



ANGLICAN DIOCESE OF  
CANBERRA & GOULBURN

# PROTOCOL FOR SHARING INTELLIGENCE WITHIN DIOCESAN AGENCIES

April 2016

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## SCOPE

This protocol describes the practices of sharing ***intelligence***<sup>1</sup> in relation to matters of concern across ***Diocesan agencies***.<sup>2</sup>

## OUR COMMITMENT

Our Diocese is committed to **holistic Safe Church Ministry**. This means: we commit to our pastoral, duty of care, legal and insurance obligations; with its goal that all ministries are spiritually, emotionally and physically safe; based on the premise that Diocesan parishes, ministries and entities should be person-valuing and respectful spaces free from abuse and harm, for ministry to God's glory.<sup>1</sup>

We also commit to ensuring that the intelligence only accessible by **authorised personnel**<sup>3</sup> who have a valid reason for receiving the intelligence.

## GUIDING PRINCIPLES ASSOCIATED WITH THIS PROTOCOL

The principles used in sharing intelligence include:

1. **Rigour** – We require that only authorised personnel from the Diocese or a Diocesan Agencies to share intelligence.
2. **Accountability** – We need to be able to show that those who are entitled to share intelligence are authorised to do so either by the Diocese or their Agency. These people will have completed relevant due diligence related to their role.
3. **Mutual Responsibility** – As a Diocesan family we need to be responsible to the other parts of the family when in possession of intelligence.

## TYPES OF INTELLIGENCE THAT MAY BE SHARED

**Intelligence** relates to information about a person's past or current behaviours that may place an individual, the Diocese or a Diocesan Agency at risk. This may include, but is not limited to information in the following areas:

- Advice that a person has been investigated, charged or convicted of criminal activity
- Advice that a person's choice of behaviour may place staff or clients at risk of physical, emotional or sexual harm, including:
  - Allegations of current or historic **sexual abuse, sexual assault, sexual harassment**<sup>4</sup>, or **non-consensual sexual contact**<sup>5</sup>
  - Advice from a **statutory body**<sup>6</sup> that a person is under investigation as a result of allegations of current or historic sexual abuse, sexual assault or sexual harassment
  - Advice from a statutory body that a person has been charged with current or historic sexual abuse, sexual assault or sexual harassment
  - Advice from a statutory body that a person has been convicted of current or historic sexual abuse, sexual assault or sexual harassment
  - Advice that a person who is deemed to be a **person of concern**<sup>7</sup> has become involved in the Diocese or a Diocesan Agency

<sup>1</sup> Safe Communities of Faith Policy, 2015

- Advice that a person's choice of behaviour is likely to bring the Diocese or a Diocesan Agency into disrepute

## AUTHORISED PERSONNEL ENTITLED TO SHARE INTELLIGENCE

The Key Stakeholders are:

- Current Diocesan Bishop and Assistant Bishops for the Anglican Diocese of Canberra & Goulburn
- Diocesan Professional Standards Director
- Director of Safe Communities
- CEO of Anglicare
- School Principals
- Director of Synergy Youth
- Director of St Mark's National Theological Centre
- Warden of All Saints College
- Anglican Bishop to the Defence Force
- Diocesan Registrar

A Key Stakeholder may share intelligence with any other Key Stakeholder. The Key Stakeholders may share intelligence with the Relevant People below within their own agency, who have a valid reason for receiving the intelligence.

- Relevant Archdeacons and clergy
- General Manager of Mission and Community Development
- Relevant members of Anglicare Executive
- Relevant Anglicare Program Manager
- Relevant School Boards and Executive
- Relevant Council members

The Relevant People above must not share intelligence with anyone other than the key stakeholder within their agency.

