

Soul Survivor NSW Inc.

Procedure of Handling Complaints Against Staff and Team

(adapted from Blakehurst Baptist Church)

Purpose

The Procedure for Handling Complaints Against Staff and Team (“the Procedure”) sets out a procedure by which a complaint or information relating to a serious breach of the Code of Conduct can be received, investigated and resolved.

The Procedure should also be followed in the event of Soul Survivor receiving a complaint or information relating to Reportable Conduct. Soul Survivor NSW has an obligation in accordance with Reportable Conduct Legislation to have practices and procedures to deal with Reportable Conduct, including:

- for receiving complaints of Reportable Conduct;
- for dealing with Reportable Conduct allegations; and
- for the receipt, handling and disclosure of information relating to Reportable Conduct and investigations.

Scope

This Procedure applies to all staff and volunteers of Soul Survivor NSW and should be read in conjunction with the Child Safe Policy and Procedure, the Code of Conduct and the Privacy Policy.

This Procedure applies to all matters which are a serious breach of the Code of Conduct, including complaints relating to a child abuse offence, child sexual abuse or sexual misconduct involving a child.

If there is any doubt as to whether a complaint or information would fall within the scope of this Procedure, or about any of the steps set out in the Procedure, a staff member should contact the Director of Soul Survivor NSW.

1. Receiving a complaint or information

Anyone may make a complaint or pass on information that relates to a breach of the Code of Conduct (including Reportable Conduct) by staff or volunteers of Soul Survivor NSW to the Director.

Complaints or information may be received verbally, however, a written outline of the complaint should be encouraged.

2. Reporting information

a) Determining appropriate reporting process

- i. Any complaint about a staff member or volunteer which may be considered a serious breach of the Code of Conduct should be reported to the Director of Soul Survivor NSW. If the complaint or information relates to the Director of Soul Survivor NSW, then it should not be reported to them, but instead reported to the Soul Survivor NSW Board.
- ii. On receipt of a complaint or information that may relate to any form of child protection concern, the person that has received the complaint or information is to also follow the steps outlined in the Child Safe Policy and Procedures.
- iii. Any person who has knowledge that a serious crime has been committed, whether or not it is related to children, should report that knowledge to the NSW Police.

- iv. If a complaint is, or should be, reported to government authorities, the Director of Soul Survivor NSW will only commence an investigation under this Procedure after consultation with the government authorities that it has been reported to.

b) Allegations regarding Reportable Conduct

- i. The Head of Entity (typically the Director of Soul Survivor NSW) is obligated to notify the Reportable Conduct Scheme (the Office of Children’s Guardian) of Reportable Conduct allegations within a defined timeframe, in accordance with Reportable Conduct legislation.
- ii. In NSW:
 - The Reportable Conduct Scheme covers any staff or volunteers who are required to hold a Working with Children Check (“WWCC”).
 - This notification must be made within seven business days of receiving the complaint or information pursuant to s. 29(4) of the *Children’s Guardian Act 2019*.
 - A ‘final entity report’ must be submitted within 30 days. If it is not possible to submit the final report within 30 days, then an interim report must be submitted within 30 days in accordance with s. 38 of the *Children’s Guardian Act 2019*.
- iii. The notification of the allegation to the Reportable Conduct Scheme must be in writing and should include:
 - the name, date of birth and WWCC number of the person;
 - the name, contact details and head of the relevant entity;
 - details of the allegation;
 - the nature of the relevant entity’s initial risk assessment and risk management action,
 - if a report to Police has been made, the police report reference number;
 - if a report has been made under mandatory reporting legislation, the report reference number; and
 - the names of other relevant entities that employ or engage the employee.

3. Assessment of ongoing risk

- a) In addition to considering or making a report under section 2 above, the Director of Soul Survivor NSW must conduct an assessment of ongoing risk relating to the safety of the Complainant or any other children or vulnerable people and take reasonable precautions to minimise those risks.
- b) The Director of Soul Survivor NSW should be careful not to prejudice ongoing criminal investigations and so there may be a need to initiate risk management without alerting the person who is the subject of the complaint.
- c) Subject to the view of government authorities, if the Director of Soul Survivor NSW has received a plausible complaint (i.e. not clearly false or vexatious) of child sexual abuse or sexual misconduct involving a child and the complaint relates to a staff member or volunteer who is engaged in ‘child-related work’ then the Director of Soul Survivor NSW is to suspend the person from such duties while the complaint is considered, in accordance with the Procedure.

4. Appointing a person to handle the complaint

- a) Where a matter is to be investigated under the Procedure, the Soul Survivor NSW Board is to appoint a person to handle the complaint (“the Investigator”).
- b) In appointing the Investigator, the Soul Survivor Board will avoid conflicts of interest (for example where there may be a close personal relationship between the subject of the complaint and the proposed investigator).
- c) For any matters related to any form of harm or abuse of a child, the Investigator should be an external person (unless this is not reasonably practicable and a suitably qualified and independent internal Investigator is available).

5. Providing support

The Director of Soul Survivor NSW is to ensure that support is provided to both the Complainant and the Respondent, including:

- providing them with a contact person to whom they can direct inquiries about the progress of the complaint;
- offering them a support person; and
- considering providing them with access to counselling and other support services.

