



# **Complaint Procedure for Allegations of Misconduct by Pastoral Leaders**

Revised September 2011

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## **1. INTRODUCTION**

Misconduct in the church is a reality and one that the BUV seeks to handle with the utmost accountability, transparency, fairness and understanding. This document has been created to provide a procedure for complaints of alleged misconduct by Pastoral Leaders. It outlines how misconduct contravenes the clear call for ethical conduct of pastoral leaders; outlines the scope of the complaint, investigation, decision and communication of outcomes; details the 'key' roles in the procedure and provides a helpful list of definitions and terms. The principle of justice to those who have been victimized underpins the entire procedure and document.

This document was revised by the Professional Standards Group and was approved by Executive Council on 27<sup>th</sup> May 2008.

- 1.1 Misconduct in the church is a reality and the BUV has a responsibility to see that each church exercises its 'duty of care' by ensuring the safety of congregational communities. The Code of Ethics and Companion Guide has been developed by the BUV to assist in the definition of appropriate behaviour.
- 1.2 In particular, misconduct by a pastoral leader can have a profound impact on the person, their family, the congregation and the community. Pastoral leaders have a particular responsibility to live by the example of Jesus Christ; respecting each person as a unique human being made in the image of God. When the pastoral relationship of trust is abused it can mean spiritual, emotional, psychological and/or physical crisis for the victim and can have a devastating effect on secondary victims.
- 1.3 It is crucial that the church deal with allegations of misconduct by pastoral leaders with clearly defined procedures. With a framework and guidelines for responding to the complex issues involved, the Church may make an informed response, offering compassion and justice to all parties involved. It is imperative that we demonstrate openness, responsibility and accountability.
- 1.4 Misconduct in the church is fundamentally a moral and biblical issue. It speaks to the very heart of the ethical behaviour God requires of leaders in the church. For example:

- Love as the ultimate definer of actions towards and interactions with others (John 13:34; Matt 19:19, 5:44; 1 John 3:18; Gal 6:10);
- Servant leadership and the proper use of authority (John 13:16; 1 Peter 5:3);
- Ministry as an act of empowering others (Eph 4:11-12);
- The avoidance of abuse (2 Cor 6:3,7:2);
- Transparency and mutuality (Rom 15:14; Eph 5:21; Gal 6:2; James 5:16);
- Ultimate accountability to Christ (1 Peter 5:4);
- Commitment to justice (Micah 6:8);
- Ministry as a continuation and extension of Christ's work (John 20: 21);
- Virtue of character (1 Tim 3: 1-13; Titus 1:5-9).

## **2. SCOPE OF DOCUMENT**

- 2.1 This document provides a procedure for dealing with complaints of misconduct. The document specifically applies to the following people associated with the BUV:
- Ordained and Accredited Pastoral Leaders;
  - Recognised Pastoral Leaders (non-ordained but accredited);
  - Candidates in Training;
  - All people appointed to BUV's 'Special Positions' list;
  - The President, Vice President, and Immediate Past President;
  - Anyone who is registered as a marriage celebrant;
  - Any person in a position appointed by Assembly but not mentioned above.
- 2.2 Where a church may employ a pastoral leader who does not appear in any of the categories listed in 2.1 above, we will request the church to enter into a written agreement that will allow this process to proceed if a complaint is lodged against the pastor.
- 2.3 We recognize that this document cannot cover complaints against unpaid voluntary leaders who may offend. However it can provide principles and guidelines for the local church to use in these instances. We strongly recommend that local churches value the relevance of this document and use it accordingly.

### 3. **GUIDING PRINCIPLES**

Misconduct can mean a range of possible behaviours which are in breach of the BUV Code of Ethics for Pastoral Leaders. The standard of proof for a finding that misconduct has occurred is the 'balance of probabilities', not the criminal standard of 'beyond reasonable doubt'. It is the responsibility of the Panel to decide whether it is more probable than not that the conduct complained of took place.

It is important to note that the impact of the misconduct may or may not equate with the 'degree of severity' (e.g. misconduct may not be criminal in nature but can have significant impact on the victim).

