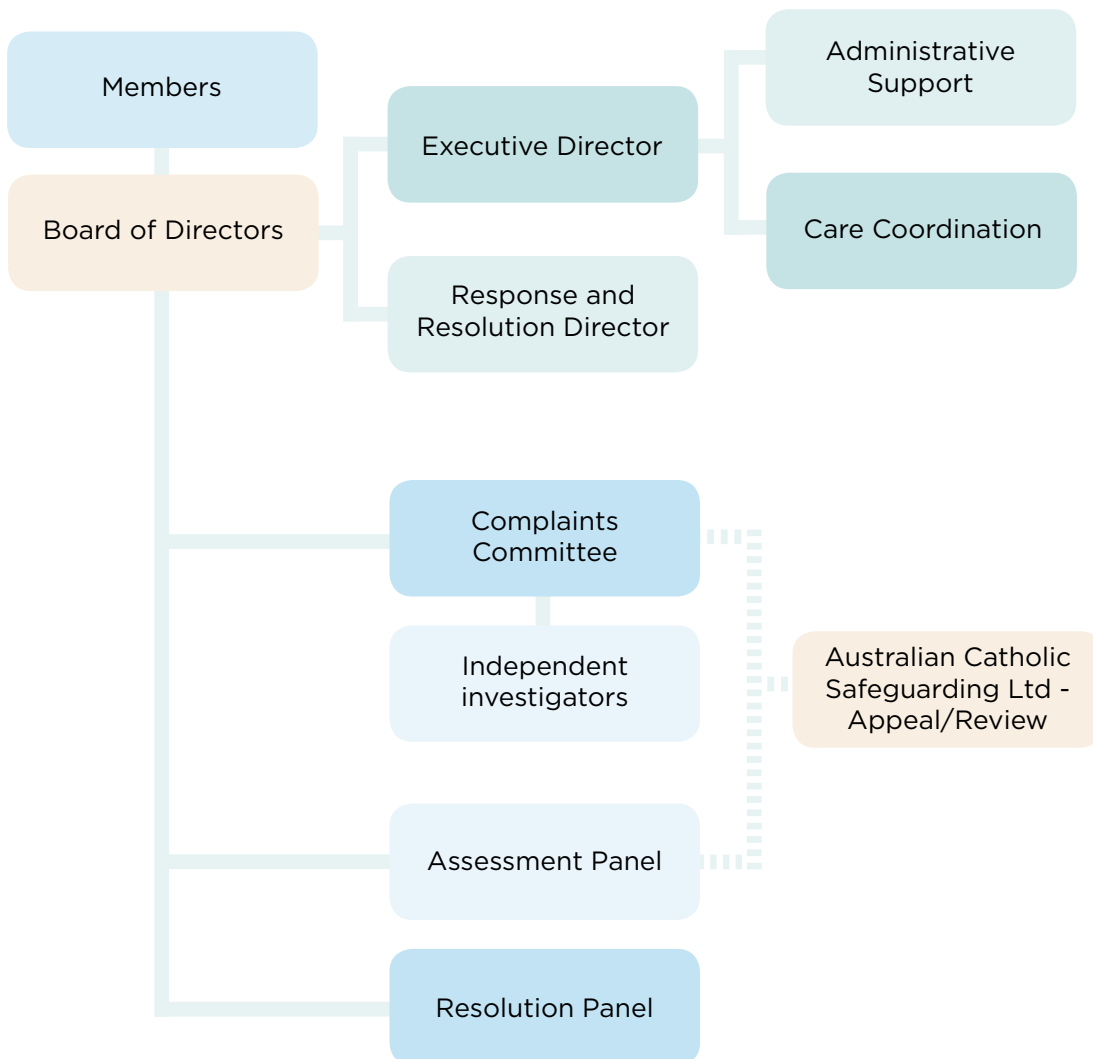
Whistle-blowers

33. Pathways provides support to whistle-blowers in the Catholic Church by facilitating an allegation being made to the Response and Resolution Director rather than to the relevant Church Authority.

Who can report allegations to Pathways Victoria?

34. Subject to paragraphs 180 and 181, Pathways Victoria will hear allegations from any person reporting an incident that falls within the scope of misconduct as identified above other than in instances where:
- The allegation has been heard through The Melbourne Response or Towards Healing processes (whether upheld or not)
 - The allegation has been resolved through The National Redress Scheme
 - The allegation has been resolved through civil litigation.

Organisational Structure



The Units within Pathways Retain

35. Whilst closely connected, the Care Coordination Unit and the Response and Resolution Unit function autonomously from one another. The Units are led respectively by the Executive Director and the Response and Resolution Director who have separate reporting obligations. Each unit has distinct and unique responsibilities. The Care Coordination unit provides largely external therapeutic supports.
36. Ongoing collaborative relationships are central to the model with a holistic approach in providing care and support led by the Care Coordinators with external health service providers.
37. The Response and Resolution Unit engages with people from the point of coming forward through hearing, reporting and investigating allegations, until resolution of monetary payment and an acknowledgement and apology. Contact from this unit thereafter ceases.

Executive Director

38. The Executive Director will oversee staffing, financial management, maintaining records, compliance and strategic direction. In Pathways there will be a peer relationship with the Response and Resolution Director, as both are appointed by the Board, and have autonomous functions. However, the Executive Director will have oversight of Pathways and all its functions, ensuring a central point of information to enable smooth and effective relationships between the two Units.
39. In addition, the Executive Director provides oversight of the Care Coordination unit. The Executive Director has delegated authority to provide approvals regarding client episodes of care and other financial delegations in addition to stakeholder management of external health service providers.

Response and Resolution Director

40. The Response and Resolution Director liaises directly with people making an allegation, survivors and respondent Church personnel. The Director brings allegations to and facilitates the deliberations of the Complaints Committee.
41. The Response and Resolution Director is appointed by and reports to the governing body.³ The Director liaises with the Executive Director for operational matters. The Director has delegated authority from the governing board to oversee and manage Step 2 and Step 3 with the Complaints Committee, the Assessment Panel and the Resolution Panel. Skilled in engaging with adults who have experienced abuse, the person in this role will hear first-hand allegations of abuse and be responsible for all communication with people about the Response and Resolution Process.
42. The Director liaises with and reports to Church Authorities and prepares relevant reports for the Complaints Committee, Assessment Panel and Resolution Panel. The Director also has authority to source and provide direction to the independent investigator, refer the person for therapeutic supports to the Executive Director and assist Church Authorities with reporting obligations to external bodies such as CCYP and the Police.

3. The Response and Resolution Director is intended to have independent functions including determining interim care and assistance, arranging the participation of the parties and referral of any application to the Resolution Panel.

Complaints Committee

43. The Complaints Committee is appointed by and responsible to the Board. It designs and oversees a rigorous process for investigation, mindful of the complexity of the case presented, the likely availability of evidence and witnesses, and relevant CCYP and Canon Law requirements. It offers an objective evaluation of an allegation, unaffected by direct engagement with participants in the process.⁴ The decision does not rest solely on the judgement of one person.
44. The Committee is comprised of at least four members with experience in areas such as civil/canon law, child protection, investigations, criminology, social work, ethics, safeguarding and mental health. So far as is reasonably practicable, the committee has equal numbers of men and women. The Committee draws on other experts when required for particular investigations.

Assessment Panel

45. If the respondent is alive and contests an allegation, the Complaints Committee may refer the outcome of its investigation to an Assessment Panel for decision. In these cases, the Assessment Panel's function is to determine whether the allegations have been made out on the balance of probabilities, applying the Briginshaw test, and if so to recommend action that should be taken by the Church Authority with respect to the respondent.
46. The Assessment Panel is appointed by and responsible to the Board. It is comprised of four members at any one time with experience in the relevant fields of law, canon law, safeguarding, mental health, ethics, human services and others with relevant expertise. So far as is reasonably practicable, the panel has equal numbers of men and women.

The Resolution Panel

47. The Resolution Panel's function is to adjudicate on matters where the survivor has opted to apply for a monetary payment through a panel as opposed to a resolution through mediation.
48. The Resolution Panel is comprised of four members with experience in areas such as civil disputes, mediation, mental health and other relevant expertise. So far as is reasonably practicable, the panel has equal numbers of men and women

Protection for Office Holders

49. The Committee, the Director and Members of other panels established will all be appointed by the Board of Directors of Pathways. They will each operate independently of the Church and will have the benefit of an indemnity from each participating institution for their respective matters provided they acted in good faith and in the discharge or purported discharge of their duties under the model.

