

# **Complaint Procedure for Allegations of Misconduct by Pastoral Leaders**

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## 1. Preamble

- 1.1 The Baptist Union of Victoria (BUV) holds that the “the Church, as established by the Lord Jesus Christ, should consist of persons who have personally and intelligently accepted Him as Saviour and Lord, and pledged themselves to discipleship and service in the Kingdom of God.” (BUV Constitution) Local churches are thus called to reflect the love and truth of Christ in the way members treat one another and all people. This calling is particularly incumbent upon Pastors and other Leaders given the authority they carry and the roles they play in the life and mission of the church (1 Tim 3: 1-13: Titus 1:5-9).
- 1.2 Sometimes individuals and churches fail to live up to this high calling. Misconduct in the church is a reality and the BUV seeks to handle it with transparency, accountability, fairness and understanding. This document provides a procedure for attending to complaints of alleged misconduct by Pastoral Leaders.
- 1.3 The BUV recognizes that:
  - 1.3.1 It has a responsibility to see that each church affiliated with it exercises its ‘duty of care’ by ensuring the safety of congregational communities. The Creating Safe Spaces programme provides training on this for church leaders and volunteers. The [BUV’s Guidelines for Healthy Church-Pastor Relationships](#) details the obligations of churches regarding treatment of Pastors. In addition, the [BUV Code of Ethics for Pastoral Leaders and Companion Guide](#) has been developed by the BUV to assist in the definition of appropriate behaviour by Pastoral leaders.
  - 1.3.2 Pastoral leaders have a particular responsibility to live by the example of Jesus Christ; respecting each person as a unique human being made in the image of God. When the Pastoral relationship of trust is abused, it can result in spiritual, emotional, psychological and/or physical crisis for the victim and can also have a devastating effect on secondary victims, including family members, the congregation, and people in the wider community.

1.3.3 Misconduct in the church is a moral and biblical issue. It speaks to the heart of the ethical behaviour God requires of leaders in the church, including:

- Love as the ultimate basis of actions towards others (John 13:34; Matt 19:19, 5:44; 1 John 3:18; Gal 6:10);
- Servant leadership and the proper use of authority (John 13:16; 1 Peter 5:3);
- Ministry as an act of empowering others (Eph 4:11-12);
- The avoidance of abuse (2 Cor 6:3,7:2);
- Transparency and mutuality (Rom 15:14; Eph 5:21; Gal 6:2; James 5:16);
- Commitment to justice (Micah 6:8);
- Ultimate accountability to Christ (1 Peter 5:4).

1.4 Within the BUV, the Professional Standards Group (PSG) oversees the administration of ethical standards under its charter from Union Council. Profiles of the members of the PSG are provided [here](#).

## 2. Scope of the Document

- 2.1 This document provides a procedure for dealing with complaints of misconduct regarding those to whom the *BUV Code of Ethics* (Code) applies:
- Ordained or Accredited Pastoral Leaders;
  - Candidates in Training for Ordination;
  - All people appointed to BUV's 'Special Positions' list;
  - Anyone who is registered as a marriage celebrant through the BUV;
  - Any person in a position appointed by Assembly but not mentioned above.
- 2.2 Pastors applying for Accreditation by the BUV must agree to be accountable to the Code. Where a church may employ a Pastoral leader who does not appear in any of the categories listed in 2.1, the BUV will request the church to enter into a written agreement that will allow the BUV to proceed with the process if a complaint is lodged against that Pastor.
- 2.3 While the BUV Professional Standards process does not cover complaints against other leaders or members within churches, this document provides principles and guidelines that are recommended for local churches to apply in such instances.

### 3. Guiding Principles

- 3.1 “Misconduct” covers a range of possible behaviours which are in breach of the *BUV Code*. It is important to note that the impact of the misconduct may or may not equate with the degree of severity (e.g. misconduct that is not criminal in nature, may nevertheless have significant impact on the victim and/or Ministry).
- 3.2 The principle of justice underpins this document. The BUV affirms the right and courage of complainants to raise complaints and seeks to be supportive throughout the process. No action will be taken against anyone for making a complaint or helping someone to make a complaint. Notwithstanding this, the process also takes into account the possibility that a complaint might not be established.
- 3.3 The process needs to be conducted in a manner that is transparent in its procedures and respectful of the complainant and the respondent. Every effort will be made to prevent the complainant experiencing the process as re-victimisation.
- 3.4 The BUV acknowledges the rights of a complainant to take their case to the Police, other authorities, or legal counsel for due legal processes to take place. The BUV supports the reporting of abuse to relevant authorities in line with legislative requirements and, if requested by the complainant, the BUV’s Professional Standards Consultant will assist with such reporting. If a complaint concerns an alleged crime or other reportable offence, and the complainant is unwilling to report it, the BUV may lodge a report to meet its legal obligations. Offences against children will be reported.
- 3.5 As a matter of natural justice, a respondent (person against whom a complaint is made) has the right to know exactly what he/she is being accused of and by whom. A complaint will not be proceeded with, pursuant to these procedures, unless the complainant is willing to have their name and the details of the complaint referred to the respondent. (However, in some exceptional circumstances, the BUV reserves the right to pursue an investigation if it is believed that a Pastoral leader may pose a risk to others. The complainant would be informed of this at the outset of the investigation.) A respondent is entitled to retain a copy of the complaint document provided to them. The complainant will be advised that the respondent will be given a copy of the documentation and the complainant’s consent for the respondent to retain a copy will be sought at that time.