## PRINCIPLES AND PRACTICES ASSOCIATED WITH SHARING INTELLIGENCE

1. Authorised personnel may only share relevant intelligence with an authorised person from the Diocese or relevant Diocesan Agency where a person, the Diocese or a Diocesan Agency is at risk.
2. The intelligence is shared for the purpose of **managing risk** in the Diocese or a Diocesan Agency.
3. Confidentiality of intelligence is paramount and intelligence may only be forwarded from a Key Stakeholder to others with a valid reason for the other person needing to know the information.

## DOCUMENTS USED TO SUPPORT THESE GUIDELINES

- Diocesan Safe Communities of Faith Policy
- Diocesan Code of Good Practice
- Diocesan Protocol for Safe Ministry to Persons of Concern

## REVIEW

This protocol was endorsed by Bishop in Council on 3 June 2016 and is to be reviewed and adjusted as required periodically by the PSRG.

## GLOSSARY

<sup>1</sup> **Intelligence** relates to information about a person's past or current behaviours that may place an individual, the Diocese or an Anglican Agency at risk

<sup>2</sup> **Diocesan Agency** includes: any Department within Anglicare, Synergy Youth, Anglican Diocesan Schools, Anglican Company Schools; Anglican Diocesan Services, All Saints College, St Mark's National Theological Centre

<sup>3</sup> An **Authorised Person** is a Key Stakeholder or Relevant Person

<sup>4</sup> **Sexual abuse** of a Child or Young person occurs when a Child or Young person is used by another for his or her own sexual stimulation or gratification or for that of others. It generally constitutes criminal conduct and includes:

- sexual touching and fondling;
- being forced to touch or fondle another person;
- kissing or holding in a sexual manner;
- being forced to perform oral sex;
- vaginal or anal intercourse;
- vaginal or anal penetration with an object or finger;
- making obscene calls or remarks;
- voyeurism;
- exposure to any form of sexually explicit or suggestive material;
- discussion of, or inquiry about, personal matters of a sexual nature;
- being forced to self-masturbate or watch others masturbate;
- indecent exposure;
- grooming;
- on-line abusive behaviour.
- visually recording children in sexually explicit poses.

**Sexual assault:** conduct involving the use of emotional or physical intimidation or violence to force another person to engage in any form of sexual activity;

**Sexual assault of an adult** is any intentional use of force or threat of use of force and involving some form of sexual activity against another person without their consent. It may constitute a criminal offence and includes non-consensual:

- sexual touching and fondling;
- touching and fondling of another person;
- kissing or holding in a sexual manner;
- the penetration, to any extent, of the vagina or anus of a person by any part of the body of another person, except if that penetration is carried out for a proper medical purpose or is otherwise authorised by law;
- the penetration, to any extent, of the vagina or anus of a person by an object, being penetration carried out by another person;
- the introduction of any part of the penis of a person into the mouth of another person; and
- cunnilingus.

**Sexual harassment:** The Sex Discrimination Act 1984 (Commonwealth) provides that a person sexually harasses another person (the person harassed) if:

- the person makes an unwelcome sexual advance, or an unwelcome request for sexual favours, to the person harassed; or
- engages in other unwelcome conduct of a sexual nature in relation to the person harassed; or
- in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated, that the person harassed would be offended, humiliated or intimidated.

Sexual harassment includes but is not limited to:

- directly offensive verbal comments or innuendo of a sexual nature;
- sexually offensive jokes;
- comments about a person's alleged sexual activities or private life;
- offensive gestures;
- comments regarding a person's sexual orientation;
- comments regarding a person's sexual appeal, an unwelcome sexual advance or a request for sexual favours;
- the display or electronic transmission of printed material, calendars, posters or e-mail that are sexually explicit, or are displayed for the purpose of evoking sexual arousal or gratification. (*Extract: Diocesan Code of Good Practice, 2013*)

<sup>5</sup> **Non-consensual sexual contact** is defined with reference to Section 61HA of the NSW Crimes Act 1900 (updated 24 November 2015)

## 61HA Consent in relation to sexual assault offences

### (1) Offences to which section applies

This section applies for the purposes of the offences, or attempts to commit the offences, under sections 61I, 61J and 61JA.