Legal Advice and Professional Services

50. Pathways will reimburse up to \$5,000 of costs incurred by a survivor during the process for external legal, financial and other professional services, especially when participating in mediation and prior to signing any deed of release.

4. The proper functioning of a professional standards committee was examined by Young CJ in *Hedges v Australasian Conference Assn Ltd* [2003] NSWSC 1107

Staff Conduct

51. Pathways staff will be recruited to fill specific role responsibilities and accountabilities as outlined in the organisational structure. They are required to adhere to the expectations associated with their roles and to adhere to the Employee Code of Conduct.
52. Staff will be professionally supervised and are expected to maintain skills relevant to their specific roles, in addition to ongoing training and development in:

Trauma

All Pathways staff undertake training on the nature and impact of child sexual abuse which includes developing an understanding of:

- what trauma is, including the prevalence and impacts of complex trauma
- the stress response and strategies for coping with traumatic events, to develop a deeper understanding of survivor behaviour, and
- trauma-informed care and practice, including how to apply the principles of trauma-informed practice to support survivors' recovery and avoid re-traumatisation

Diversity

- All Pathways staff undertake training to respond to each individual in a way that respects their diversity

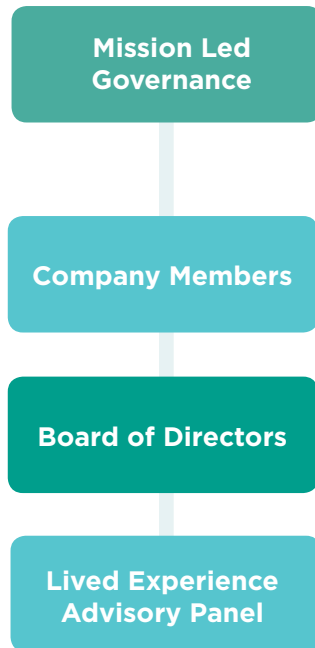
Safeguarding

- All Pathways staff complete regular training in the safeguarding of children, young people and adults at risk including:
 - Child abuse
 - Responding to and reporting child abuse and child-safety related misconduct
 - Child safety legislation in Victoria
 - Risk Management

Vicarious Trauma

- Recognising and managing vicarious trauma, burnout and compassion fatigue
- Staff support and development through regular supervision and de-briefing through an external practitioner

Governance



53. Pathways Victoria has been established by the Church as an operating entity with its own Board which provides functional independence through its governance structure. The operating entity is governed in accordance with its Constitution.
54. Pathways operates as a company limited by guarantee with fiduciary responsibilities including registration with The Australian Charities and Not-for-profits Commission. Pathways Response Victoria Ltd will be expected to report annually and comply with its requirements.

Pathways membership of the operating entity

55. Participation in Pathways Victoria is open to Victorian dioceses and members of Catholic Religious Australia. The initial Members of the entity are the Victorian diocesan bishops.
56. Pathways services are available to all Catholic entities and, by mutual agreement, to other entities operating in Victoria.
57. The Members of Pathways are guided by the Constitution of Pathways Victoria which outlines the scope of their involvement. This document is publicly available.

Recommendation 26: That independent bodies comprised of civil, canonical and relevant professional expertise be established to deal with allegations against Catholic Church personnel (including bishops, religious, priests, deacons, employees and volunteers).

- *The Light from the Southern Cross, Promoting Co-Responsible Governance in the Catholic Church in Australia, 2020*

The Board

The Board

58. As outlined in the Pathways Response Victoria Ltd Constitution, Pathways Response Victoria Ltd is managed under the direction of a Board of Directors. The Board has a mission led focus as a values based organisation underpinned by the values stated above.
59. Board activities are published annually on the Pathways Victoria website.
67. The Lived Experience Advisory Panel (LEAP) provides advice to the Board regarding issues affecting survivors of Catholic institutional abuse including their families, friends and supporters from their lived experience.
68. Appointments to LEAP will be proposed by the Nominations Committee and approved by the Board for a term of one year, which can be extended up to three years.

Board membership

60. The inaugural Chair and Deputy Chair will be appointed by the Members.
61. The Chair will establish a Nominations Committee with terms of reference published on the website. With a range of expertise as identified in a skills matrix, the Board Directors are also expected to demonstrate an understanding of the impacts of trauma in survivors of institutional abuse and be led by Pathways Victoria values. Pathways is committed to ensuring diversity in Board membership from a broad range of backgrounds. The recruitment is through a publicly advertised expression of interest.
62. The Board is comprised of a minimum of three Directors and a maximum of seven who are appointed for a term of three years.
63. The Board Directors will receive a stipend to cover costs and time associated with their duties.
64. No bishops, clergy or diocesan employees act as directors on the Pathways Board.
69. LEAP Members will be required to engage in relevant training as identified by Pathways Victoria on managing vicarious trauma.
70. Advisory Panel members will be paid a fee determined by the Board for attending the biannual meetings.

Review

71. Pathways will gather ongoing feedback from people on their experience of the process
72. The Pathways Model will operate for a term of three years with a review before the end of the third year of operation or earlier if required.

Public Reporting

Lived Experience Advisory Panel

65. To inform good governance and learn from those with lived experience Pathways Victoria will actively involve survivors, their personal supports and advocates in all areas of the organisation in order to shape areas of focus and continuous improvement.
66. Involving people with a lived experience assists Pathways Victoria in being accountable to the needs of people it serves. They have a unique understanding of the impact of processes, systems and policies that is central to the delivery of a person-centred model of responding to allegations of abuse.
73. Statistical (non identifying) information will be released annually including:
 - Name of participating Church Authorities
 - Number of allegations received
 - Number of allegations dismissed
 - Number of allegations upheld
 - Outcomes recommended
 - Number of recommendations that are subject to variation by Church Authorities
 - Number of outcomes reviewed by Australian Catholic Safeguarding Ltd
 - Review Outcomes
 - Number of claims determined through mediation and total payment
 - Number of claims determined by adjudication and total payment.⁵

Pathways 3 Steps

Overview

Step 1: Engagement

- Connection with Care Coordinator
- Support to Disclose
- Care Coordination and Assessment of Needs

Step 2: Response

- Disclosure
- Assessment of Risk
- Reporting Obligations
- Investigation
- Outcome

Step 3: Resolution

- Monetary Payment
- Acknowledgement and Apology
- Support

Step 1:

Engagement: Pathways offers a person-centred response supported by a Care Coordinator and access to external therapeutic and social supports. It is acknowledged and understood that survivors will vary in how they wish to engage with Pathways staff. Some may wish to use an advocate or legal representative to support them as they move through the Pathways steps. Pathways is respectful of individual needs and notes that these may change throughout the individual's engagement in the process.

Step 2:

Response: Pathways seeks to make the disclosure of abuse and any subsequent investigations as supportive, timely and transparent as possible. Steps in the process and outcomes will be communicated to all parties once police clearance is received.⁶

Step 3:

Resolution: Pathways offers two options for obtaining a monetary payment: mediation or adjudication by a panel. Resolution also includes an opportunity to engage in an acknowledgement and apology with representatives of the institution.

STEP 1: Engagement

- Connection with Care Coordinator
- Support to Disclose
- Care Coordination and assessment of needs

STEP 1A:
Initial Engagement

STEP 1B:
Case Work

STEP 1C:
Care Coordination

STEP 1A. Initial Engagement

Introduction

74. The initial engagement is made in response to a request for support and assistance. The purpose of this initial engagement is to introduce Pathways Victoria, its staff and provide information and support. Those coming forward will be connected to a Pathways Care Coordinator and encouraged to nominate a support person to accompany them throughout the Pathways experience.⁷
75. The care coordinator will assist with meeting the immediate needs of the person making contact by way of referral or information.
76. Once the process has been explained, the person will be referred to the Response and Resolution Director.
77. Engagement may come from a variety of sources such as:

