

## Risk assessment – QUESTIONNAIRE AND DETERMINATION

Risk assessment on receipt of an allegation of sexual abuse/sexual misconduct and/or breach of professional standards<sup>1</sup>.

It is acknowledged that each allegation against a Religious that requires a response and possible further workplace and/or disciplinary action will be quite different. This risk assessment document has been compiled to identify potential risks given that an allegation of the above nature has been received and taking steps to reduce the likelihood or severity of those identified risks. Religious Leaders and/or heads of agencies need to assess the inherent risks in their agency to children and young people and/or vulnerable adults for whom they have responsibility<sup>2</sup>. They are guidelines only and in applying them one should always bear in mind the primary objectives of any relevant legislation and/or Catholic Church of Australia guidelines and/or protocols in respect to such matters.

This initial risk assessment should be transparent and documented. Any relevant supporting documents (such as minutes of meetings, documented allegations, prior & associated investigation reports) must be attached.

### Part 1: Person subject of allegation

<b>Employee's name &amp; dob</b>	[REDACTED] 16 July 1955	
<b>Current location</b>	[REDACTED]	
<b>Service history details (and/or attach record)</b>	<b>1978 – 1983</b> <b>1984 – 1986</b> <b>1987 – 1994</b> <b>1995</b> <b>1996</b> <b>1997 – 2000</b> <b>2001 – 2007</b> <b>2008 – 2013</b> <b>2014 – 2015</b> <b>2015 – present</b>	<b>BoysTown Beaudesert</b> <b>St Michael's College Adelaide</b> <b>St Bede's College Mentone</b> <b>Bankstown (Study)</b> <b>De La Salle College Malvern</b> <b>St James College East Bentleigh</b> <b>Oakhill College Castle Hill</b> <b>St Bede's College Mentone</b> <b>De La Salle Brothers Malvern – Director</b> <b>Sacred Heart Teachers' College Bomana PNG</b>
<b>Date the allegation/s received by agency</b>	1 March 2016	

<sup>1</sup> Refer *Towards Healing* protocol – definitions of sexual abuse, physical and emotional abuse – January 2010

<sup>1</sup> Refer *Integrity in Ministry* – a document of Principles and Standards for Catholic Clergy & Religious in Australia – June 2004

<sup>2</sup> Refer to NSW Ombudsman fact sheet 9 "Risk management following an allegation against an employee" for guiding principles.

## Part 2: Complaint/s Details

### 1. Allegation – sexual abuse

**Complainant's name:** Mr [REDACTED], date of birth: 29 February 1968

#### **Details and/or nature of allegations received:**

In a five-page statement (see *attached*), Mr [REDACTED] provided information about his childhood, that included his being placed at BoysTown, Beaudesert at age 12 (1981). Mr [REDACTED] provided information about:

- His cottage parents named Terry and Lorraine (cottage 5).
- That Brother [REDACTED] was the Brother assigned to his cottage and he got along well with him.
- That he was sexually abused by Brother [REDACTED] in the horse stables on several occasions (paragraph 21 & 23).

At paragraph 27 through to 38 of his statement, Mr [REDACTED] provided information about Brother [REDACTED] Mr [REDACTED] stated:

The first incident with them occurred in a classroom and I was 14 years old at the time. The classroom was full of boys and Brother [REDACTED] was at the front of the classroom conducting a Maths or English class at the time. Mrs [REDACTED] was seated at the back of the classroom on a desk. I saw Brother [REDACTED] shaking his head at Mrs [REDACTED]. I turned around and saw that she was seated on the desk with her legs spread wide open. I recall that she was wearing cream coloured skirt with a brown top. I could see up her skirt. I cannot recall whether she was wearing underwear on that occasion.

This happened on several occasions throughout having them as my teachers. On some occasions I recall that we could see her underwear. On other occasions she was not wearing underwear and we could see her genitals....

I recall another incident that happened involving Brother [REDACTED]. This occurred in the toilets in the gymnasium...I recall that it was a free afternoon and we were around the swimming pool. I got caught by Brother [REDACTED] and he dragged me over to the toilet block...Mrs [REDACTED] was already inside...

