



Baptist Churches
of South Australia

CODE OF CONDUCT

and

REGULATIONS FOR DEALING WITH COMPLAINTS



CODE OF CONDUCT

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1. **Definitions:**

Baptists are the members of the Member Churches.

BCSA is Baptist Churches of South Australia Inc.

Child Protection Policy is the Child Protection Policy adopted and promulgated by BCSA and includes both the Child Protection Policy and the Child Protection Procedures Manual.

DPS is the Director of Professional Standards.

Member Church is a church or ministry which is at the relevant time a Member or Affiliate Member of BCSA.

Ministry covenant is the covenant generally designated by Appendix G to the Child Protection Policy.

PSAT is the Professional Standards Assessment Team set up under the Regulations.

Regulations are the 'Regulations for Dealing with Complaints' set up by BCSA.

Tribunal is the Tribunal set up under the Regulations.

2. **Persons subject to the Code**

2.1 The Code applies to:

2.1.1 All employees of BCSA and/or Member Churches.

2.1.2 All volunteers who have entered into a Ministry covenant.

2.1.3 All members of any Member Church to the extent to which it has adopted the Code and/or the Child Protection Policy.

2.1.4 Any other person whose public reputation could be substantially prejudiced by a breach of the Code, but only in respect of conduct related to the activities of BCSA or Member Churches.

2.2 The Code applies only to natural persons and it does not apply to BCSA or Member Churches.

3. Obligations under the Code

All persons subject to the Code will:

- 3.1 Behave in accordance with Christian moral standards (as understood and accepted by Baptists) and in a manner consistent with the fundamental values of BCSA as expressed in its Constitution;
- 3.2 In their dealings with others (both inside and outside of Baptist churches) act in love and with respect for the dignity and the rights of all others;
- 3.3 If they have been accredited and/or ordained by BCSA, not thereafter do anything which if it had been known before their accreditation would have been likely to have precluded their accreditation or ordination;
- 3.4 If they have entered into a contract of employment with BCSA or a Member Church or a Ministry covenant, not do anything which is contrary to their obligations under that contract or covenant;
- 3.5 Comply with their obligations under the Child Protection Policy;
- 3.6 Not do anything to bring BSCA and/or the Member Churches into disrepute;
and
- 3.7 Comply with any orders of PSAT or the Tribunal.

4. Standard of compliance

The standard required for each person under Clause 3 is to be assessed objectively and is to be that reasonably to be expected for a person:

- 4.1 Of similar training and experience;
- 4.2 Occupying a similar position in BCSA and/or a Member Church; and
- 4.3 Where that person has made a specific commitment to any particular standard in accordance with that standard.

5. Specific obligations

Without restricting the generality of obligations imposed under Clause 3, persons subject to the Code will:

- 5.1 Maintain the confidentiality of information derived in the course of their ministry for BCSA or any Member Church, except where disclosure is either consented to by all persons involved or is necessary for the proper performance of that ministry;
- 5.2 Not call themselves, or hold themselves out as, counsellors unless appropriately qualified;
- 5.3 Where they have counselled anyone in the course of their ministry not thereafter enter into any intimate relationship with that counselee for a period of two years after the end of the counselling; and
- 5.4 Co-operate with, and provide information to, the DPS in the course of dealing with a complaint or a charge under the Regulations.



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REGULATIONS FOR DEALING WITH COMPLAINTS

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1. Definitions

Assembly Board is the Board of BCSA as per its Constitution.

BCSA is Baptist Churches of South Australia Inc.

Charge is a charge under Clause 9.3, and where the context so permits can mean a separate count in a charge.

Child Protection Policy is the Child Protection Policy promulgated by BCSA and includes both the Child Protection Policy and the Child Protection Procedures Manual.

Complainant is a person making a complaint under Clause 4, and where the context so permits includes a person assisting the complainant under Clause 7.

DPS is the Director of Professional Standards, and where appointed a special investigator under Clause 3.1.

Member Church is a church or ministry which is at the relevant time a Member or Affiliate Member of BCSA.

Ministry covenant is the covenant generally designated by Appendix G to the Child Protection Policy of BCSA.

Officers of the Association means the President, the immediate past President, the Vice President and the SEM of BCSA as per its Constitution.

PSAT is the Professional Standards Assessment Team as per Clause 2.

Regulations are these Regulations for Dealing with Complaints adopted and promulgated by BCSA.

Respondent is a person against whom a complaint has been made under Clause 4.