Self Referral

Referral from an advocate or survivor groups

Referral by a counsellor, psychologist or other health service professional

Contact by a family member or other support person

Referral from a Parish

Referral from a Professional Standards Unit

Referral from Police

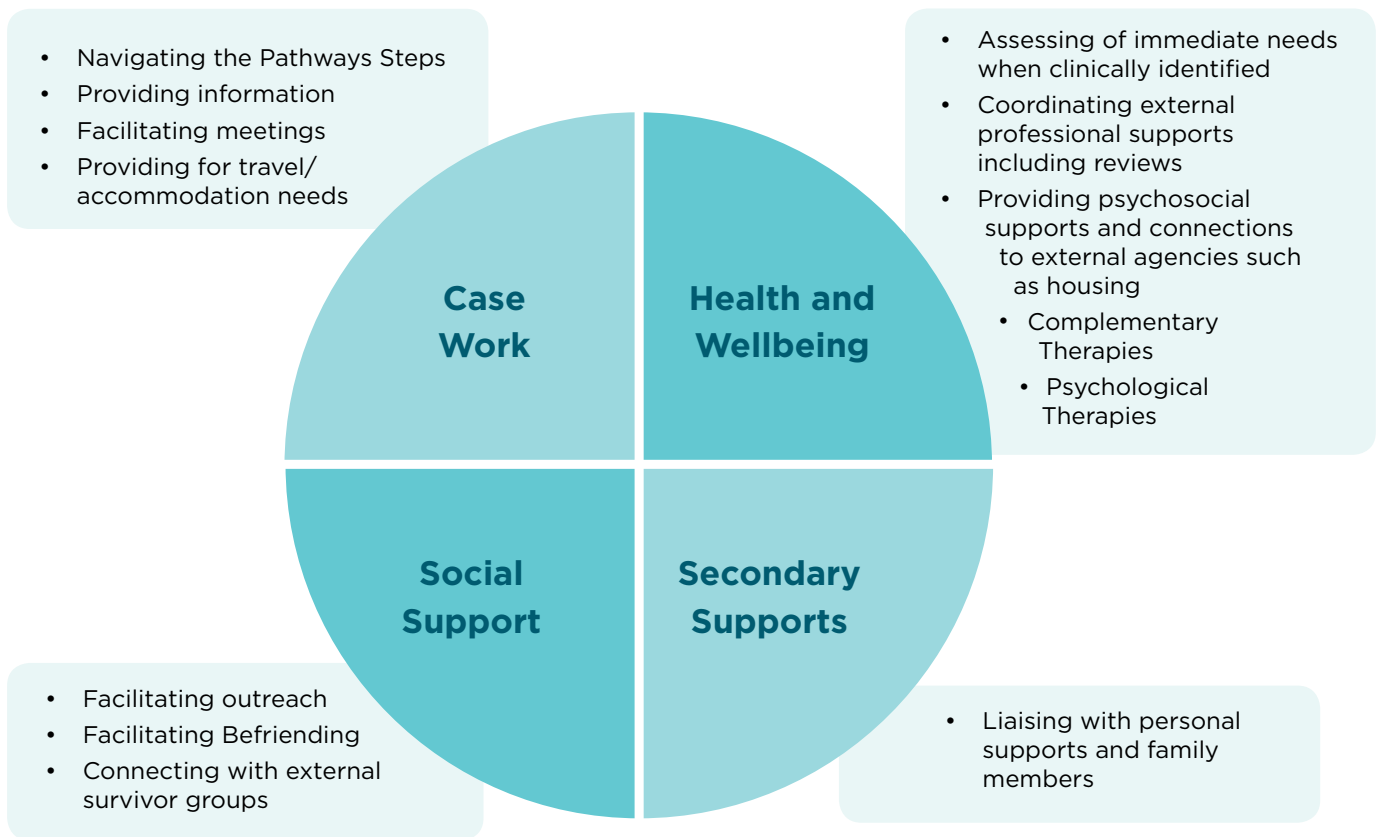
Referral from Clergy or Religious

STEP 1B: Case Work

78. From the first contact with Pathways, a Care Coordinator is appointed to accompany a person making an allegation and to arrange support during the process and beyond as needed, subject to the consent of the participating entity.
79. The Care Coordinator will be a regular and frequent point of contact for the person making an allegation during all stages of the Pathways process.
80. At key steps, the Response and Resolution Director will also liaise with the person, particularly in relation to communications about the response and resolution process.
81. The Care Coordinator will normally be given a copy of the disclosure report and, if the person agrees, will liaise about the allegation's progress with the Response and Resolution Director. In this case, the Director will send a copy of all the complainant's notices and letters to the Care Coordinator so that the latter receives them in time to give the person support when they receive them. If requested, the Director will also copy the person's support person with those notices and letters.
82. From the point of engagement, the Care Coordinator helps to engage the survivor with the Pathways Steps by:
- Facilitating information regarding the process, next steps, possible dates
 - Arranging transportation and accommodation needs to attend assessments and meetings
 - Liaising with any secondary supports such as family members
 - Connecting professional supports by sourcing practitioners, facilitating administrative documents including reports for Step 2 and 3 and providing a continuum of care.



83. Some survivors may have other immediate needs that require addressing such as housing, medical or other social care requirements. The Care Coordinator can assist in connecting the person with appropriate services and agencies to support those needs to be addressed.

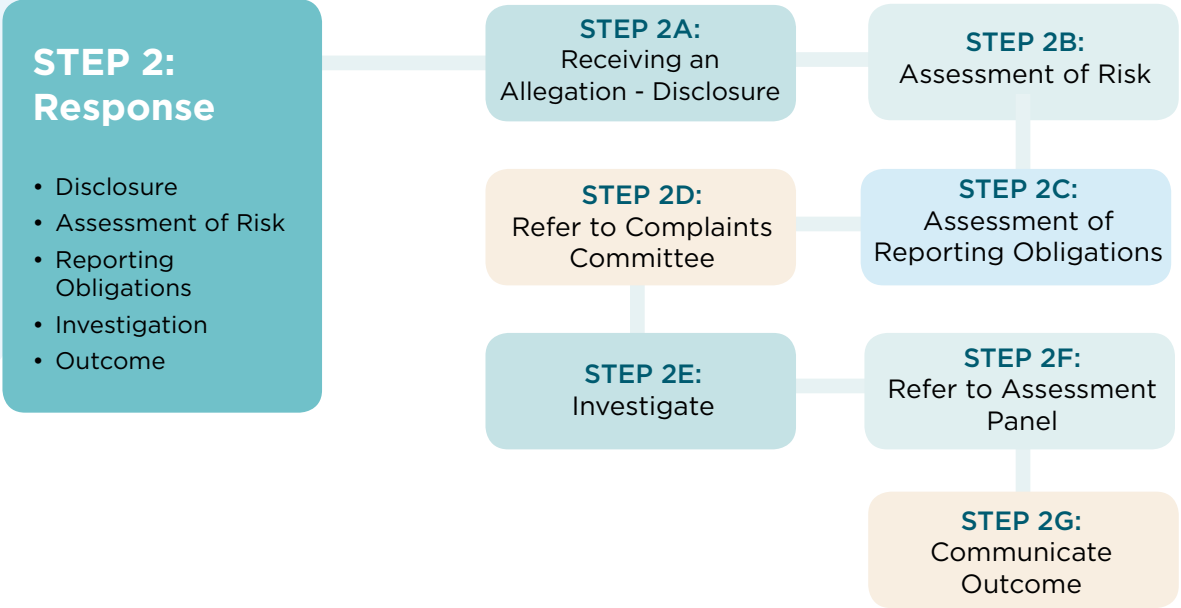


STEP 1C: Care Coordination

84. The provision of Care Coordination services is integrated into the Pathways model and underpins the way in which a person making an allegation and survivors engage in the model.
85. The impact of sexual abuse on mental health can be long-term and profound, particularly if people do not get an empathetic response when they disclose, nor access to specialist evidence-based intervention.
86. Therefore, the Pathways service coordinates ongoing funded psychological care when clinically identified for survivors where their allegation is upheld through Pathways, and for others who are referred to it by a Church Authority.
87. The care coordinator promotes the survivor's recovery and wellbeing by coordinating the provision of care for their immediate needs, and other support for them. Holistic care integrates a positive-practice approach based on providing assistance and support to clients in their individual healing and personal recovery. The process of healing involves building personal capabilities and strengths to construct a valued and meaningful life. This includes forming connections and meaningful relationships, finding a sense of belonging and community, building self-efficacy through learning and personal development, and feeling in control of one's own life and future, inner peace and spirituality.
88. Services are provided up to a specified limit or higher with the consent of the church authority. Care Coordination is also available to non-member institutions who may wish to utilise this on a fee-for-service basis.

Communication with the person subject to the allegation

89. If the person subject to the allegation (the respondent) is alive, the Response and Resolution Director will encourage them to appoint a support person to act for them during the process. This may be a friend or colleague in whom the respondent can place trust and confidence. The respondent's support person is not expected to act and should not act as their legal adviser or advocate in the matter. Depending on the matter, respondents should not act for themselves. In their own best interests, they should seek legal representation.
90. If the respondent agrees, their support person can liaise with the Director on their behalf and be given a copy of notices and letters that are sent to them. The respondent is given sufficient detail about the concern or allegation, and the person who was allegedly abused, to be able to offer a response. The Director would send a copy of all notices and letters that they send to the respondent to their support person so that the latter receives them in time to give the respondent support when they receive them.
91. The Pathways model does not provide Care Coordination or therapeutic supports to the respondent.