(paragraph 33) As soon as Brother [REDACTED] and I entered the toilet block she started removing her clothes and underwear until she was completely naked. Brother [REDACTED] went over to her. He started playing with her breasts and started rubbing her genitals with his hands.

She then said words to the effect of: "Do you want to come and learn how to do this?"

(paragraph 36) Brother [REDACTED] then grabbed my hand and put it on Mrs [REDACTED] naked breast. He told me to rub her breast and that she would enjoy it. He just watched and gave me instructions. He then started removing all of my clothing until I was standing there completely naked. Mrs [REDACTED] then performed oral sex on me. Brother [REDACTED] stood there and watched. He said words to the effect of: "Just stand there and enjoy it". She did this for a long time, maybe twenty minutes.

Mr [REDACTED] also provided information that he was also sexually abused at BoysTown by Brother [REDACTED] in the piggery, on several occasions.

Mr [REDACTED] indicated that he left BoysTown on 18 November 1983.

### Part 3: Questionnaire

All questions must be answered and comment provided on each.

#### 1. What is the nature and location of the Religious' current duties/responsibilities?

Comment:

**As per prior risk assessment dated: 20 June 2015: Brother [REDACTED] duties remain unchanged:**

Brother [REDACTED] is currently appointed to the lecturing staff of [REDACTED] (P.N.G.). His duties include lecturing in Mathematics and Teaching Practice. The students at the Teachers' College are generally of mature age by reason of the purpose of the College to train, as teachers, village based students who will return to rural Papua New Guinea at the completion of their course. No student at the College is under 18 years of age.

His duties include only incidental contact with children in the course of supervising practice teachers in classroom situations. His place of residence is off-campus.

His return to ministry is the subject of a memorandum of understanding negotiated by Brother David Hawke the Church Authority, [REDACTED] and the Chair of the [REDACTED] Governing Council. In that memorandum there are provisions for a program of supervision carried out by the Brother Auxiliary Visitor for Papua New Guinea, Br [REDACTED] and the Chair of the Governing Council.

#### 2. Are there any previous issues involving the employees performance including competence, conduct or integrity, including prior allegations?

(Considerations may include: prior allegations of sexual abuse/misconduct, Integrity in Ministry violation and/or formal action re performance conduct – attached relevant documentation)

Brother [REDACTED] has been the subject of an internal workplace investigation (2013/2014) resulting from prior allegations stemming from BoysTown Beaudesert (sexual and physical abuse allegations). Those matters were investigated by an external investigator (Ms Jackie Plotecki – Wise Workplace investigations). Each of those allegations were found to be unsubstantiated (refer investigation report dated September 2014). In the majority of the BoysTown allegations, the complainants who are legally represented in the civil proceedings, have chosen not to provide information in the internal workplace investigation process.

After that internal workplace investigation (above) had concluded, Brother [REDACTED] was subject to further (BoysTown) allegations by Mr Vincent [REDACTED]. Mr [REDACTED] allegations against Brother [REDACTED] alleged numerous incidents of physical abuse, including punching and striking him with a leather strap. A risk assessment of those matters was conducted (see *risk assessment dated 20 June 2015*) and it was recommended that no further action/investigation. Apart from those matters, Brother [REDACTED] has no other known allegations of abuse involving children/young people.

On completion of the internal workplace investigation, the investigation was subject to review by the Judicial Review Committee (ILRP) dated 28 November 2014. That panel concluded, in part:

*"The allegations at this stage cannot be rejected as false but a sound course for the time being may be to allow Brother [REDACTED] to continue with his usual work including work with young people, but with a supervision of a type sufficient to allay fears of the kind raised by such allegations".* (see attached pages numbered 23 to 26 of that ILRP report)

**3. What is the nature of the alleged conduct having particular regard to the seriousness of the allegation, the apparent strength of the material supporting the allegation and the likely consequences which would flow from a finding against the Religious (if a finding has not yet been made)?**

Comment:

Mr [REDACTED] allegations have arisen during the civil proceedings/action against the De La Salle Brothers in relation to BoysTown Beaudesert, QLD. Mr [REDACTED] alleged that Brother [REDACTED], in the company of [REDACTED] (female teacher), encouraged and watched Ms [REDACTED] perform oral sex on Mr [REDACTED] in a toilet block. Prior to this Brother [REDACTED] is alleged to have massaged Ms [REDACTED] inappropriately. Mr [REDACTED] also alleged that Ms [REDACTED], on several occasions, did not wear underwear in the class room and the students could see her genitals. Mr [REDACTED] alleged that she may have been trying to get the attention of Brother [REDACTED], who was present on those occasions. These allegations are different from the previous allegations of sexual abuse that were generally alleged to have occurred in the context of a "strip search".