- 3.6 The standard of proof for a finding that misconduct has occurred is the 'balance of probabilities', rather than 'beyond reasonable doubt'. It is the responsibility of those determining a complaint to decide whether it is more probable than not that the alleged conduct complained of took place.
- 3.7 In determining complaints, attention will be given to the power dynamics involved in the situation. Power is often unequal. People have more or less power due to factors such as gender, social and economic status, education, emotional vulnerability. Pastors are amongst those who are given greater power and responsibility to lead and serve others. The church asserts, and congregational members expect, that the power and authority given will be trustworthy and used in supportive, just and non-exploitative ways.<sup>1</sup> In situations of power imbalance, it is not expected that the approach described in Matt 18:15-17 will be applied to resolve offensive conduct.
- 3.8 Wherever possible, confidentiality will be maintained. In particular, care will be taken throughout the process to protect the identity of the complainant outside of the complaint process. If the outcome of the investigation process is that the complaint is not established, then the identity of the complainant and the respondent will also remain confidential to all who have direct connection with or played a role in the process.
- 3.9 This document recognises that those who have been directly subject to misconduct are not the only victims of the behaviour. Secondary victims may include members of the complainant's family, the congregation as a whole, and members of the respondent's family. This process cannot meet all the pastoral needs of those affected by misconduct, but the BUV will encourage people to seek appropriate pastoral care and support, recognising that this complaint process is one element of a larger recovery process.
- 3.10 When considering the response of the respondent, it is important to distinguish between remorse and repentance. Normally remorse is the initial expression of regret in response to the matter being discovered. Repentance is the slow and deeply personal process of accepting responsibility for the consequences of actions and being committed to change.
- 3.11 At all stages of this process, any person with a conflict of interest in relation to the parties involved will recuse themselves. Where any person has a concern about conflict of interest, they should seek advice from the Chair of the Professional Standards Group.

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1. Adapted from 'Why Does He Hug us So Tightly? Sexual Abuse In Ministerial Relationships. p.1.

## 4. Forming a Complaint

- 4.1 It is likely that in most instances a complaint will initially be expressed in verbal form to a family member, friend, counsellor, or a trusted member of the local congregation. The BUV encourages those who listen to the complaint to support the person in taking the matter further. It is recognized that a complainant may not be ready immediately to make a formal disclosure. In moving towards presenting their complaint to the BUV, this document may increase the confidence of the complainant that the process, even though challenging, will be safe and this may assist her/him to proceed.
- 4.2 If a matter of concern relating to a person who falls within the scope of this process comes to the attention of Church leaders, they are obliged to assist in making a formal complaint to the BUV by submitting a Professional Misconduct Complaint Form. It should be noted that the BUV has jurisdiction regarding accreditation of Pastors, but employment is a matter for local churches.
- 4.3 Upon receiving a complaint, the BUV Professional Standards Consultant will speak with the complainant and briefly explain the process. The purpose of this contact is to:
- hear the complainant's account and ascertain the nature of the complaint;
  - affirm the complainant for having the courage to come forward and speak of their experience; and
  - ensure the complainant has a copy of this document outlining the process of investigation.
- 4.4 Given the range of behaviours that may give rise to a complaint of misconduct, the BUV reserves the right to determine the appropriate form of investigation to be undertaken. This assessment will be made by the Professional Standards Consultant and the Chair of the PSG. The complainant will be advised of the process to be applied. The guiding principles outlined above will be followed in responding to all complaints.

If it is assessed that the complaint does not warrant further investigation as a Professional Standards matter, the Professional Standards Consultant may recommend to the complainant an appropriate helping professional to provide support and counselling or an alternative process such as mediation, with the cost to be met by the complainant. The complainant has the right to refuse such a recommendation. Even if the complaint is not investigated further, the complaint will be documented and retained by the BUV.