SEM is the State Executive Minister of BCSA.

Tribunal is the Disciplinary Tribunal as per Clause 16 established to address contested matters from the PSAT hearing.

2. Professional Standards Assessment Team (PSAT)

2.1 PSAT comprises :

2.1.1 The Officers of the Association unless disqualified; and

2.1.2 Such other persons as maybe appointed to PSAT by the Assembly Board to deal with a particular complaint.

2.2 PSAT shall have 3 or more members and in the event of an even number of active members the Chair is to have a casting vote

2.3 PSAT may reach decisions by a majority voting in favour of them.

2.4 Unless the complainant and the respondent consent to a lesser number all members of PSAT are required to be present to constitute a quorum.

3. DPS

3.1. In the event of the DPS being unavailable or disqualified the Assembly Board may appoint a special investigator for a particular complaint who is to fulfil the roles of the DPS under these Regulations for that complaint.

3.2. The DPS is to act with fairness to the respondent, and, subject to that fairness to the respondent, with compassion for any alleged victim.

3.3 The DPS may appoint such assistants as are reasonably required to carry out his/her functions under these Regulations.

4. Making a complaint

- 4.1. A complaint is to be in writing alleging one or more specific breaches of the Code of Conduct by an identified person or persons who are subject to the Code (“the respondent”).
- 4.2. A complaint must identify the complainant and give his/her contact details, but, if so requested in the complaint, the complainant’s identity will be kept confidential except insofar as disclosure is necessary to afford fairness to the respondent.
- 4.3. A complaint must be sent initially to the SEM who will forward it to the DPS for investigation. In the absence of the SEM, or should the SEM be the respondent, the complaint shall be sent initially to the President.
- 4.4. A complainant need not be the victim of any alleged breach of the Code, but must be a person who has a legitimate personal interest in pursuing the complaint.

5. Summary dismissal of complaints

- 5.1 If the DPS considers a complaint may be baseless, frivolous or vexatious he/she may refer it immediately to PSAT.
- 5.2 If PSAT finds a complaint to be baseless, frivolous or vexatious it may forthwith dismiss it.

6. Investigation of a complaint

- 6.1. Unless a complaint is dismissed under Clause 5, the DPS will investigate the complaint and prepare a report for PSAT on whether there is a sufficient case made out for the respondent to be required to answer it.
- 6.2. Unless there is good reason to do so, an investigation under sub clause 6.1 will not extend to disclosing the complaint to the respondent or obtaining information from him/her.
- 6.3. Where the DPS reports there is a sufficient case under sub clause 6.1 he/she will include in the report a recommended charge to be brought against the respondent.

7. Assistance for the complainant

- 7.1. If a complainant so requires, or if the DPS considers it desirable, a suitable person may be appointed by the DPS to assist the complainant in the complaint process.
- 7.2. Where the complainant is under 18 years of age, or has a manager acting for him/her by reason of mental disability, a parent of the complainant or that manager will be appointed as the person to assist the complainant unless there is good reason to appoint another assistant.
- 7.3. A person appointed under sub clause 7.1 will be entitled to be present whenever the complainant is interviewed or attends before PSAT or the Tribunal and will be given the same information about the matter as is given to the complainant.

8. Amendment or withdrawal of a complaint

- 8.1. With the permission of the DPS or PSAT the complainant may amend or supplement the complaint.
- 8.2. At any time up to a decision under Clause 9.1 to make a charge based on the complaint, the complainant may by notice in writing to the SEM withdraw the complaint.
- 8.3. If the complaint is withdrawn under sub clause 8.2 PSAT is to either :
 - 8.3.1. Dismiss the complaint; or
 - 8.3.2. Where it is in the interests of BCSA or a Member Church, or of any alleged victim other than the complainant, direct the DPS to proceed with a charge based on the contents of the complaint.
- 8.4. Where a complaint is withdrawn under sub clause 8.2 neither a complainant, nor any person closely associated with the complainant, is to be allowed to make any further complaint based on similar subject matter without first obtaining the permission of PSAT to do so.

9. Preliminary hearing by PSAT

Upon considering the report of the DPS under Clause 6, or a supplementary report, PSAT will do one or more of the following:

- 9.1. Dismiss the complaint;
- 9.2. Direct the DPS to make further inquiries and to present a supplementary report;

- 9.3. If it considers a prima facie case has been made out for a breach of the Code by the respondent, direct that a charge in terms approved by PSAT be made against the respondent;
- 9.4. If it directs that a charge be made :
 - 9.4.1. Fix a time within which the respondent is required to respond to it;
and
 - 9.4.2. Indicate whether a possible penalty may include cancellation or suspension of accreditation or termination or suspension of employment (see Clause 22) if the charge is proved.