Mr [REDACTED] statement was presented during the informal settlement meeting dealing with his civil complaint. At that time of the original statement of claim (2013) there was no mention of abuse by Brother [REDACTED]. The complaint under consideration was detailed in a victim statement tendered days before the informal settlement meeting. In preliminary discussions at the informal settlement meeting, the defendant indicated that there had been no time to investigate the new complaint. The complaint therefore was not considered specifically from that point on. The Deed of Release was executed and includes any and all alleged damage or injury caused by Brother [REDACTED] and in that sense the civil proceedings have been concluded.

Mr [REDACTED] is legally represented and it is believed that Mr [REDACTED] may choose not to provide further information about his allegations against Brother [REDACTED] (and Ms [REDACTED]) in any workplace investigation instigated by the De La Salle Brothers. Ms [REDACTED] (and her husband Mr [REDACTED]) has previously been interviewed as a witness during a workplace investigation (*by Mr Alex Tawfiq – see attached interview transcript dated 14 October 2014*). As Mr [REDACTED] allegations were not known at that time, they were not put to Ms [REDACTED] for her response. It is expected that if Mr [REDACTED] allegations were now put to Ms [REDACTED] it is more likely than not, she would strenuously deny them.

Brother [REDACTED] has returned to ministry after he was stood aside in the prior workplace investigation. Brother [REDACTED] has been the subject of a "Return to Ministry/workplace plan" that sets out conditions for ongoing supervision and work that is not associated with children (*see attached return to ministry plan dated 15 June 2015*).

The issue for the assessment of risk arises from the following considerations. The allegations are detailed as to time and place and are of a nature never before associated with Brother [REDACTED]. A contemporary witness reports that Brother [REDACTED] and Ms [REDACTED] were on regular occasions together in a team teaching situation in the same classroom. The same witness affirms that Brother [REDACTED] and Ms [REDACTED] got on well with each other as colleagues. The complaint has not been formally investigated. The complaint includes aspects of alleged boundary violation perpetrated consensually with an adult. Brother [REDACTED] present duties include working with adult female students.

**4. What are the risks to the integrity of the investigation (of the Religious) including the impact on any victims or witnesses (internal and external) should the employee remain in the workplace?**

**Comment:**

It is believed that any workplace investigation will be inhibited by: 1. The delay in bringing these allegations forwards; 2. the inability to interview Mr [REDACTED] to obtain further information and 3. the inability to locate potential witnesses.

**Risks - Low:**

1. It is considered that there are minimal/low risks to witnesses/victims should Brother [REDACTED] remain in the workplace during consideration of Mr [REDACTED] allegations (and potential workplace investigation, should that occur).
2. The civil proceedings have been completed. There are no current witnesses or victims affected
3. The protocols in Papua New Guinea allow the person to remain in the workplace until the investigation is concluded.

**5. What are the risks to the local work environment (such as workplace morale and motivation of staff, including fellow Brothers) and on other ministerial functions, should the Religious remain in the workplace?**

**Comment:**

**Nil**

See above comments. In the context of Papua New Guinea and the provisions of the current protocols there would appear to be more risk in terms of workplace morale, the confidence of the national staff and the disruption to a student program that is in itself more than challenging to many of the participants,

**6. What are the risks to children, young people and/or other vulnerable adults should the employee remain in the workplace?**

**Comment:**

**Moderate**

Recent studies of sexual abuse in Papua New Guinea have found a disturbingly high incidence of sexual abuse of females and regularly by members of their primary group, family, extended family and village community. The College enrolls principally students from remote rural areas. The female students at [REDACTED] must be presumed to include a more than insignificant number of females who have been subject to abuse. Brother [REDACTED] holds a position of power and influence in the College. These are circumstances in which the possibility and opportunity for inappropriate sexual encounters is higher than a similar position in a different culture.