STEP 2A: RECEIVING AN ALLEGATION - DISCLOSURE (NRP Stage 1)

Introduction

92. Once a person contacting Pathways Victoria has understood the process, and the care available to them through Pathways, they will proceed in making an allegation to the Response and Resolution Director. The person will be guided and assisted at each step of the process by the Director, with the support of the Care Coordinator.
93. The Response and Resolution Director (the Director) receives an allegation and assists the person making the allegation to prepare a disclosure report. The Director listens empathetically whilst also able to explore, question and prepare a report, which is reviewed and approved by the person.
94. A person making an allegation may do so in any form – As outlined above a Care Coordinator is appointed and will support the person throughout the process. All allegations will be managed in accordance with the applicable published Pathways procedures. The Care Coordinator will make available specific trauma-informed and audience - specific guidelines about those procedures and any applicable protocol.
95. The Response and Resolution Director will manage the allegation in the first instance, on behalf of the Complaints Committee. The Director will serve as executive officer to the committee to facilitate its work in the handling of allegations.

Jesus Christ has come that we may have life (John 10:10).

He is the Way to that life (John 14:6) and the Gospel places before us the attitudes of heart and mind that speak of a new way of being in relationship with one another, reflective of – and instrumental for – the destiny of each of us to find ourselves in the communion of God’s own life.

Every member of the Church, and especially its leadership, is entrusted, then, with the imperative to foster and develop a culture of safety for everyone. At every level we must work together, especially to protect children and adults from abuse or harm.

– National Response Protocol, January 2021

Not ready to disclose

96. Pathways Victoria anticipates that some people may not be ready to disclose their experience immediately. Whilst disclosing their own abuse is often anxiety-provoking for a person, anecdotal reports indicate that many people do not want other children to suffer the same experiences as they did, and that they are prepared to consider passing on concerns in order to be protective of others.
97. Pathways Victoria encourages disclosures in a timely manner as this supports management of any potential risks to others in the community in addition to reporting obligations to relevant statutory authorities. To support people in disclosing abuse, they will be offered access to external therapeutic supports such as a psychologist, mental health social worker or other relevant qualified person. In addition to this support, an assessment of welfare needs is also offered.
100. As part of their disclosure report, a survivor may wish to submit previous police reports or other case material.
101. As soon as it becomes clear that an allegation is reportable or that there is a possible risk to children, the procedures in Steps 2B and 2C below will be acted on immediately.
102. An allegation may be made directly to Pathways by a person or referred to it by a Church Authority. If the allegation is made directly, the Church Authority is promptly notified of it. (NRP Stage 2B)

Recording the allegation

Ready to disclose

98. When the person is ready to disclose the abuse with the Response and Resolution Director, this will be accommodated in a timely manner with a meeting offered at a time and venue in accordance with Trauma Informed Practice.
99. It may be necessary to extend the meeting across several appointments. The Director will take a gentle approach to finding out more and seeking advice on how to respond to what the person is saying.
103. The Response and Resolution Director will keep comprehensive notes that are dated and include the following information:
- full name, date of birth and residential address of the person
 - details of the allegation
 - their involvement thus far with the person
 - details of any other agencies which may be involved with the person
 - Details of each contact with the person making the allegation
 - Details of actions or consultations undertaken in relation to the allegation.

The purpose of a complaint handling process is to investigate a complaint to determine whether an incident has occurred, in order to make decisions about what protective and/or disciplinary measures need to be put in place and what the institution can do to better prevent similar incidents from occurring in the future. The purpose of a redress process is to determine ... measures such as a direct personal response (that is, an apology) from the institution, access to therapeutic counselling and psychological care, and monetary payments.

– *Royal Commission Final Report, vol 7, p199*

STEP 2B: Assessment of Risk (NRP Stage 3)

Introduction

104. The National Response Protocol also contemplates at this stage –
‘a risk assessment to identify risks to children and others and the steps required to address these. See Recommendation 16.51 of the Royal Commission’;
105. The Response and Resolution Director conducts an initial risk assessment of the fitness of the respondent to continue in ministry and the risk they may present. The Director reports this assessment to the Church Authority and the Complaints Committee. As recommended by the Royal Commission, if a complaint of child sexual abuse is plausible, and there is a risk that the respondent may come into contact with children in the course of their ministry, the Church Authority will be expected to stand the person down from ministry while the complaint is investigated.
106. Other interim actions may include supervision, limited duties, or the like, pending the determination of the matter.
107. The Committee’s independent function to review risk in this context serves the fulfilment of Principle A of the National Response Protocol –
‘Prioritise the safety and wellbeing of children and adults subjected to childhood abuse within a culture of prevention of harm.’

Recommendation 16.52, Royal Commission Into Institutional Responses to Child Sexual Abuse:

All religious institutions’ complaint handling policies should require that, if a complaint of child sexual abuse against a person in religious ministry is plausible, and there is a risk that person may come into contact with children in the course of their ministry, the person be stood down from ministry while the complaint is investigated.

https://www.childabuseroyalcommission.gov.au/sites/default/files/final_report_-_recommendations.pdf

108. The respondent would be accorded procedural fairness to respond to any decision by the Church Authority and would have the opportunity to contest the action taken before the Complaints Committee. The outcome would be either that the committee recommends interim action against the respondent or not.

Automatic stand down if criminal charges

109. If a Church person has been charged in any jurisdiction in Australia or elsewhere with a sexual offence, that person will be required to stand down from the duties of their role pending the determination of the charge.

STEP 2C: Assessment of Reporting Obligations - (NRP Stage: 2A)

NOTE: If any of the reporting obligations below are triggered, the person making the complaint will be informed of whatever notifications are taking place.

Reportable Conduct

110. The Victorian Reportable Conduct Scheme complements the Child Safe Standards and aims to improve oversight of how organisations respond to allegations of child abuse and child-related misconduct by employees and volunteers.
111. The Commission for Children and Young People (CCYP) is responsible for administering the Reportable Conduct Scheme, including overseeing workplace investigations into allegations of child abuse.
112. Pathways Victoria may identify that an allegation being made is considered a 'reportable allegation'.

What is a 'reportable allegation'?

113. A 'reportable allegation' means any information that leads a person to form a 'reasonable belief' that a person has committed reportable conduct. The Act sets out the five types of reportable conduct, which are:
- sexual offences (against, with or in the presence of, a child)
 - sexual misconduct (against, with or in the presence of, a child)
 - physical violence (against, with or in the presence of, a child)
 - behaviour that is likely to cause significant emotional or psychological harm
 - significant neglect

Further information on 'What is Reportable Conduct?' is found at <https://ccyp.vic.gov.au/rcsfactsheets/>

Summary of Reportable Conduct Process

Notify

The Head of Entity will notify CCYP within 3 business days of becoming aware of a reportable allegation.

Investigate

- Pathways must investigate an allegation – subject to police clearance on criminal matters.
- Pathways will advise the Commission who is undertaking the investigation.
- Pathways must manage the risks to children.

Update

Within 30 calendar days Pathways must provide the Commission detailed information about the reportable allegation and any action taken

Outcome

Pathways must notify the Commission of the investigation findings and any disciplinary action the Head of Entity has taken (or the reasons no action was taken).

Duty of Head of Entity to report conduct to the CCYP

114. The Response and Resolution Director will make immediate notification of an allegation to the relevant Head of Entity even if the allegation is outside the scope of Pathways itself.
115. Under the *Child Wellbeing and Safety Act 2005*, the Head of Entity has a duty within three business days of becoming aware of a reportable allegation to notify the Commission for Children and Young People (CCYP) of those allegations and take further specified action.
116. When reporting, Heads of entity do not need to agree with or share the belief that the alleged conduct has occurred.
117. At the request of a Head of Entity, Pathways will design and conduct an investigation that satisfies legal requirements of the Reportable Conduct Scheme under the *Child Wellbeing and Safety Act 2005*.

Reportable allegation involving the Head of Entity

118. If any person within Pathways Victoria, becomes aware of a reportable allegation involving a Head of Entity, (eg a bishop) the Response and Resolution Director will notify CCYP of this and will refer the allegation to Australian Catholic Safeguarding Ltd, which has responsibility for managing these allegations.