10. Contents of the charge

- 10.1. The charge must sufficiently identify the breach of the Code alleged and the facts which constitute that breach.
- 10.2. More than one breach of the Code may be alleged in the charge and if so PSAT may direct whether each breach is to be dealt with separately or collectively.
- 10.3. Where the charge includes more than one alleged breach of the Code, a reference to a charge in these Regulations can be to only part of the charge.
- 10.4. PSAT or the Tribunal may give permission to the DPS to amend the charge provided there is no unfairness to the respondent in doing so.

11. Initial response to the charge

- 11.1. If PSAT directs a charge be made, the DPS will have a copy of the charge in writing given to the respondent as soon as practicable with copies of these Regulations, any reports given to PSAT and notice of what has been directed or indicated by PSAT under Clause 9.4.
- 11.2. The respondent, at their discretion, is to decide to either:
 - 11.2.1. Respond in writing to the DPS on the allegations and the charges;
or
 - 11.2.2. Meet with the DPS to respond orally to the allegations and the charges.
- 11.3. A response under sub clause 11.2 may be that the respondent pleads not guilty and maintains his or her legal right to silence.

12. Interim measures about employment

Clauses 6.4 and 6.5 of the Child Protection Procedures Manual in the Child Protection Policy on any continued employment of the respondent pending determination of the complaint or charge are incorporated into these Regulations and are to apply to any type of complaint or charge.

13. Prosecution of the charge

- 13.1. The DPS will act as the prosecutor in all further hearings before PSAT and will give written notice to PSAT and the respondent of the material which will be presented at the hearing under Clause 15 in support of the charge.

13.2. The DPS will keep the complainant informed of the progress of the charge.

13.3. The complainant is only to have such role in the prosecution of a charge as is permitted by the DPS or PSAT.

14. Obtaining experts' reports

If the DPS considers PSAT would be assisted by reports from a doctor, psychiatrist, psychologist, or other professional on any matter relevant to the charge or any possible penalty, the DPS may request the respondent to submit to examinations by such a professional employed by the DPS for that purpose.

15. Hearing before PSAT

15.1. Unless the respondent waives it, there is to be a hearing before PSAT at a time and place set by the chair of PSAT which is to be attended by the DPS, the complainant (if he/she so wishes) and the respondent.

15.2. At this hearing the respondent may be represented by a lawyer or some other suitable person.

15.3. At the outset of the hearing the respondent is to state what, if any, part of the charge is contested.

15.4. If there are criminal or civil proceedings pending in courts involving the subject matter of the charge, PSAT may adjourn its hearing of the charge to await progress, or the final outcome, of those proceedings.

15.5. On the hearing PSAT may do one or more of the following:

15.5.1. Dismiss the charge;

- 15.5.2. Adjourn the hearing;
 - 15.5.3. Direct a mediation;
 - 15.5.4. Direct further evidence be obtained;
 - 15.5.5. With the consent of the respondent make final orders disposing of the charge;
 - 15.5.6. Direct a contested hearing on the whole of the charge or such part of it which is in issue; or
 - 15.5.7. Record a finding by consent on the charge and direct a contested hearing under Clause 24 on what penalty is to be imposed.
- 15.6. If orders are made by consent under sub clause 15.5.5 or 15.5.7, they are to be immediately put into writing and signed by the respondent and the Chair of PSAT.
- 15.7. Nothing occurring at this hearing is to be put in evidence at a contested hearing, or to be disclosed to the public, except with the consent:
- 15.7.1. Of the respondent for what was said and done by him or her: and
 - 15.7.2. Of the DPS for what was said or done by him or her.
- 15.8. Where the charge and/or penalty remain contested after the hearing before PSAT, the matter may be brought before the Disciplinary Tribunal.

16. Disciplinary Tribunal

- 16.1. The Tribunal is to comprise three persons appointed by the Assembly Board of whom one is to be appointed as its chair.
- 16.2. The members of the Tribunal are each to be professing Christians who are independent from the persons and issues involved in the charge.

16.3. The Tribunal can reach decisions by a majority of its members voting in favour.

17. Hearings of the Tribunal

17.1. When and where the Tribunal will sit will be determined by its chair.

17.2. The DPS, the complainant and the respondent, and any representatives of the respondent, are entitled to be present at the hearings of the Tribunal into the charge.