The principle of justice to those who have been victimized underpins this document. The church will stand in solidarity with those who have been victims.

Power is a fact of life. It is present in every relationship and situation. Power is often unequal. People have more or less power due to factors such as gender, social and economic status, education, emotional vulnerability. Ministers are amongst professionals who are given greater power and responsibility to lead and serve others. The church asserts and congregational members expect that the power and authority given will be trustworthy and used in supportive, just and non exploitative ways.<sup>1</sup>

A respondent has the right to know exactly what he/she is being accused of and by whom. A complaint will not be proceeded with, pursuant to these procedures, unless the complainant is willing to have their name and the details of the complaint referred to the respondent.

In some exceptional circumstances the BUV reserves the right to pursue an investigation if it is believed that a pastoral leader may pose a risk to others. The complainant would be informed of this at the outset of the investigation.

A respondent is entitled to retain a copy of the complaint document provided to them. The complainant will be advised that the respondent will be given a copy of the documentation and the complainant's consent for the respondent to retain a copy will be sought at that time.

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**1. Adapted from 'Why Does He Hug us So Tightly? Sexual Abuse In Ministerial Relationships. p.1.**

Wherever possible, confidentiality will be maintained. If the outcome of the work of the investigation process is that the complaint is not sustained, then the identity of the complainant and the respondent will also remain confidential to all who have played a role in the process.

This document recognises that victims of misconduct include not only those who have been directly subject to the impact of the misconduct secondary victims are also affected by the behaviour. Secondary victims may include members of the complainant's family, the congregation as a whole, and members of the respondent's family.

This process cannot meet all the pastoral needs of complainants but the BUV will encourage people to seek appropriate pastoral care and support, recognising that this complaint process is one element of larger recovery process that usually takes longer and is more comprehensive than the brief of this document.

Every effort will be made to prevent the complainant experiencing the process as re-victimisation. The process needs to be conducted in a manner that is transparent in its procedures and inclusive and respectful of the complainant and the respondent. The process includes written statements, the investigation, the panel hearing and any subsequent interviews.

When considering the response of the respondent, it is important to distinguish between remorse and repentance. Normally remorse is the initial expression of regret in response to the matter being discovered. Repentance is the slow and deeply personal process of accepting responsibility for the consequences of actions and being committed to change.

The process takes into account the possibility that an allegation may be false.

#### **4. FORMING A COMPLAINT**

The process this document outlines is not a legal process. However, it accepts the rights of a complainant to take their case to the police or legal counsel for due legal processes to take place.

In some instances in the past, there has been a decision to deal with the matter internally and sometimes informally at a local church level. Historically, this has proven to be problematic and at worse perpetuates a 'conspiracy of silence' that may further disempower the complainant.

It is likely that in most instances the complaint will initially be in verbal form to a family member, friend, counsellor or a trusted member of the local congregation. As a first step, disclosure on this level is likely to be perceived as less threatening than the making of a formal complaint to the Director of Ministries.

Those who listen to the complaint need to encourage the person to take the matter further. It is recognized that a complainant may not be ready to make a formal disclosure. The listener may help the person in obtaining appropriate support before reaching a decision. The "BUV Complaint Procedure for Allegations of Misconduct by Pastoral Leaders" document is available at the BUV Office and is to be given to anyone considering the making of a formal complaint. This may increase the confidence of the complainant that the process, even though difficult, will be safe and may assist her/him to proceed.

The complainant can make the complaint directly to the Director of Ministries, or request a Deacon/Church leader as a representative of the church to do so.

When a matter of concern comes to the attention of the Diaconate or Church leadership they are obliged to assist and support the person to take the matter further in making a complaint to the BUV.



## 5. **PRELIMINARY INVESTIGATION**

Upon receiving a written complaint the Professional Standards Worker of the BUV will speak with the complainant and briefly explain the process. The purpose of this contact is to:

- A. Hear the complainant's story and ascertain the nature of the complaint;
- B. Affirm the complainant for having the courage to come forward and speak of their experience;
- C. Ensure the complainant has a copy of this document outlining the process of investigation;
- D. Offer the assistance of an Adviser who will assist the complainant through the process;

When receiving current complaints and it is clear that the complaint does warrant investigation the following occurs: The Director of Ministries recommends to the church or agency that it may be beneficial for the person who is the subject of the allegation to be asked to stand aside from their role. This is without loss of relevant income, on a temporary basis, pending the outcome of the investigation.