Other reporting obligations

VICTORIAN REPORTING REQUIREMENTS

a) Duty of every Victorian adult to report child sexual abuse

119. Any adult who forms a reasonable belief that a sexual offence has been committed by an adult against a child under 16 years of age has an obligation to report that information to Police. Failure to disclose the information to Police is a criminal offence unless exemptions apply, such as the survivor now being an adult and requesting confidentiality:⁸

120. Any allegations of criminal conduct will be immediately reported to Victoria Police by the Response and Resolution Director in addition to the CCYP being notified if relevant. Clearance from the police will be required before notifying the respondent or beginning any investigation.

b) Duty of responsible organisational person to act to protect

121. A person who knows of a substantial risk of child abuse by someone over 18 years of age associated with the organisation, and has the power or responsibility to reduce or remove that risk and negligently fails to do so, commits a criminal offence under this section punishable by 5 years' imprisonment.⁹

c) Duty of the holder of a WWCC to report any change in circumstances

122. The holder of a Working with Children Check in Victoria is subject to a statutory obligation to notify the Secretary to the Department of Justice of any relevant change in circumstances as defined in that section:¹⁰

8. Crimes Act 1958 (Vic), s327.

9. Crimes Act 1958 (Vic), s490.

10. s20 Worker Screening Act February 2020 (Vic).

d). Mandated Reporting of Children at Risk

If an allegation raises concerns that a child is at risk of harm, the matter is also reported to Child Protection.

123. Every person in Holy Orders, religious profession or authorised for lay ministry who in the course of their ministry forms the belief on reasonable grounds that a child is at risk of harm on a ground referred to below must report that belief and the reasonable grounds for it to Child Protection as soon as practicable —

- (a) after forming the belief; and
- (b) after each occasion on which s/he becomes aware of any further reasonable grounds for the belief.

124. The grounds are that –

- (a) the child has suffered, or is likely to suffer, significant harm as a result of physical injury and the child's parents have not protected, or are unlikely to protect, the child from harm of that type; and
- (b) the child has suffered, or is likely to suffer, significant harm as a result of sexual abuse and the child's parents have not protected, or are unlikely to protect, the child from harm of that type.¹¹

NOTE:

- To have reasonable grounds to believe a child is in need of protection, a mandated reporter under the CYFA should believe there is risk of significant harm as a result of physical injury or sexual abuse, and the parents cannot or will not protect the child.
- Reporters do not need to prove a child is in need of protection or abuse has taken place to report their concerns.

STEP 2D: Refer to Complaints Committee: (NRP STAGE 3)

Introduction

125. How the Response and Resolution Director proceeds with the allegation depends in part on the nature of the matter and the position of the respondent.

NOTE: In all Reportable Conduct Allegations Pathways will comply with all instructions from CCYP in relation to whether an investigation should occur.

126. It is anticipated most investigations will involve deceased respondents. If the respondent is alive the Director will complete reporting requirements to CCYP and Police. When cleared by the police to do so, the Director will contact the respondent and make available trauma-informed and audience-specific guidelines about the process, the allegation, and any further details provided, within a specified time from the person giving their consent. Within this process, the respondent is accorded procedural fairness. The Director notifies the person who made the allegation that this is happening.

Written response from the respondent

127. Any living respondent will be expected to provide the Complaints Committee with a written response to the allegation within three weeks of receiving details of the allegation. If appropriate, this written response may be the outcome of an interview.

128. The Director will write to the respondent about this timeline and what will happen if they do not respond.

129. The respondent will have the right under the rules or applicable protocol –

a) to obtain independent legal or other professional advice, before responding to the allegation; and

b) to make submissions (with or without evidence) as to why the committee should not entertain the allegation or should dismiss it or take no further action in relation to it.

130. The Director will inform the respondent of these rights when contacting them about the allegation.

Summary determination

131. Pathways will follow the National Response Protocol requirement that an investigation be undertaken whenever an allegation is plausible or whenever required by a statutory authority. However, many courts and domestic tribunals adopt in their rules provisions for summary determination of a proceeding or allegation in some circumstances. It can enable a quick resolution of a matter and avoid the cost and inconvenience to the parties of a protracted process. Pathways Victoria will have such a provision and specify the grounds on which the committee may act summarily. Those grounds would include if the allegation were frivolous or vexatious or totally lacking in substance, (for example, mistaken identity). This provision will not apply to allegations that fall under the Reportable Conduct Scheme.
 132. In situations where there is no mandatory reporting or reportable conduct exclusion, the committee may also make a summary determination to uphold an allegation in circumstances such as admission by a reported offender or acceptance of the allegation by a Church Authority.
 133. This summary jurisdiction is intended to give the committee considerable flexibility in dealing with the matters before it, ranging from dismissing the matter or taking no action or taking limited action. It is part of the triage function that the committee exercises in relation to allegations of abuse.
 134. If an allegation of abuse is dealt with by the committee under the summary procedure, the committee will give the person making the allegation and the respondent a written notice of the outcome including the reasons.
- Determining responsibilities where more than one Church Authority or entity is involved**
135. Where the Church person of one Church Authority is engaged in ministry by another Church Authority (for example, religious working in a parish), the Response and Resolution Director will liaise with each Church Authority to ensure there is agreement about where responsibility for reporting and investigation rests.¹²

STEP 2E: Investigate (NRP STAGE 4)

Introduction

136. Pathways will be governed by a process that reflects the purposes of the investigation as envisaged by the National Response Protocol –

An investigation into the concerns or allegations received by a Church Authority is required to assess the concerns or allegations and to provide an impartial and independent review of the facts and circumstances disclosed, including the fitness of the relevant Church personnel to continue in ministry and the risk of harm that may present.

137. The aim of an investigation is can be to decide whether an allegation is proven on the balance of probabilities applying the Briginshaw test and to identify which actions the Church Authority needs to take in relation to the respondent.

138. The Complaints Committee will have responsibility for the investigation of allegations. The Complaints committee performs that function through its delegate or appointee who may be the Response and Resolution Director or an independent outside investigator. This gives effect to the direction of the National Response Protocol to:

“Ensure that investigations are conducted with integrity and impartiality, ensuring that processes and outcomes can withstand external scrutiny and that conflicts of interest (perceived, potential or actual) are identified, addressed and managed appropriately.”¹³

139. The Step 2: Response protocol adopted by the Pathways board of directors will provide guidelines for the conduct of the investigation and procedures intended to ensure procedural fairness.

140. All actions taken by Pathways that fall under the Reportable Conduct Scheme will comply with the directions of the Victorian Commission for Children and Young People (CCYP). The CCYP is given statutory functions to –

- oversee investigations.
- where necessary, conduct its own investigations; and
- investigate the handling of a reportable allegation by an organisation or regulator.¹⁴

13. NRP, p15

14. Child Wellbeing and Safety Act 2005 (Vic), s16G (c)–(f)

Pathways Victoria investigation obligations

141. In the context of investigations into allegations that are reportable to the Commission for Children and Young People, Pathways Victoria will:

- ensure there are systems in place for reporting to CCYP even if the allegation is outside the scope of Pathways itself
- ensure the Head of Entity is assisted to notify the Commission within three days when a reportable allegation has been made
- ensure that reporting and investigation processes are appropriately adapted when children or young people are involved as either alleged victims or witnesses
- investigate the reportable allegation in compliance with any direction issued by the Commission (this could include engaging a regulator, an independent external investigator or a complaints-handling organisation that specialises in child-focussed processes)
- provide information or documents relating to a reportable allegation to the Commission
- ensure that the Commission (or independent investigator engaged by the Commission) is given 'any assistance' in connection with the reasonable performance of their functions
- provide detailed information about a reportable allegation to the Commission
- provide details of the outcome of an investigation into a reportable allegation and any proposed disciplinary actions.

NOTE: Allegations reported to Police.

142. If the allegation has been reported to police, Pathways does not commence any investigation until Victoria Police have advised that it can proceed.

143. There are times when investigations will need to be undertaken into allegations that may involve criminal conduct. Even if these allegations have already been investigated by police, Pathways Victoria may still wish to conduct its own investigation once clearance is obtained from Victoria Police.

144. If the Complaints Committee considers that an investigation is needed into an allegation against a living cleric or religious, the Church Authority should consider establishing the Pathways investigation as a canonical 'preliminary investigation' (Can. 1717).

145. As noted above, proceeding with any investigation of a reportable allegation will be subject to advice from the Chief Commissioner of Police.¹⁵

Appoint an Investigator (NRP Stage 4A)

146. If the Committee has not made a summary determination it will appoint an independent investigator, who collects evidence and who may be asked by the committee to recommend a finding. The Response and Resolution Director will facilitate the work of the committee.

