

# Procedures

## Addressing complaints relating to past adoption practices undertaken by Uniting Communities and its former entity

These procedures address the management of complaints received by people affected by past adoption practices undertaken by employees or volunteers of Uniting Communities or its predecessors in line with the Uniting Communities Complaints and Feedback Policy.

### Contents

Background .....	2
Responsibilities .....	2
Definitions.....	3
Links to Legislation.....	4
Links to Policy .....	4
Links to Standards, Guidelines and Resources .....	5
Procedures .....	6
Procedure: Initial enquiry and contact from complainant .....	6
Procedure: When an initial complaint is made .....	6
Outcomes sought in relation to allegations.....	6
Procedure: The role of the support person.....	6
Procedure: Complaint to be handled internally .....	7
Procedure: Internal investigation unnecessary .....	7
Procedure: Formal complaint to be in writing .....	7
Procedure: Process for internal investigation.....	7
The Investigator .....	7
Investigation plan .....	8
Contact with the ex-employee .....	8
Investigator's report .....	8
Procedure: On conclusion of the internal investigation .....	8
Recommendations to be implemented .....	9
Provision of information to complainant and ex-employee .....	9
Procedure: Response to complaint .....	9
Process of implementation: formal apologies.....	9
Process of implementation: financial settlement .....	9
Procedure: Review of complaint process and/or review of outcome .....	10
Right of review .....	10
Procedure: Implementation of Recommendations .....	10
Procedure: Post-resolution .....	10
Procedure: Media .....	11

## Background

This relates specifically to matters arising from past adoptions facilitated through former entities managed by Uniting Communities predecessor organisations namely the Kate Cocks Memorial Babies Home. It does not relate to dealing with allegations of past child abuse by past employees or to current employees, or volunteers working with of Uniting Communities which are addressed separately.

Uniting Communities hereafter will respond to complaints in a manner which promotes healing. To this end we will listen respectfully and compassionately and, where appropriate:

- apologise for past wrongs
- provide access to specialised assistance and/or ex gratia payment
- support access to legal authorities, where appropriate.

## Responsibilities

Each complainant shall and must be treated with respect and consideration, and in alignment with Uniting Communities core values. In all cases, the complainant must receive as a matter of first priority, a compassionate response.

Uniting Communities will afford procedural fairness to all parties. It is committed to justice, fairness and to the recognition of the rights of all, including those who have been service users, students, employees, carers or volunteers of any organisation of Uniting Communities or its predecessors.

Any person who has received services from Uniting Communities or its predecessor has the right to complain. All complaints will be accepted without prejudice. All complaints will be addressed in the shortest time possible.

The staff who have access to the complaint and all details surrounding that complaint will be limited to those required to respond to it.

Should any complaint or allegation be considered to be of a criminal nature, this shall be referred to the Police as soon as possible.

## Definitions

### **Allegation**

For the purposes of this document, an allegation refers to any claim made regarding harm arising from past adoption experience.

### **Complaint**

This is the bringing forward of one or more allegations for the purpose of having them officially dealt with. A complainant is a person making a complaint, whether or not he or she was the victim of the complaint.

### **Confidentiality**

Confidentiality is about privacy rather than secrecy. In general terms, sharing of information in relation to allegations of a criminal offence should be strictly limited. These allegations shall be referred to the South Australian Police as soon as possible and with the absolute minimal involvement of other people.

*In the context of counselling*, confidentiality is an assurance that information disclosed through the course of that counselling is not disclosed or shared other than for purposes for which it was collected and, where appropriate, for quality supervision purposes. This assurance applies except where the disclosure of information is required by law, necessary to prevent serious harm to another person or where the person involved consents to the disclosure.

*In the context of complaints*, confidentiality is an assurance that information provided is protected from being shared with unauthorised persons or for any purpose other than which it was collected. However, the complainant (together with any person involved concerning the complaint outside the organisation), should be informed that information received by the Organisation will be made available to insurers, and to such persons as are necessary in the circumstances such that the complaint may be properly considered. Information may also be disclosed to the Police or to other statutory authorities if the circumstances so require.

Information regarding a complaint is not to be disclosed to the person or persons about who the complaint was made except where due consideration has been given to the processes which may be required to protect the safety of the complainant.

All materials and any final report arising from any inquiry into any complaint remain the property of Uniting Communities and will only be made available to those persons responsible for the preparation and implementation of the report and its recommendations. The complainant is entitled to receive a copy of the report and/or its findings, but should not receive any information that breaches the privacy rights of any other person. This policy does not override any legal requirement for the release or use of any information or material obtained.