As a result of the internal workplace investigation (2013/2104) Brother [REDACTED] was stood aside from ministry in relation to his work with children. Brother [REDACTED] has returned to Ministry working in Papua New Guinea – see section one, above. This experience was traumatic for Brother [REDACTED] and from that point of view would suggest that he is more aware of the deleterious effects of a complaint of sexual abuse on him personally and professionally. It is likely that he is more than usually cautious about the observance of Boundaries.

The following are the supervision provisions set out in the Memorandum of Understanding relating to the return to ministry of Brother [REDACTED]:

Miss [REDACTED] Acting Principal of Sacred Heart Teachers' College, will supervise his professional activity. He will establish electronic contact with a counsellor as is agreed by the Brother Visitor. Br [REDACTED] [REDACTED] will establish a supervision program. Br David Hawke will carry out a review of this memorandum in consultation with Br [REDACTED] and Father [REDACTED] at least once in each calendar year.

Brother [REDACTED] has not been apprised of the recent complaint

The Professional Standards Office has no record of the implementation of this program. In the event of it being relatively inactive, the risk level increases, hence the recommendation of Moderate.

**7. Can the risks that have been identified be minimised by (temporarily) changing the employee's duties and responsibilities or imposing other work restrictions or changing the employee's work location?**

**Comment:**

**Nil**

The comments in relation to point 5 above apply

**8. Can the risks that have been identified be minimised by "Standing aside" the employee? Is "standing aside" the employee in the interests of the general public, particular groups (such as a particular community group) or oversight bodies (such as NSW Ombudsman) or in keeping with relevant Catholic Church Policy (such as *Towards Healing*)?**

**Comment:**

The complaint having been received whilst the subject is located in Papua New Guinea which is subject to similar but in this respect different from those of *Towards Healing* removes it from the particular question of standing aside in compliance with the protocols.

There are responsibilities under the PNG protocols that are incumbent on the major superior.

The other question apart from the compliance is resolved around the moral issue of confidence in permitting the person concerned to remain in ministry.

On balance the general experience of the investigation of BoysTown Complaints will provide grounds for believing that Mr [REDACTED] complaints are unfounded against Brother [REDACTED] but more than likely in respect of Brother [REDACTED].

**9. Is “Standing aside” the employee in the interests of maintaining proper standards of conduct or the protection of the reputation of the De La Salle Brothers**

**Comment:**

The catch cry in the course of the investigations has been that all should receive equal treatment. A person in a similar position to Brother [REDACTED] is Br [REDACTED], in which case, he has been advised of the complaints and informed that there will be an investigation and on the findings of the previous investigation will not be required to stand down,

**10. Other identified risks**

It is considered that Mr [REDACTED] allegations may cause significant distress to Ms [REDACTED], should she deny them during any future workplace investigation that may occur.

**Comment:**

Brother [REDACTED]:

1. One of Brother [REDACTED] considerable anxieties in the course of the previous investigation was that further malicious complaints that would require him to stand aside would be too much for him to tolerate.
2. In the event of a further workplace investigation, local available personal support is essential
3. The supervision requirements will benefit from being revisited.

**Part 4: Review and comments by the External Consultative reference Committee (attach minutes, if applicable)**

**Date of meeting: 12 April 2016**

**Members present: Refer minutes of meeting – 12 April 2016**

**Part 4: Religious Leader (and/or Professional Standards Manager) recommendation**

**The following risk minimisation action is being taken in respect of this employee (tick appropriate boxes):**

- Strategies other than “Stand aside” from Ministry (strategies must be specified below)

- “Stand aside” from Ministry  
(a copy of this questionnaire must be forwarded to the relevant region commander or equivalent for comment)
- Other (sick leave, annual leave etc)
- No further action (may include: return to work strategy)

**Comment** (if required):

(Consideration – employee to be formally notified in writing of any changes to duties/ministry as a result of risk assessment)

1. Brother Alphonso is to be advised of the outcome of this risk assessment.

**Initial risk assessment prepared by:**

Signature	
Name	Brother Ambrose Payne
Position	Professional Standards Manager
Date	March 2016

**Certification by Religious Leader**

Signature	
Name	Brother David Hawke
Position	
Date	March 2016