6. Investigating the complaint

- a) The Investigator is to investigate the complaint (or concern, or allegation if the investigation arises from information about Reportable Conduct that did not come in the form of a complaint).
- b) In investigating the complaint, the Investigator is to:
 - act in good faith, without bias and without unreasonable delay;
 - collect and document evidence, including by conducting interviews and taking statements from the Complainant and other witnesses; and
 - maintain a record of all relevant evidence obtained and steps taken in the investigation.
- c) If the matter is related to an allegation of Reportable Conduct, the Investigator is to consider matters in division six of the *Children’s Guardian Act 2019* including:
 - the nature of the reportable allegation and any defence;
 - the gravity of the matters alleged; and
 - whether the reportable allegation relates to conduct that is in breach of the Code of Conduct and/or accepted community standards.

7. Putting the complaint to the Respondent

- a) The Investigator is to put the complaint in writing to the person whose conduct is the subject of the complaint (the Respondent).
- b) In doing so, the Investigator is to:
 - set out the complaint with sufficient detail for the Respondent to understand the complaint;
 - set out the process and timelines for addressing the complaint;
 - state the part of the Code of Conduct that is alleged to have been breached;
 - set out the potential adverse outcomes for the Respondent in the event that there is a finding that the Respondent breached the Code of Conduct; and

- provide the Respondent with an opportunity to respond to the complaint in writing and within a stated timeframe not exceeding two weeks.

8. Putting any further adverse information to the Respondent

If, in the course of the investigation, further adverse information is brought forward in relation to the Respondent, the Investigator will:

- advise the Respondent in writing of the further adverse information; and
- provide the Respondent the opportunity to respond to the information.

9. Investigator's findings

- a) The Investigator must provide a written report which sets out:
 - the complaint;
 - the part of the Code of Conduct that is alleged to have been breached;
 - the proposed finding;
 - the evidence relied upon to make the finding, including the response of the Respondent (if any) to the Complaint; and
 - a finding about whether the complaint is sustained or not sustained, using the "balance of probabilities" as the standard of proof (for matters relating to child protection concerns, reference should be made to Reportable Conduct legislation); and
 - possible outcomes or consequences that Soul Survivor NSW may consider implementing.
- b) If the matter relates to an allegation of Reportable Conduct the Investigator should ensure that the report also sets out:
 - information about the facts and circumstances of the reportable allegation;
 - the findings after completing the investigation, including an analysis of the evidence and the rationale for the findings;
 - a copy of any written submission made by the employee or volunteer; and
 - any copies of documents in the relevant entity's possession that are relevant to the report, including transcripts of interviews and copies of evidence.
- c) The Investigator's Report will be provided to the Soul Survivor NSW Board.
- d) A summary of the Investigator's report (considering both confidentiality and procedural fairness) will be provided to the Respondent along with:
 - an invitation to respond in writing to the Soul Survivor NSW Board within a defined timeframe; and
 - written notice of the possible consequences if the Investigator's Report is accepted by the Soul Survivor NSW Board. This may include suspension, termination from duties for volunteers, termination of engagement for staff. It may also require notice to Police and/or the Office of Children's Guardian, which may impact WWCC clearance.

10. Determination of Complaint and Outcomes

- a) The Soul Survivor NSW Board is to consider the report of the Investigator and to decide whether to accept the finding put forward by the Investigator.
- b) In doing so, the Soul Survivor NSW Board is to consider all relevant material available and consult with external advisors as it considers appropriate.

- c) If the Soul Survivor NSW Board makes a determination that a complaint is sustained and the Code of Conduct has been breached, they are to determine an outcome for the Respondent, which may include, but is not limited to:
- termination of employment/engagement;
 - suspension from employment/engagement for a period of time; and/or
 - imposing conditions on the employment/engagement.
- d) If the Soul Survivor NSW Board does not accept the Investigator's finding, the Soul Survivor Board should decide whether there is another available finding on the basis of the evidence presented to it, and record written reasons for departing from the Investigator's finding (and if relevant, propose an outcome for the Respondent as above).

11. Communication of Outcome

- a) The Respondent will be informed in writing of the:
- determination of the complaint;
 - any consequences arising from the determination; and
 - the reasons for the decision.
- b) The Complainant will be informed of the outcome of the complaint.
- c) If the matter constitutes a child abuse offence or other serious criminal offence, a report must be made to the local Police station (unless a report has already been made).
- d) If the matter is Reportable Conduct, the 'Head of Entity', must notify the Reportable Conduct Scheme (the Office of Children's Guardian) in accordance with Reportable Conduct legislation, including the:
- Investigator's report;
 - any deviation made by the Soul Survivor Board from the Investigator's findings, including reasons for the deviation; and
 - the proposed course of action in response.
- e) If the matter relates to a finding that a staff member or volunteer has engaged in a child abuse offence, child sexual abuse or sexual misconduct involving a child, the Soul Survivor NSW Board is to make a report to the Office of the Children's Guardian in accordance with the WWCC legislation. The Respondent should be provided with written notice of this report having been made.