147. The Director will have available to them a pool of qualified and professionally trained investigators. They will be appointed according to the particular needs of the investigation.

148. The Director will work with the Complaints Committee to determine the most suitable investigator.

149. The Complaints Committee will:

- assess the proposed investigator's skills and experience, in particular their experience in conducting investigations involving children
- conduct appropriate screening to make sure the proposed investigator is experienced in working with children as per CCYP guidelines, including checking whether they have a Working With Children Check if relevant.

Plan the investigation (NRP Stage 4B)

150. The investigation process will be suitably rigorous for the particular circumstances of the allegation, and will be designed to ensure that only a single investigation needs to be undertaken. It will be informed by the National Response Protocol and any requirements stipulated in a particular case by the Commissioner for Children and Young People (CCYP).¹⁶
151. The rules of the model will specify the powers and authority of the investigator.
152. A protocol approved by the governing board of Pathways would provide for each investigation to have an approved terms of reference, which may include recommending findings to the Complaints Committee.

Independent investigations are guided by <https://ccyp.vic.gov.au/assets/resources/Reportable-Conduct-Guidance/CCYP-Investigation-guide.pdf>

153. The investigator will be provided with the survivor's disclosure report and will gather other statements and relevant materials.
154. The investigator will prepare an investigation plan in liaison with the Response and Resolution Director before any investigation is started. The plan will identify what issues need to be investigated, what evidence will be needed to investigate those issues, and the best way to obtain that evidence. This will include thinking about the witnesses who need to be interviewed.

Conduct the investigation (NRP stage 4C)

155. The CCYP has published an investigation guide¹⁷ in relation to a reportable conduct allegation that is helpful for investigations generally. An investigator under the model will observe the procedures discussed in the National Response Protocol under this heading. These procedures will inform the terms of reference set for the investigation. An investigator must observe procedural fairness towards the person making the allegation and the respondent in the conduct of the investigation.

Report (NRP Stages 4D & 4E)

156. The investigator presents their report with any recommended findings to the committee, which oversees the process.

In investigations required by the CCYP, the available categories of findings are –

- Substantiated
- Unsubstantiated – insufficient evidence
- Unsubstantiated – lack of evidence of weight
- Unfounded
- Conduct outside scheme
- Review of the determination

Further information can be found here:
<https://ccyp.vic.gov.au/assets/resources/Reportable-Conduct-Guidance/CCYP-Investigation-guide.pdf>

16. NRP, commentary, p27 - 35

17. Guide for Organisations, Investigating a Reportable Conduct Allegation, version 1.0 June 2018 available on its website.

Assess the report and make determination (NRP STAGE 5)

157. The Complaints Committee will consider the investigator's report and any recommended findings and any report from the Director and ordinarily make a finding of fact. It may also determine to refer the matter to the Assessment Panel for adjudication, for example if the allegations are contested. It would give notice of that referral to the respondent and the person. This would generally only occur when a respondent is alive and contests the allegations.
158. If an allegation against a living person is substantiated, the committee will then make an assessment of the respondent's fitness for ministry and the risk they present. This assessment is reported to the Church Authority as a recommendation for action, if any, that should be taken in relation to the respondent.
159. Where a person has been the subject of a substantiated complaint of child sexual abuse on the Briginshaw principle, or higher standard of proof, irrespective of whether the substantiation is made in a Pathways Victoria investigation, or by a Court in civil or criminal proceedings, or in a Reportable Conduct Scheme investigation, the person will be permanently removed from ministry, as recommended by the Royal Commission. In the case of a priest, this will be done initially by removing the faculties of the perpetrator, which prohibits the priest from preaching, hearing confessions, celebrating marriages and funerals, celebrating public Mass or other services, or otherwise holding himself out as a priest. An application will also be made to the Holy See for a decision to dismiss the offender from the clerical state and reduce the person to the lay status (sometimes called laicisation).

Recommendation 16.55, Royal Commission Into Institutional Responses to Child Sexual Abuse:

"Any person in religious ministry who is the subject of a complaint of child sexual abuse which is substantiated on the balance of probabilities, having regard to the principles in *Briginshaw v Briginshaw*, or who is convicted of an offence relating to child sexual abuse, should be permanently removed from ministry. Religious institutions should also take all necessary steps to effectively prohibit the person from in any way holding himself or herself out as being a person with religious authority."

160. The committee may also recommend to the Church Authority any steps that might reduce or eliminate the risk of misconduct either generally by Church personnel or in relation to the respondent by way of educational, training, counselling or mentoring program or by way of changes to any protocol.

STEP 2F: Refer to Assessment Panel (NRP STAGE 5)

161. If the respondent is still alive and contests an allegation, the Complaints Committee may refer the outcome of its investigation to an Assessment Panel. In these cases, the panel will make findings of fact and recommend action against the respondent that should be taken by the Church Authority.
162. The Assessment Panel in considering a matter referred to it will –
- be obliged to act with fairness and according to equity, good conscience, natural justice and the substantial merits of the case without regard to technicalities or legal forms; and
 - not be bound by the rules of evidence but may inform itself on any matter in such manner as it thinks fit. It will adapt its procedures to recognise child witnesses or witnesses that are vulnerable.¹⁸
163. The Panel may regulate its proceedings as it sees fit and will give reasons for its determinations.
164. The Church Authority (e.g. the diocesan bishop or provincial of the religious institute) will be responsible for giving effect to any recommendations by the Complaints Committee or an Assessment Panel or any modification consistent with the facts found and the substance of the recommendations.

STEP 2G: Communicate Outcome (NRP STAGE 6)

165. The Committee or the Panel will deliver a written determination with reasons. All parties will receive written communication advising of the outcome and will be given the opportunity to receive a copy of the full determination 'with any redactions necessary to protect the privacy of the survivor and third parties.
- Church Authority must refer this finding to the Congregation for the Doctrine of the Faith and await direction on how to proceed in relation to the alleged perpetrator.
167. For the purpose of the process, the Church Authority will be the officeholder charged with the appointment of the relevant Church workers:
- the diocesan bishop for diocesan clergy, and for religious in respect of appointments given by the diocesan bishop
 - the head of a religious institute for religious
 - the priest in charge for lay Church workers in a parish.
168. The Church Authority will give notice of its action to implement the recommendations to the Response and Resolution Director and the Complaints Committee, the person and the respondent, including its reasons for any variation to the recommended actions.
166. If the investigation has been established as a canonical preliminary investigation and finds that there is a 'semblance of truth', the

NOTE: Outcome of reportable conduct allegations:

A finding of reportable conduct is to be made on the 'balance of probabilities' applying the Briginshaw Standard and all findings of the investigation must be reported to the Commissioner.

Where the matter involves a reportable allegation that has been notified to the CCYP and therefore subject to its monitoring, the determination also needs to be responsive to the expectations of the CCYP.¹⁹

18. CCYP Information Sheet No 8

19. The procedure and rules relating to children and vulnerable people prescribed under the Criminal Procedure Act 2009 (Vic), Part 82, would offer useful guidance. This would reflect principle B of the NRP –

Provide a just and compassionate response, respecting the dignity and diversity of all involved, and ensuring inclusive and supportive.

Communicate with and support affected persons (NRP Stage 6A)

169. Upon receipt of the outcome, the person making the allegation and other affected persons will be offered support through the Care Coordinator.

Communicate with and support affected communities (NRP Stage 6B)

170. The Church Authority will liaise with the Director to inform the person of the steps taken by it to give effect to the recommendation.²⁰ It will also give notice to the respondent and to the Director. In a case where the public interest is required, the Church Authority might make public the name of the respondent against whom action had been taken. An appropriate pastoral response to the relevant community would also be provided.