If it is clear that the complaint does not warrant further investigation the following occurs: The Professional Standards Worker may recommend to the complainant an appropriate helping professional to provide support and counselling. The complainant has the right to refuse such a recommendation. Even if the complaint is not investigated further, the complaint will be documented and retained.

If the allegations are of a criminal nature, the Professional Standards Worker will encourage and assist the complainant in reporting the matter to the police.

In the event of criminal investigation/proceedings, the BUV process will be suspended until an outcome is determined by the relevant authorities involved (ie courts/police/etc). The Director of Ministries or Professional Standards Worker will monitor the situation. If the outcome is a criminal conviction, the pastoral leader's name will be removed from the appropriate list. If no criminal conviction is recorded, the panel may investigate the matter.

If a complaint warrants further investigation by the BUV the aim will be to complete Preliminary Investigation in 14 days. However, it needs to be recognised that this may not always be possible.

## **6. PROCESS OF INVESTIGATION – INITIAL**

The Professional Standards Worker will inform the complainant by phone and in writing that the investigation is to proceed. The complainant will be instructed not to initiate any contact with the respondent at any time.

The Professional Standards Worker will inform the respondent by phone and in writing that a complaint has been received. The Professional Standards Worker must disclose to the respondent the nature of the complaint, the name of the complainant and the decision by the BUV to implement a process of investigation. The respondent will also be instructed that he/she is not to initiate any contact with the complainant at any time.

The Professional Standards Worker will form a Panel to investigate the complaint. The Panel will consist of up to five people, including the Panel Chair.

The Professional Standards Worker will recommend/appoint an Adviser for the complainant and an Advisor for the respondent from a pool of suitably trained people. The complainant and respondent have the right to refuse the recommended Adviser(s). If the person chooses to refuse the recommended Adviser, they relinquish the right to the role of an Adviser.

If Advisers have been appointed for the complainant and respondent, each of them will meet with the complainant and respondent respectively to provide guidance and communication about the process, clarification of issues and to ensure appropriate pastoral care is in place.

In addition to the initial written complaint the complainant will provide the following documentation of the complaint for the Panel and for the respondent. This will be given to the respondent at least five working days prior to his/her interview with the Panel or in such time as deemed reasonable by the Professional Standards Worker.

The documentation should be approximately 2 pages and include, as far as possible:

- A. The context of the relationship (e.g. pastoral, counselling, roles);
- B. A specific description of the alleged behaviour(s) involved;
- C. The dates of the alleged behaviour(s);

- D. The age of the complainant at the time;
- E. The consequences for the complainant (e.g. change in church involvement);
- F. Personal impact (emotional, psychological, spiritual, physical, social);
- G. Signature of the complainant.

If a respondent refuses to cooperate (e.g. will not attend an interview) the Panel may proceed with the investigation process without the respondent being present.

## **7. PROCESS OF INVESTIGATION – INTERVIEWS & DECISION**

The Professional Standards Worker will arrange a Panel Hearing to investigate the complaint as soon as practicably possible. The panel will determine the appropriate process for investigating the complaint (e.g. calling of extra witnesses, subsequent interviews, written statements or further investigation etc).

The complainant will be advised of their interview time, which occurs when they attend the panel hearing. The complainant is encouraged to attend with his/her Adviser. With permission from the Panel Chair, the Adviser may address the Panel. The complainant may also invite up to two support people who offer personal support however support persons are not be permitted to address the Panel. The respondent will not be present at this meeting.

The respondent will be advised of their interview time, which occurs when they attend the panel hearing. The respondent is encouraged to attend with his/her Adviser. With permission from the Panel Chair, the Adviser may address the Panel. The respondent may also invite up to two support people who offer personal support however support persons are not be permitted to address the Panel. The complainant will not be present at this meeting.

The Panel will document their findings this is called the Determination. The determination of the Panel is then used to propose an appropriate course of action.