### **Designated Person**

A designated person is appointed by Chief Executive of Uniting Communities and is the person to whom a complainant should direct their complaint and who manages the complaints process within the organisation.

The appointment of the Designated Person must be kept current.

The Designated Person is responsible for ensuring the appointment of support persons in the manner indicated in Section 3, independent investigators, mediators and counsellors as required; and shall ensure that the complaint process is fully documented. The Designated Person shall also be responsible as far as is possible for keeping the stages of the complaint resolution process to the required timeframes. This person will, at all stages of the process,

consider what implications should be drawn from the complaint and its investigation, and the relevance of these implications for current organisation practices.

### **Ex-employee**

In this context, ex-employee refers to a person who previously worked for Uniting Communities, whether as an employee, carer or volunteer.

### **Investigator**

Is appointed by the Chief Executive and is a person who is independent of the Organisation and all other people involved in the allegations, appointed to investigate the complaint. The Investigator is responsible to the Chief Executive but must work with the Designated Person.

### **Moderator**

The person elected by the Uniting Church Presbytery and Synod of South Australia to provide general and pastoral leadership.

### **Procedural fairness**

In general, procedural fairness refers to two broad principles:

- (a) that a person be given an adequate opportunity to present their case before a decision is reached which may adversely affect them (this includes providing reasonable notice and time to prepare information about the matter under consideration in order that they may properly prepare their case); and
- (b) that the investigation must be free from bias and from the appearance of bias.

### **Support person**

The role of the support person is to assist the complainant through the process of investigation in relation to a complaint made by them. With the complainant's permission, the support person may attend any meetings convened through the investigation process to which the complainant is invited.

Where the person about whom a complaint has been made is informed of the complaint, and is involved in an investigative process, he/she will also be provided with a support person. A support person may be a staff member of the Organisation or a person external to the Organisation as nominated by the complainant. The support person must not represent the person either formally or informally except where that person is so authorised by law for example as a legal representative or an authorised guardian).

## **Links to Legislation**

[Associations Incorporation Act \(SA\) 1985](#)

[Associations Incorporation Regulations \(SA\) 2008](#)

## **Links to Policy**

Complaints and Feedback

Delegations of Authority

Privacy and Information Sharing

Records Management

## Links to Standards, Guidelines and Resources

Department of Human Services 2017, [Australian Service Excellence Standards](#),  
Government of South Australia, South Australia

## Procedures

### Procedure: Initial enquiry and contact from complainant

Where a person requests information regarding the making of a complaint, they should be referred to the Designated Person. Where the Designated Person is unavailable, the staff member should indicate that the Designated Person will contact them as soon as possible. If the person indicates that this is not acceptable and is reluctant to leave their contact details, the staff member must refer the person to these policies and procedures available on the relevant website.

### Procedure: When an initial complaint is made

Where the person does not intend to report their complaint to the police, all complaints received must be referred to the Designated Person as soon as possible so that the Designated Person is the first to receive more detailed information regarding the complaint. Persons receiving a complaint should be encouraged to make notes of the information received as soon as possible so that the maximum amount of detail is recorded.

Initial complaints may be made verbally or in writing, in any language. Complaints should be received by the organisation's Designated Person wherever possible.

The Designated Person must hear the concerns expressed and explain to the person the principles and processes for the resolution of such complaints.

The Designated Person shall provide these procedures to the complainant. The Designated Person shall also provide the complainant a copy of the formal apology issued by Uniting Communities and the Uniting Church Presbytery and Synod of South Australia relating to past forced adoptions.

### Outcomes sought in relation to allegations

The Designated Person must discuss with the complainant the desired outcome of the complaint. The Designated Person must maintain a record of each allegation and the desired outcome for each.

Where a complainant indicates an intention to make a formal complaint in relation to an allegation, the Designated Person must ensure that the Chief Executive is informed in writing of that intention within 24 hours.

Where a complainant seeks counselling in relation to any trauma suffered as the result of their experiences of adoption, the Designated Person should inform the complainant regarding available internal and external counsellors. Where the complainant nominates to receive counselling from an external counsellor, the Organisation may make a contribution towards any costs of that counselling.

Where a complainant seeks counselling only, the Designated Person should nevertheless consider whether any investigation should be conducted into allegations of past inappropriate conduct. The Designated Person should make appropriate recommendations regarding any investigation to the Chief Executive and if necessary advise the insurers.

### Procedure: The role of the support person

The Designated Person may offer the complainant a Support Person for the duration of the process.