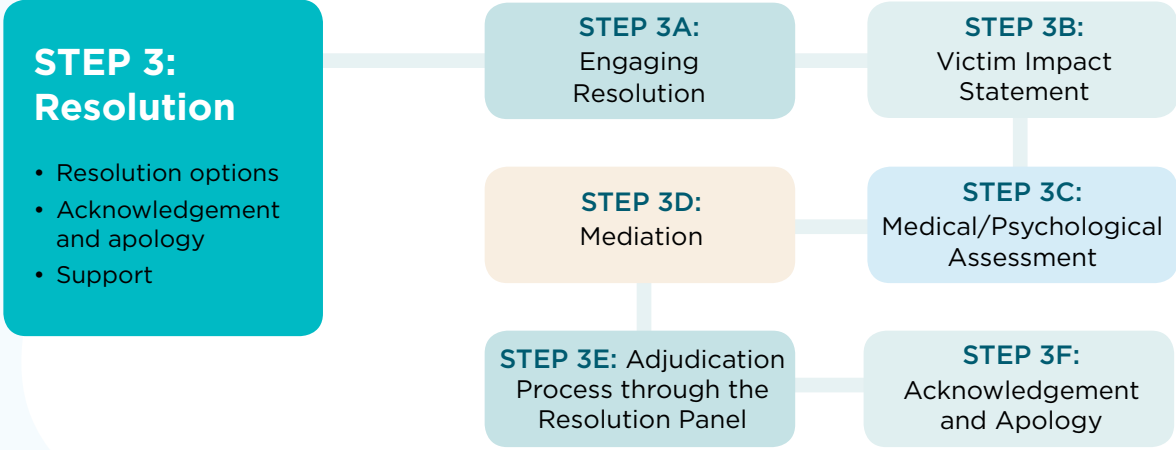
STEP 2H: Review

171. An independent review of the process and/or the determination is available to all parties. This review will be conducted by Australian Catholic Safeguarding Ltd.

172. Pathways will establish a procedure under which persons aggrieved by the way the process was managed in their case (but not the outcome) can be dealt with in a constructive manner.

173. In addition, Pathways will put in place a process of seeking feedback from the person and respondent following the conclusion of a particular matter.

20. National Response Protocol, P40-41



Introduction

- 174. The third step is the process for seeking Resolution. This includes a monetary payment, an opportunity to engage with the church authority to receive an apology, and the support provided during the process.
- 175. Under Pathways Victoria, a person can seek resolution of their claims against a participating diocese or religious institute (a participating institution) or a number of them. It is a process that offers the opportunity to engage in without-prejudice discussions, to achieve an agreed settlement or an adjudicated offer of Pathways resolution.

- 176. The Response and Resolution Director guides the person through Step 3 in accordance with published terms of reference agreed to by the participating institution with Pathways.²¹
- 177. The Terms of Reference sets out the framework for the provision of a monetary payment to an eligible person either by agreement under the settlement stage or by a without prejudice offer in accordance with an adjudicated outcome.

21. National Response Protocol, P44 – 45
 Removing barriers to the engagement of those affected by child abuse includes a number of considerations:
 • Information about processes and the decision-making by a Church Authority or entity about a Church entity's processes of response is transparent, clear and readily accessible;

STEP 3A: Engaging Resolution

Who can engage in Step 3: Resolution

178. When a person's allegation is upheld in Pathways Step 2, the Response and Resolution Director will seek their agreement to commence Step 3: Resolution.²²
179. With the person's consent, the determination and any other relevant material will be provided to the Step 3 process. This step will not require the person to repeat matters already determined by Step 2.²³
180. Pathways Resolution is accessible to the following:
- those whose allegation has been upheld by the Pathways Step 2
 - those whose allegation has been upheld by a criminal conviction
 - those whose allegation has been admitted by an offender
 - those whose allegation has been accepted by a Church Authority.
 - except in instances where they have:
 - a) already received a payment via the Melbourne Response or Towards Healing (subject to para. 181)
 - (b) received a previous Melbourne Response or Towards Healing determination in which the allegation was not upheld;
 - (c) received payment, or have a current claim in the National Redress Scheme (until such claim is withdrawn)
 - (d) made a claim for civil damages against any Church Authority whether proceedings are commenced or threatened (unless the threat of civil action is withdrawn or the proceedings are discontinued or stayed), or
 - (e) executed a valid Deed of Release with any Church Authority in respect of any claim, howsoever previously made.
181. Where the claim has previously been made, whether in the Melbourne Response or Towards Healing or in civil litigation (whether or not proceedings were commenced), and a Deed of Release has been signed, the Church Authority will consider on a case by case basis, whether to agree to the Deed being set aside such that an application will be considered in Pathways. This decision will be made as quickly as possible.
182. If such a claim is allowed and proceeds through Pathways either via mediation or assessment, entry into a new Deed of Release replaces any prior entitlements to ongoing support.

22. Professor Kathleen Daly and Research Fellow Juliet Davis, Griffith University Submission, 29 April 2021 Recommendation 1

23. Professor Kathleen Daly and Research Fellow Juliet Davis, Griffith University Submission, 29 April 2021 Recommendation 6

STEP 3B: Victim Impact Statement

183. The person is encouraged to write a victim impact statement with support from their personal supports and treating practitioners. The purpose of a victim impact statement is to allow the affected individual to describe to the panel and the Church Authority the impact the abuse has had on them. This statement is an

opportunity to participate in the process and ensure that a person's voice is heard. Whilst presenting this information can be empowering, and helpful for some in their recovery, not all persons may wish to engage in preparing a victim impact statement.

STEP 3C: Medical/Psychological Assessment

184. The Care Coordinator facilitates an independent assessment with an experienced private psychiatrist qualified in medicolegal reports. The assessing psychiatrist is provided with the person's disclosure report, the determination of their allegation, and any victim impact statement to minimize the extent to which the person is asked to repeat their experience.

185. This psychological assessment can be helpful in supporting the applicant through resolution of their case by providing a statement of facts by the medical practitioner, the history given and their observations. It also contains the medical practitioner's diagnosis of the injuries arising from the abuse, his or her expert opinion as to the impact of abuse and any recommendations regarding future treatment and care.

STEP 3D: Mediation

186. People are offered the opportunity to engage in without-prejudice negotiations with representatives of the Church Authority through a process facilitated by an accredited mediator appointed by the Response and Resolution Director and independent of the Church and any Pathways panel or committee.²⁴

187. If agreement is reached, in exchange for a deed of release the Church Authority would provide a monetary payment in accordance with the agreement. The settlement sum agreed in mediation would not be restricted to the amount that may be awarded by the Resolution Panel.

Choices available to people

188. If the person does not wish to participate in the mediation process, or if the mediation process is unsuccessful, the person has choices-

- adjudication of a monetary payment by the Pathways Resolution Panel; or
- apply to the National Redress Scheme
- civil litigation

24. Professor Kathleen Daly and Research Fellow Juliet Davis, Griffith University Submission, 29 April 2021 Recommendation 8

STEP 3E: Adjudication Process through the Resolution Panel

189. If the person chooses adjudication of their application under Pathways, the Response and Resolution Director refers the matter to the Resolution Panel.

190. The Resolution Panel:

- Gives the person a reasonable opportunity if they wish to adduce any evidence or make any submission relevant to the application including by speaking to the panel in person;
- When there is more than one Church authority involved, gives each Church Authority a reasonable opportunity to present evidence or make submissions about the proportionate responsibility between them;
- is not obliged to, and except in special cases (such as the person requesting this), will not hold a hearing at which evidence is adduced or submissions heard orally and may proceed wholly or partly on the papers;
- will give reasons for any determination and recommendation.

The elements of Resolution

191. Pathways Resolution Panels will make an adjudicated offer comprising

- (A) a monetary payment determined using a publicly available matrix; and
- (B) counselling and psychological support (when clinically identified) which consists of:
 - (a) access to counselling and psychological services provided under Pathways Victoria; or, if the Resolution Panel so determined,
 - (b) a payment to enable the person to access counselling and psychological services provided outside Pathways Victoria; and
- (C) an acknowledgment and apology from each of the Church Authorities that are determined to be responsible for the alleged abuser having contact with the person, and for any resulting monetary payment.²⁵

Matrix

192. A matrix as recommended by the Royal Commission in its report on redress and civil litigation will be used to guide the assessment of the financial amount, as follows:

Severity of abuse 1-40

Impact of abuse 1-40

Additional elements 1-20

193. These 'additional elements' include:

- (i) whether the applicant was in state care at the time of the abuse – that is, as a ward of the state or under the guardianship of the relevant Minister or government agency;
- (ii) whether the applicant experienced other forms of abuse in conjunction with the sexual abuse – including physical, emotional or cultural abuse or neglect;
- (iii) whether the applicant was in a 'now closed' institution or without the support of family or friends at the time of the abuse;
- (iv) whether the applicant was particularly vulnerable to abuse because of his or her disability.