Using the panel's findings (or determination), The Professional Standards Misconduct Sub-Committee (consisting of the Panel Chair, BUV members of the Panel and the Professional Standards Worker) will recommend the appropriate course of action required. This 'course of action' is a document called the Recommendations and may include:

- A. Ongoing supervision and accountability;

- B. Career redirection;
- C. A recommendation that the Pastoral Leaders's name (if ordained) be removed from the Ordained and Accredited List. In the case where a pastor is not ordained their name will be removed from the official list of BUV Pastors held by Advisory Board.
- D. Removal of persons name from other BUV lists;
- E. Removal of Marriage Celebrant Licence.
- F. Notification of misconduct to all churches, committees or working groups with whom the pastoral leader has been involved. This may include other Baptist Unions in Australia and overseas and other Denominations;
- G. Notification to other current employers where appropriate.

The Professional Standards Group endorses the determination of the Panel and the Recommendation of the Professional Standards Misconduct Sub-Committee.

## **8. COMMUNICATION OF OUTCOMES**

Generally, within 14 days of the Professional Standards Group endorsing the recommendation of the Professional Standards Misconduct Sub-Committee the complainant will be informed of the outcome. The Panel Chair informs the complainant by phone and in writing. Then the Chair plus one other Panel member (and, if appropriate, the Director of Ministries) will meet to inform the respondent of the outcome and of any disciplinary action to be taken. Advisers of the complainant and respondent and if deemed appropriate by the Panel Chair any other participants in the panel process will also be informed of the outcome.

The Director of Ministries will notify the congregation or agency. If a statement is to be read at a meeting it should:

- A. Affirm the complainant for coming forward.
- B. The details of the Determination and Recommendation
- C. Name the discipline to be imposed;
- D. Outline any procedures to be put in to place to help people involved debrief and recover from the incidents.

In all instances of notification, care will be taken to describe the nature of the misconduct in broad terms without unnecessary details in

order to protect the complainant's right for the matter to be managed with discretion. This may include not naming the complainant or other specific details that may lead to identification of them.

## **9. RIGHT OF APPEAL**

Either party only has the right to appeal if the process was not correctly carried out or there is new evidence. The specific grounds of appeal must be received in writing within 14 days notification of the outcome.

The Chairperson of Executive Council will investigate the appeal, with the assistance of one other member of Executive Council and one person from the pool of Baptist panel members who was not a participant in the original investigation.

If they determine that the process was followed correctly, or that the change was so slight it would have no bearing on the outcome, there will be no further action.

If they determine that the process was not followed correctly and this would have made a crucial difference to the outcome of the investigation, the investigation may be re-opened. The re-investigation will be conducted by the original Panel and the Chairperson of Executive Council.

## **10. NEW EVIDENCE**

The Professional Standards Worker in consultation with the Chairperson of Executive Council, has the right to re-open a closed investigation on the basis of fresh evidence.

## **11. STORAGE OF RECORDS**

Records will be kept in safe storage throughout the process.

Core details pertinent to an investigation are to be added to the secure Misconduct Database.

Panel interviews are to be accurately recorded.

Once an investigation process and any attendant reviews have been completed, all records will be closed and kept in locked storage.

Access to these records is only with the approval of the Director of Ministries. The Director of Ministries will advise the Professional Standards Group of any request for access to these records. Reasons for access may include:

- the furnishing of further information by the complainant, the respondent or another person;
- the rights of the individuals involved in the process under the Freedom of Information Act. (1982);
- requests by Statutory Authorities for information regarding the matter.

## **12. RESPONSIBILITY TO THE LOCAL CONGREGATION**

In the event of a complaint of alleged pastoral misconduct, or in the event of a guilty finding, the local congregation involved must be appropriately informed and supported with care and understanding. There are immediate needs for the congregation, whose circumstances change rapidly, often without warning and with significant legacies of distress, disbelief, confusion, hurt and loss. This can occur when the accreditation of a pastoral leader under investigation has been suspended and that pastoral leader has not been able to continue in a leadership or pastoral role in a church, or once a finding of guilt has been arrived at.