The Support Person may be a staff member from within the Organisation or such other person as nominated by the complainant.

The role of the Support Person is to assist the complainant through the process. The Support Person may, with the permission of the complainant, be present at any meetings convened in relation to the process to which the complainant is invited.

The Support Person must not in any way represent the person either formally or informally unless the support person has the appropriate legal authority to so act.

### **Procedure: Complaint to be handled internally**

The Designated Person will seek direction from the Chief Executive as to whether an internal investigation is to occur, or whether sufficient information is already available to indicate that an investigation is unnecessary. Factors to be taken into account in this decision include the wishes of the complainant, knowledge of other instances of relevance to the complaint, the length of time since which has elapsed, and the likelihood of being able to locate witnesses etc. It is possible that even though the Chief Executive is satisfied that there is sufficient existing information to support the complaint; the complainant may wish an investigation to take place as a matter of natural justice.

### **Procedure: Internal investigation unnecessary**

Where there is to be no investigation, the Chief Executive should proceed to implement an appropriate response.

### **Procedure: Formal complaint to be in writing**

A person making a formal complaint will be asked to outline that complaint in writing.

The Support Person may assist the complainant with the writing of the outline, or may write it on behalf of the complainant, provided that the final document is clearly understood by, and signed by, the complainant or their legal representative should they have supported care.

Where the complainant does not wish to put the complaint in writing, the Support Person will still document the complaint notwithstanding the complainant's lack of signature.

The Designated Person will acknowledge in writing their receipt of the written complaint.

### **Procedure: Process for internal investigation**

Where a complainant requests that an internal investigation be conducted, or the Designated Person determines that such investigation is appropriate in the circumstances (and where any external investigation is either not appropriate or has been completed), the internal investigation process is to be commenced within the shortest possible time.

Internal investigations are to be completed within three months of initiation except where the Chief Executive and the complainant both agree that the investigation period should be extended as appropriate in the circumstances.

### **The Investigator**

The Chief Executive shall appoint an Investigator who shall be contacted by the Designated Person to investigate the substance of the complaint and to assist the Organisation to respond appropriately.

The Investigator shall be independent of the Organisation, and shall be independent of any other person involved in the allegations, including but not limited to, the complainant and the ex-employee against whom the allegations are made.

Organisation staff may be required to provide information and/or limited assistance to the Investigator where the Investigator requests such information or assistance.

The costs associated with an internal investigation process are to be borne by the Organisation.

## Investigation plan

The Designated Person and the Investigator shall develop an investigation plan.

The investigation plan will –

- summarise the issues to be addressed throughout the investigation
- establish clear objectives for the conduct of the investigation
- list the people who will be interviewed throughout the investigation process
- summarise the evidence to be sought or obtained
- establish a strategy for the confidential management of the investigation
- establish a process by which parties to the investigation will be kept adequately informed as to the status of the investigation.

The investigation plan must be approved by the Chief Executive.

## Contact with the ex-employee

The Investigator shall, wherever feasible and appropriate in the circumstances, contact the ex-employee against whom allegations have been made.

Where the Investigator determines that contact with the ex-employee is not feasible or appropriate in the circumstances, the reasons for that determination must be provided in writing to the Chief Executive.

An ex-employee will be contacted only through the nominee of the Designated Person who will make the appropriate arrangements such that the ex-employee may be interviewed in relation to the complaint.

Where an ex-employee is contacted regarding a complaint or allegation made against them, the Designated Person must offer to provide the ex-employee with a Support Person for the duration of the investigation.

The ex-employee and any person connected to or associated with them, must be requested not to contact or attempt to contact the complainant or to involve themselves in the investigation process in any way except as directed by the Investigator, the Designated Person or the Chief Executive.

## Investigator's report

The Investigator must, at the conclusion of the Investigation, provide to the Chief Executive a written report.

The written report must:

- outline the process by which the investigation was conducted
- describe the outcomes of the investigation
- make recommendations as to an appropriate response to the complaint.

## Procedure: On conclusion of the internal investigation

Following the conclusion of the internal investigation and having received the Investigator's written report, the Chief Executive will take into account and record:

- the Investigator's recommendations
- the Chief Executive's own recommendations
- the reasons for which the Chief Executive considers that the Investigator's recommendations should be implemented, modified or rejected.

The Chief Executive will consult with the Board in determining the appropriate course of action to be undertaken.

### **Recommendations to be implemented**

Where the Chief Executive determines that there are recommendations to be implemented, the Chief Executive will determine whether it is appropriate that such implementation be conducted by current Organisation staff.