### (2) Meaning of consent

A person consents to sexual intercourse if the person freely and voluntarily agrees to the sexual intercourse.

### (3) Knowledge about consent

A person who has sexual intercourse with another person without the consent of the other person knows that the other person does not consent to the sexual intercourse if:

- (a) the person knows that the other person does not consent to the sexual intercourse, or

- (b) the person is reckless as to whether the other person consents to the sexual intercourse, or
- (c) the person has no reasonable grounds for believing that the other person consents to the sexual intercourse.

For the purpose of making any such finding, the trier of fact must have regard to all the circumstances of the case:

- (d) including any steps taken by the person to ascertain whether the other person consents to the sexual intercourse, but
- (e) not including any self-induced intoxication of the person.

**(4) Negation of consent**

A person does not consent to sexual intercourse:

- (a) if the person does not have the capacity to consent to the sexual intercourse, including because of age or cognitive incapacity, or
- (b) if the person does not have the opportunity to consent to the sexual intercourse because the person is unconscious or asleep, or
- (c) if the person consents to the sexual intercourse because of threats of force or terror (whether the threats are against, or the terror is instilled in, that person or any other person), or
- (d) if the person consents to the sexual intercourse because the person is unlawfully detained.

**(5) A person who consents to sexual intercourse with another person:**

- (a) under a mistaken belief as to the identity of the other person, or
- (b) under a mistaken belief that the other person is married to the person, or
- (c) under a mistaken belief that the sexual intercourse is for health or hygienic purposes (or under any other mistaken belief about the nature of the act induced by fraudulent means), does not consent to the sexual intercourse. For the purposes of subsection (3), the other person knows that the person does not consent to sexual intercourse if the other person knows the person consents to sexual intercourse under such a mistaken belief.

**(6) The grounds on which it may be established that a person does not consent to sexual intercourse include:**

- (a) if the person has sexual intercourse while substantially intoxicated by alcohol or any drug, or
- (b) if the person has sexual intercourse because of intimidatory or coercive conduct, or other threat, that does not involve a threat of force, or
- (c) if the person has sexual intercourse because of the abuse of a position of authority or trust.

**(7) A person who does not offer actual physical resistance to sexual intercourse is not, by reason only of that fact, to be regarded as consenting to the sexual intercourse.**

**(8) This section does not limit the grounds on which it may be established that a person does not consent to sexual intercourse.**

<sup>6</sup> **Statutory Body** includes: Office of Children's Guardian (NSW), NSW Ombudsman's Office, Office of Regulatory Services (ACT), Police force from any state or territory in Australia

<sup>7</sup> **A person of concern** is:

- a person who has pleaded guilty to, has been convicted of, or has admitted to having committed, a sexual criminal offence; or
- a person who is currently charged with a sexual criminal offence; or
- a person who is currently under investigation for sexual abuse; or
- a person who has been the subject of a prior allegation of sexual abuse which has not been appropriately investigated; or
- a person who has been disciplined as a member of the clergy or a church worker within the Church because of sexual misconduct, or who has been refused ordination, employment or appointment in the Church because of an adverse risk assessment arising from sexual misconduct; or
- a person who has been disciplined by another organisation for sexual misconduct; or
- a member of the clergy or a church worker against whom allegations of sexual misconduct are currently being dealt with under Church disciplinary procedures; or
- a person who is receiving, or has received, treatment for disordered sexual behaviour; or
- a person who is considered to be a risk to the safety of children and/or vulnerable adults because of an adverse risk assessment relating to sexual misconduct; or
- a person who has exhibited persistent sexual boundary wandering; or
- a person who is deemed to be a risk in terms of physical or emotional harm to members of the parish. (*Extract: Protocol for Safe Ministry to a Person of Concern, June 2015*)