All contact with the local congregation will endeavour to be pastorally sensitive, while holding to the need to undertake what may be seen by many in the congregation as an undesirable stance.

Whenever an allegation or its implications is being discussed with the church leadership or the congregation generally, the right and the courage of the complainant to speak out must be affirmed at all times.

Once an outcome is determined, the congregation should be adequately informed. Any announcement will ideally come from the Director of Ministries. The statement should include a general description of the allegations made, the outcome of the investigation, the consequent implications for the ministry of the church and of the respondent, and a restatement regarding the right of the complainant to bring the inappropriate behaviour to the attention of the leadership.

The issue of congregational healing then needs to be considered. There may be need to appoint an experienced interim pastor who will concentrate on the healing process. It may also be appropriate to

bring in a professional person, with experience in this field, in order to assist the leadership and/or the congregation to come to terms with what has happened.

### **13. ROLES: Explanation and description of key roles and tasks for those appointed to handling the complaints procedure**

#### **13.1 Adviser**

- To answer questions and provide clarification about the process. If in doubt the adviser can seek clarification from the Professional Standards Worker and communicate the response to the complainant/respondent.
- To maintain contact with the complainant/respondent and with the Professional Standards Worker and the Panel Chair to ensure that the complainant/respondent is kept up to date with the current state of proceedings.
- To assist as needed with the writing of the complaint by the complainant.
- To acknowledge the stressful nature of being involved in a formal Complaint process. (To acknowledge the courage of the complainant in making a disclosure.)
- To explore the personal support network available to the complainant/respondent (ie. family, close friends, pastoral carer) so that they may receive care and support.
- To advise the complainant/respondent against 'lobbying' others.
- To stress the importance and encourage the complainant's/respondent's practice of 'self-care'. This may mean exploration of helpful self-care practices (e.g. exercise, prayer, relaxation tapes, special attention to eating and sleeping well, time with loved ones, reading, saying no to extra demands at this time).
- Ensure that the rights of the complainant/respondent are respected during the whole process.
- To accompany the complainant/respondent to the interview.

### Notes:

- The adviser provides information and clarification and is a supportive presence but maintains a healthy distance from the substance of the complaint. A 'rule of thumb' is to be mindful of process rather than the content. (this may require personal discipline in not asking questions out of personal curiosity).
- The adviser may be invited to 'side with' the complainant/respondent. However it is wise to adopt a stance that is more beneficial in the long run to the complainant/respondent. To understand the role, it may be helpful to visualize a sculpture where the complainant/respondent is facing the panel, his/her support people may stand alongside him/her and the advisor is positioned slightly to one side behind the complainant/respondent.
- The complainant/respondent may be expressing strong feelings (ie. anger, distress, shame). It will require skill to hear and acknowledge strong feelings and not be overwhelmed or be tempted to advocate for the complainant's/respondent's 'case'.
- The advisor is not expected to provide counselling to the complainant/respondent although the advisor may support him/her in seeking appropriate counselling.
- The advisor is encouraged to consult or debrief with the Professional Standards Worker at any time, particularly when the task is proving to be challenging.
- The advisor's supportive role does not extend beyond the duration of the process. The BUV advises that the advisor assists in establishing a source of pastoral care for the complainant/respondent and their respective families but does not remain personally involved.

### **13.2 Director of Ministries**

1. The Director of Ministries will be kept informed during the process but will not be directly involved in the investigation. The Director of Ministries is to ensure pastoral care is provided to the complainant and the respondent.



2. The Panel Chair and if appropriate, one other Panel member and the Director of Ministries will be involved in the meeting to inform the respondent of the outcome and any disciplinary action to be taken.
3. Following a finalised outcome of the investigation, the Director of Ministries will ensure guidance and pastoral care to the local church leadership and congregation or agency is provided, as needed.