Where implementation of recommendations by current staff is inappropriate in the circumstances, an external facilitator may be engaged to implement the recommendations.

The external facilitator should ordinarily not be the same person who conducted the internal investigation except where this is appropriate in the circumstances.

Where the course of action involves any other organisation the Chief Executive will, where appropriate, discuss the implementation of recommendations with the relevant external parties.

### **Provision of information to complainant and ex-employee**

The Chief Executive will inform the Designated Person as to the appropriate course of action.

The Designated Person will present the Organisation's decision to

- the complainant and their Support Person; and
- any ex-employee involved in the complaint.

### **Procedure: Response to complaint**

When a complaint is to be handled internally the complaint may or may not be investigated. The following procedure should be followed when both an internal investigation is unnecessary, and, on finalisation of an internal investigation as outlined in the previous section.

#### **Process of implementation: formal apologies**

Where Uniting Communities determines that an appropriate response to the complaint requires that the complainant receive a formal apology, the apology is to be made in a form and manner that is negotiated and acceptable to the complainant.

The appropriate form of such apology may include a meeting with any or all of the following:

- the Chief Executive
- the Moderator
- the Board Chairperson.

In determining the appropriate form of a formal apology, consideration must be made to:

- the nature of the specific complaint(s)
- the circumstances of the complaint.

#### **Process of implementation: financial settlement**

Where the Chief Executive recommends that financial settlement be made to the complainant and this recommendation is accepted by the Board, the Board must take advice from the organisations insurers. The organisation will also inform the Uniting Church Presbytery and Synod of South Australia of any financial settlement to be made.

Offers of financial settlement will have regard to the nature and severity of the allegation.

The Board will not offer financial settlement as compensation for past wrongs. Any financial settlement or contribution offered to the complainant must be made in order to assist the complainant in their current circumstances.

Under an internal investigation, the Organisation will not require the complainant to sign a confidentiality agreement regarding the nature and/or circumstances of the complaint and/or any offer of settlement accepted or received in relation to that complaint.

The Organisation will offer the complainant access to independent legal advice prior to accepting the settlement should they not have such advice already in place.

### **Procedure: Review of complaint process and/or review of outcome**

Complainants, and/or ex-employees against whom allegations are made, are entitled to have the process of investigation and/or outcome reviewed.

#### **Right of review**

The Designated Person must inform the complainant and any ex-employee involved as to their right to review of process.

Where a request for a review of process is not initiated by the complainant or an ex-employee within one month of their being informed as to their right to make such request, the recommendations shall be implemented.

Requests for reviews of process are to be made in writing to the Chief Executive by the complainant or ex-employee.

Any review of process or outcome is to be conducted expeditiously.

A review of process or outcome shall be undertaken by a person or persons appointed by the Chief Executive. The reviewer/s shall have the authority to interview all relevant staff concerned and will have access to all relevant documentation.

The Chief Executive shall provide to a person who has requested a review of process and/or outcome a written report on the findings of that review upon completion. The report will also be supplied to the Designated Person and the Chief Executive.

The Designated Person will discuss with the complainant and/or the ex-employee, the outcome of the review and the implementation of any recommendations.

Where the review results in the recommendation that a change to the original recommendations be considered, the process described under [Procedure: On conclusion of the internal investigation](#) must be followed.

### **Procedure: Implementation of Recommendations**

This should proceed as outlined earlier in this document under [Procedure: Response to complaint](#).

Where the complainant or ex-employee has had access to a Support Person throughout the investigation process, the Support Person will maintain contact with that complainant or ex-employee until the implementation of recommendations has commenced.

Disciplinary action shall be taken in relation to any current employee implicated in any complaint made under this policy.

### **Procedure: Post-resolution**

Following the resolution of a complaint, the Designated Person is responsible for ensuring that all information pertaining to the complaint is included in the complainant's file and, where relevant, the ex-employee's file.

Such files shall be securely maintained as per the records management protocols of the Organisation.

### **Procedure: Media**

Where a complaint has the potential for media attention or where the media has already become involved, the Designated Person must contact the Chief Executive as soon as possible and brief them on the situation.

The Chief Executive will then inform the Board and, if appropriate, the Uniting Church Presbytery and Synod of South Australia.

The Chief Executive is to be the only person to speak publicly on behalf of the Organisation in relation to the allegation/s or investigation/s.

### **Endorsed by**

**SIMON SCHRAPEL**  
Chief Executive  
11 January 2017