17.3. The Tribunal will decide who else may be present at its hearings.

18. Case in support of the charge

The DPS will present the case in support of the charge to the Tribunal in such manner as the Tribunal may allow.

19. Rights of the respondent

19.1. The Tribunal and the DPS must accord procedural fairness to the respondent.

19.2. Unless the Tribunal otherwise directs, the respondent need not present any case in answer to the charge until after the case of the DPS is completed.

20. Nature of the evidence

20.1. The legal rules of evidence do not apply to proceedings in the Tribunal.

- 20.2. The Tribunal may allow the DPS and the respondent to present cases through any kind of evidence provided it is lawful and has reasonable probative value (logically relevant).
- 20.3. The Tribunal may disallow evidence and submissions which are vexatious, insulting, scandalous or irrelevant to what is then in issue.

21. Evidence on oath and cross examination

- 21.1. Should a witness so choose, oral or written evidence may be given to the Tribunal by that witness on oath or affirmation.
- 21.2. In assessing the weight to be given to evidence the Tribunal is to take into account that it was given with or without the sanctity of an oath or affirmation.
- 21.3. Where it seems necessary for the Tribunal to make findings on disputed evidence, witnesses giving evidence on the topic may be invited to submit to cross examination on their evidence.
- 21.4. In assessing the weight to be given to disputed evidence the tribunal may take into account that it was, or was not, subject to cross examination.
- 21.5. In addition to its powers under Clause 20.3 the Tribunal may disallow abusive, argumentative or unduly repetitive questioning in cross examination.

22. Standard of proof

- 22.1. If on a charge:
- 22.1.1. The Tribunal is to cancel or suspend a respondent's accreditation or ordination;

22.1.2. The Tribunal is to terminate or suspend a respondent's employment by BCSA or a Member Church; or

22.1.3. A finding of guilt on the charge would be likely to adversely and substantially affect the respondent's public reputation, the charge must first be proved beyond reasonable doubt.

22.2. On all charges not encompassed by sub clause 22.1 proof of the charge need only be on the balance of probabilities.

23. Findings on the charge

23.1. If proof of the charge is in issue before the Tribunal, it is to make a formal finding whether it finds the charge proved or not proved.

23.2. If it finds the charge not proved, it must dismiss it.

23.3. The Tribunal may, but is not obliged to, give reasons for its decision on the charge.

24. Proceedings on penalty

24.1. Where:

24.1.1. Only the penalty to be imposed for an admitted charge is in issue before the Tribunal or

24.1.2. The Tribunal has found a charge proved, the Tribunal will hear the DPS and the respondent on what penalty it should impose.

- 24.2. The complainant may orally or in writing make submissions to the Tribunal on the issue of penalty.
- 24.3. Any evidence given to the Tribunal on whether the charge has been proved is also available to be used on the question of penalty.
- 24.4. The DPS and the respondent may present further evidence on the question of penalty in similar manner to evidence which may be given on proof of a charge.

25. Available penalties

In imposing penalties the Tribunal may make one or more of the following orders:

- 25.1. That any employment of the respondent under an employment contract with BCSA or a Member Church be terminated or suspended for a specified time.
- 25.2. That any accreditation and/or ordination of the respondent by BCSA be cancelled or suspended and the respondent's name be removed from the register of accreditation.
- 25.3. That the respondent undertake a specified program of medical or psychological treatment, counselling, education or mentoring.
- 25.4. That specified restrictions be placed in the terms of the respondent's continued employment with BCSA or a Member Church.
- 25.5. That any future employment of a respondent by BCSA or a Member Church be subject to specified conditions.
- 25.6. That a statement in terms approved by the Tribunal be published about the complaint and its result.
- 25.7. That the respondent be reprimanded.

25.8. That compliance by the respondent with any conditions imposed by the Tribunal be monitored in a specified manner.

25.9. That the operation of any penalty otherwise imposed by the Tribunal be suspended for a specified time conditionally upon the respondent performing such conditions as are imposed by the Tribunal as terms of the suspension.

25.10. Ancillary or incidental to any of the above.

26. Publicity about Tribunal hearings

Unless the respondent and the DPS agree to specific publication, evidence given to the Tribunal, and what has occurred before the Tribunal, are confidential and are not to be disclosed except under Clause 25.6 above.

27. No appeal

There is to be no appeal from any decision of the Tribunal.