### **13.3 Professional Standards Worker (PSW)**

- The Professional Standards Worker is informed of an initial complaint. After a conversation with the complainant, the Professional Standards Worker will determine whether the complaint is to proceed.
- The Professional Standards Worker informs the complainant and respondent in person and in writing whether the complaint will be investigated or not.
- The Professional Standards Worker is responsible for the recommendation of advisers for the complainant and the respondent.
- The Professional Standards Worker will co-ordinate the formation and location of a Panel in response to a complaint received by the BUV.
- The Professional Standards Worker is responsible for the engagement of representatives from other denominations and of professionals with expertise for the Panel.
- The Professional Standards Worker reports to the Professional Standards Group.

### **13.4 Panel Chair**

- The Panel Chair meets with other panel members to prepare for the Panel Hearing.
- The Panel chair is responsible for ensuring the panel process occurs within the BUV guidelines.
- The Panel Chair documents the Panel's Determination based on information submitted and the interviewing of complainant and respondent.

- The Panel Chair with the BUV pool member(s) represent the panel in consulting with the Professional Standards Worker and formulating recommendations.
- The Panel Chair is responsible for documenting the recommendations.
- The Panel Chair will contact the complainant in writing and provide a copy of the determination and recommendations to the complainant.
- The Panel Chair will contact the Advisors to the Complainant and Respondent in writing with the outcome of the Panel.
- The Panel Chair, with the Director of Ministries and/or the Professional Standards Worker will be involved in the meeting to inform the respondent of the outcome of the Panel Hearing and any disciplinary action to be taken.
- If deemed appropriate, the Panel Chair will inform any other person who may have participated in the process (ie: provided information) of the outcome of the panel.

### **13.5 Professional Standards Group**

The Professional Standards Group has been set up to:-

- Receive and oversee complaints alleging misconduct by pastoral leaders.
- Oversee the wider processes around the complaints procedure.

### **13.6 Professional Standards Misconduct Sub-Committee**

Professional Standards Misconduct Sub-Committee has been set up to:-

- Receive the determinations of any panel that is established to hear such complaints.
- Formulate the recommendation; the appropriate course of action required based upon the determination of the Panel.

### **13.7 Panel**

There is not a 'standing panel', but a Panel is formed in response to a complaint being received. There will be up to five Panel members:

- A. One Panel Chair
- B. One or two from a Baptist 'pool' of appropriately trained six - pastors and lay people.
- C. One from a list of professional people with expertise in the area of the misconduct area.
- D. One from a list of appropriately trained representatives from other denominations.
- E. A representative from the BUV agency if a complaint involves that agency.
- F. Whenever possible the panel shall be of mixed gender.

The Baptist 'pool' representatives will be appointed by the Director of Ministries with the endorsement of the Executive Council of the BUV.

The Professional Standards Worker is responsible for the engagement of representatives from other denominations and of professionals with appropriate expertise.

Panel members may receive an honorarium each time they 'serve' on a Panel investigation process.

The BUV will provide training, including updates, to those in the Baptist 'pool' on a range of relevant issues.

The Panel formed for an investigation process is responsible for:

- A. The investigation of specific complaints of misconduct;
- B. Conducting an interview with the complainant and an interview with the respondent;
- C. Informing the Director of Ministries of the nature of the allegations, the progress and the findings of the investigation and any determination.

It is critical that members of the Panel do not engage in pastoral or 'off the record' meetings or phone conversations with either the complainant or respondent as this creates a conflict of interest and increases the risk of actual or perceived bias. While the members of the Panel are to respond with sensitivity, their role is clearly investigative only.

#### **14. DEFINITIONS AND TERMS**

### **14.1 Child sexual abuse**

**Sexual abuse of a child is a criminal act.** Child sexual abuse arises when someone in a position of power has taken advantage of a child's trust and respect in order to involve them in sexual activity. The child/adolescent is unable to give informed consent due to an imbalance of power. The legal definition of a child is someone under the age of 17 years.

### **14.2 Complainant**

The complainant is usually the person who makes the allegation. It is usually the person who alleges he/she is the victim of the misconduct.

### **14.3 Consent**

A. Consent is free agreement to be involved in sexual activity.

“Consent to sexual activity, in order to be authentic, must take place in a context of mutuality, choice, full knowledge, and equal power and in the absence of coercion and fear. When there is an imbalance of power in a relationship, these necessary factors will not be present”<sup>2</sup>

### **14.4 Duty of Care**

In this context, the term ‘duty of care’ describes the responsibility of ministers and local churches to exercise their ministry within an ethical framework of accountability to both church and recipients of such ministry. All respondents are to be accountable at a variety of levels for all those who come into their care.