Level of monetary payment

194. The level of monetary payments offered by the Resolution Panel will be 50% above the amount recommended by the Royal Commission, with an annual increase based on CPI for each year since the Royal Commission's Redress report (2015). The initial level of payments will therefore be:

- minimum: \$16,685
- maximum: \$333,707
- average: \$108,455

Apportionment of responsibility between participating institutions

195. Where more than one Church Authority is responsible for the alleged abuser having contact with the person and for any resulting monetary payment, liability is determined according to the extent of responsibility of each Church Authority, that is, a percentage determined by the Resolution Panel.²⁶

Without prejudice offer

196. The Panel will make a 'without prejudice' offer of an amount in full and final satisfaction of the claim.

197. Accepting the Offer would give rise to a deed of release and a legally enforceable contract between the person and the applicable Church Authority.

Repayment of other expenses

198. Medicare repayments, and any other statutory repayments will be deducted from the amount and paid by the Church Authority before payment of the balance is made to the claimant.

199. Private Health insurance repayments are a matter between the person and his or her insurer and are for the person to repay out of the settlement received by them.

25. This is consistent with the National Redress Scheme for Institutional Child Sexual Abuse Act 2018, s16(1), and the National Response Protocol, version 4, October 2020, p38 - 39, The elements of response

26. This is provided that, by the agreement of those Church Authorities, the hearing of any question of apportionment would not delay the making of a determination and resultant offer of a monetary payment in favour of the person.

Review

200. A person making a claim and the Church Authority will have the right to an independent review of Resolution Panel adjudications.

Legal costs

201. Pathways Victoria encourages people to obtain legal advice, financial advice or other professional services of their choosing, especially during mediation and when considering a deed of release. Funding for this is available up to \$5000.

Confidentiality

202. Clauses imposing confidentiality obligations on survivors will not be included in any Pathways Deeds of Release. However, Church Authorities will respect survivors' privacy and confidentiality.

STEP 3F: Acknowledgement and Apology

203. Following an acceptance of an offer under Step 3. Resolution, the person will be offered an acknowledgement and apology from the Church Authority representatives of the person's choosing. As a mission led and pastoral process, Pathways attests to the importance of this acknowledgment in offering the person an opportunity to be witnessed.

204. The National Redress Scheme provides guidance on a Direct Personal Response. Pathways will facilitate the Acknowledgment and Apology through the Response and Resolution Director or an independent facilitator if the person prefers.²⁷

Further information can be found at

<https://www.nationalredress.gov.au/applying/what-can-you-apply/direct-personal-response>

It will take time for Church leadership to gain the trust of people. Anger towards leadership is palpable, not only evidenced at the Royal Commission but also more generally in the community. Heartening to see the commitment made by leaders to take seriously the recommendations made by the Royal Commission regarding governance and the inclusion of more women in decision-making.

- Sr Maree Marsh csb 2017, Reflections from the Royal Commission into Institutional Child Sexual Abuse

Summary

STEP 1: Engagement

STEP 1A:
Initial Engagement

STEP 1B:
Case Work

STEP 1C:
Care Coordination

STEP 2: Response

- Disclosure
- Assessment of Risk
- Reporting Obligations
- Investigation
- Outcome

STEP 2A:
Receiving an Allegation - Disclosure

STEP 2B:
Assessment of Risk

STEP 2D:
Refer to Complaints Committee

STEP 2C:
Assessment of Reporting Obligations

STEP 2E:
Investigate

STEP 2F:
Refer to Assessment Panel

STEP 2G:
Communicate Outcome

STEP 3: Resolution

- Resolution options
- Acknowledgement and apology
- Support

STEP 3A:
Engaging Resolution

STEP 3B:
Victim Impact Statement

STEP 3D:
Mediation

STEP 3C:
Medical/Psychological Assessment

STEP 3E: Adjudication Process through the Resolution Panel

STEP 3F:
Acknowledgement and Apology

Glossary

ACSL

Australian Catholic Safeguarding Limited. works with Catholic entities to promote and oversee a nationally consistent and comprehensive framework for the protection of children and adults at risk within the Church in Australia (formally CPSL).
<https://www.cpsltd.org.au/>

Adult at Risk

An adult at risk is a person who is experiencing disadvantage which refers to but is not limited to physical or mental disability; social or financial hardship; and difficulty communicating in English. It includes but is not limited to homeless people, victims of crime, migrants, refugees and asylum seekers, and people with addictions.

Briginshaw v Briginshaw

A decision of the High Court of Australia concerning the standard of proof and quality of evidence in civil cases. Is based on the balance of probability.

CCYP

The Commission for Children and Young People: is responsible for - administering the Reportable Conduct Scheme, including overseeing workplace investigations into allegations of child abuse. www.ccyp.vic.gov.au

Child Abuse

The World Health Organization ([WHO], 2006, p. 9) defines child abuse and neglect as: All forms of physical and/or emotional ill-treatment, sexual abuse, neglect or negligent treatment or commercial or other exploitation, resulting in actual or potential harm to the child's health, survival, development or dignity in the context of a relationship of responsibility, trust or power.
<https://aifs.gov.au/cfca/publications/reporting-abuse-and-neglect>

Child/ren

Any person below the age of eighteen (18) years.

Church Authority

- Diocesan bishop or archbishop, an ordinary of an Ordinariate and the prelate of a Personal Prelature of the Latin Church and an eparch of an eparchy of an Eastern Church;
- the competent authority, howsoever titled, exercising the ministry of governance for religious institutes in Australia in accordance with their Constitutions; or
- for ministerial PJPS the competent authority in accordance with the statutes;
- for any other Church entity, the senior authority within the organization in accordance with its rules.

CYFA

CHILDREN, YOUTH AND FAMILIES ACT 2005: The main purposes of this Act are —

- (a) to provide for community services to support children and families; and
- (b) to provide for the protection of children; and
- (c) to make provision in relation to children who have been charged with, or who have been found guilty of, offences; and
- (d) to continue The Children's Court of Victoria as a specialist court dealing with matters relating to children.

<https://www.legislation.vic.gov.au/in-force/acts/children-youth-and-families-act-2005>

Head of Entity

The most senior officer and the person who is primarily responsible for executive decision making in the organisation, a diocese, religious institute, ministerial PJP (including their agencies) or association.

Informed Consent

Ensuring that an individual (child, parent or guardian) understands the implications, purpose and potential uses of photographs, videos or other personal information.

Lived Experience Advisory Panel

(LEAP) the panel provides advice to the Board regarding issues affecting survivors of Catholic institutional abuse including their families, friends and supporters from their lived experience.

Mandatory Reporting

The requirement that some professions, including ministers of religion, report to Child Protection if they form a belief on reasonable grounds that a child is at risk of harm.

Melbourne Response

The Melbourne Response was established in 1996 to address complaints and provide compensation for victims of sexual abuse within the Melbourne Archdioceses of the Catholic Church.

NCSS

The National Catholic Safeguarding Standards constitute a framework which articulates the requirements for Catholic entities to promote the safety of children through the implementation of policies and activities to prevent, respond to and report concerns regarding child abuse. The framework is designed to drive cultural and behavioral change and promote accountability and transparency for Catholic Church entities to build child-safe cultures. <https://www.cpsltd.org.au>

NRP

The National Response Protocol drives and supports a consistent, effective and principled response across the Church to concerns and allegations of contemporary or historic matters of abuse of children and adults by Church personnel, in compliance with all relevant Australian standard federal legal and policy requirements. The purpose of the protocol is also to ensure that all children and adults involved in matters relating to concerns or allegations of abuse are treated with justice and compassion and supported with appropriate therapeutic and pastoral care where sought. The protocol is to be adopted by all Church Authorities. <https://www.catholic.org.au/nationalresponseprotocol>

NRS

The National Redress Scheme was set up by the Australian Government to provide redress to people who experienced institutional child sexual abuse. The offer of redress can include: access to counselling, a redress payment and a direct personal response. <https://www.nationalredress.gov.au/>

Religious Institute

A canonically recognised religious institute and/or society with public juridic status in the Church in which, in accordance with their own law, the members pronounce public vows and live a fraternal life in common.

Reportable Conduct

The Victorian Reportable Conduct Scheme complements the Child Safe Standards and aims to improve oversight of how organisations respond to allegations of child abuse and child-related misconduct by employees and volunteers.

A 'reportable allegation' means an information that leads a person to form a 'reasonable belief' that a person has committed reportable conduct.

www.cryp.vic.gov.au

Survivor/Victim

An individual who has experienced abuse.

Towards Healing

Towards Healing was established in 1996 by the Australian Catholic Bishops Conference and Catholic Religious Australia (formally ACLRI) to manage historical complaints of sexual, physical and emotional abuse in the Catholic Church.

Trauma Informed Practice

A trauma-informed service aims to implement an understanding of trauma in all aspects of service delivery and prioritise the individual's safety, choice and control, while establishing connectedness through a relationship built on trust.