### **14.5 Executive Council**

The Executive Council of the BUV carries out the policy decisions of Assembly in those areas of activity related to the development of church life and ministry.

### **14.6 Respondent**

The respondent is the person against whom the allegation is directed.

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<sup>2</sup> Fortune, M.M. (1999), *Is Nothing Sacred?* United Church Press, Cleveland, Ohio. p 38

### **14. 7 Secondary Victim**

A secondary victim is a person who may suffer some impact because of the alleged incident(s) of misconduct. This may include the family of the complainant, the family of the respondent or members of the church congregation.

### **14. 8 Sexual Assault**

Sexual assault is any sexual behaviour that is threatening, violent, forced, coercive or exploitative. It is a sexual act that a person has not agreed to or is unable to agree to. This is a criminal offence.

### **14. 9 Sexual Boundaries**

Sexual boundaries involve the ability to know and act with appropriate sexual propriety, including language and behaviour in every context and relationship.

### **14. 10 Sexual Harassment**

Sexual harassment is behaviour of a sexual nature that is unwelcome, unsolicited, and unreciprocated. Sexual harassment can be physical, verbal or written. Sexual harassment can consist of:

- A. Comments or questions about a person's sex life or physical appearance
- B. Unnecessary physical intimacy such as brushing up against a person
- C. Sexual jokes, offensive telephone calls
- D. Physical contact such as touching or fondling
- E. Suggestive behaviour such as leering
- F. Sexual propositions

Under the Victorian Equal Opportunity Act it is against the law to sexually harass another person.

### **14. 11 Sexual Misconduct**

Whilst this may not constitute unlawful sexual abuse, it may constitute a sexualised relationship in which the pastoral boundaries have not been maintained.

The term 'sexual or sexualised relationship' is not restricted to sexual intercourse. It also includes any behaviour that has as its purpose some form of sexual self gratification, or which may be construed by another person as having that purpose."<sup>3</sup>

## 15. **LEGISLATION**

In the preparation of this document, the following pieces of legislation were considered:

Equal Opportunity Act 1984 (Vic)

Sex Discrimination Act 1984 (Commonwealth)

Crimes Act 1958 (Vic)

## 16. **GUIDING DOCUMENTS**

In the preparation of this document, material from other denominations was drawn. The following documents were used:

Baptist Churches of Western Australia Misconduct – Guidelines for Responding to Allegations of Serious Misconduct 2003

Brown, Greg and Meryem 'Sexuality in Ministry' – An Issues In Ministry Paper, Synergia Human Resource Consultants. Kipparing, 2000.

CASA House, Royal Women's Hospital 'A Pastoral Report To The Churches On Sexual Violence Against Women And Children Of The Church Community', Melbourne, 1990.

Churches of Christ in Australia 'The Protocol For Investigating Complaints On Matters Pertaining To Sexuality'. Adopted by the Vic-Tas Conference Board 1999.

Churches of Christ in Australia 'The Protocol For Investigating Complaints On Matters Pertaining To Sexuality'. Adopted by the Vic-Tas Conference Board 2003.

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<sup>3</sup> Churches Of Christ In Australia. The protocol for investigating complaints on matters pertaining to sexuality. p.13

Fortune, Marie M 'Is Nothing Sacred? - When sex invades the pastoral Relationship'. Harper and Row, San Francisco, 1989.

Lutheran Church of Australia. 'Policy and Action Plan for Responding To Complaints Of Sexual Abuse/Harassment By Church Employees'. 1997.

Rutter, Peter. 'Sex In the Forbidden Zone: When Men In Power Abuse Women's Trust', Jeremy P Tarcher Inc. L.A. 1989.

The South Australian Baptist Union Inc. – Sexual Misconduct by Pastors: Complaint Procedures 2003

YWCA Victoria 'Why Does He Hug Me so Tightly? - Sexual Abuse In Ministerial Relationships', Melbourne, 1996.