4.5 The Professional Standards Consultant will inform the complainant that complaints must be put in writing if the BUV's complaints process is to be pursued. The complainant's adviser will assist with the writing of the Complaint Document if such assistance is requested by the complainant. The Consultant will refer the complainant to the Code of Ethics to assist with the formation of a Complaint Document. The complaints process is activated only in response to alleged breaches of the Code.

The Complaint Document should be no more than 2-3 pages in length, and should include, as far as possible:

- How the complainant knows the respondent (e.g. pastoral, counselling, roles);
- A specific description of the alleged behaviour(s) involved;
- The Codes alleged to have been breached;
- The dates of the alleged behaviour(s);
- The age of the complainant at the time (if under 18);
- The consequences for the complainant (eg change in church involvement);
- Personal impact (emotional, psychological, spiritual, physical, social);
- Signature of the complainant.

4.6 If the allegations are of a criminal or reportable nature, the Professional Standards Consultant will encourage and assist the complainant in reporting the matter to the Police or other appropriate authorities. In addition, the BUV/Professional Standards Consultant will take any action required under Mandatory Reporting and other legislation. In the event of criminal investigation and/or legal proceedings, the BUV process will be suspended until an outcome is determined by the relevant authorities. The Professional Standards Consultant will monitor the situation and outcomes. If no criminal conviction is recorded, the BUV may still investigate the matter.

4.7 In the event that a complaint alleges misconduct against a person aged under 18 years, the Professional Standards Consultant will advise the church or agency on whether the Reportable Conduct Scheme applies and offer support in complying with the requirements of the Scheme. The responsibility for reporting and ensuring investigation of such allegations as required by the Scheme rests with the church or agency.

## 5. Preparation for Investigation

- 5.1 If the assessment is that the complaint warrants further action by the BUV, responses to complaints may take one of the following forms as determined by the Chair of the PSG and Professional Standards Consultant, though are not limited to these options:
- Professional Standards Consultant to hold an advisory conversation with the respondent regarding the matters raised in the complaint. The Consultant might be joined by the Chair of PSG, a Regional Pastor or other appropriate BUV staff member.
  - Professional Standards Consultant, the Chair of PSG and perhaps another member of the PSG conduct an investigation of the complaint. In some situations, another person with relevant skills or experience may be included in the investigation. In some instances, this could include a suitably equipped leader from the local church.
  - The investigation be referred to an independent investigator to report back to the PSG.
  - A Professional Standards Panel be established to conduct the investigation and report to the PSG.
- 5.2 The Professional Standards Consultant will inform the complainant by phone or video conferencing and in writing that the investigation is to proceed. The complainant will be instructed not to initiate any contact with the respondent at any time during the investigation.
- 5.3 The Professional Standards Consultant will inform the respondent by phone or video conferencing and in writing that a complaint has been received. The Consultant must disclose to the respondent the nature of the complaint, the name of the complainant and the decision by the BUV to implement a process of investigation. The respondent will also be instructed that he/she is not to initiate any contact with the complainant during the investigation.
- 5.4 At least five working days prior to the respondent being interviewed in relation to a complaint, he or she will be provided with the written Complaint Document. The Respondent may waive his or her right to this period of notice.
- 5.5 When it is assessed that a complaint does warrant investigation, the Chair of PSG may recommend to the respondent's church or agency that it may be beneficial for the respondent to be stood aside from their role for the duration of the investigation to enable them to focus on the complaint process. This is without

loss of relevant income or leave entitlements, on a temporary basis, pending the outcome of the process.

- 5.6 The PSC will discuss with the complainant/respondent the appointment of an Adviser. The role of Advisers is set out in Appendix 1. The complainant and respondent will be informed in writing of the identity and the role of their recommended Advisers. The complainant and respondent have the right to refuse the recommended Adviser(s). Where a complainant or respondent declines the offer of an Adviser, this will be confirmed in writing.
- 5.7 If a respondent refuses to cooperate with the investigation of a complaint (e.g. will not attend an interview) the process may proceed without the respondent being present. Similarly, if a respondent resigns from their position or retires from Pastoral ministry in the course of a complaints process, the BUV reserves the right to continue the process.

## 6. Investigation – Interviews & Determination

- 6.1 The Professional Standards Consultant will make arrangements for the investigation to proceed as soon as practicably possible.
- 6.2 The complainant and respondent will be informed who will be conducting the investigation.
- 6.3 Regardless of the form of investigation to be undertaken, the BUV may call on witnesses and request evidentiary documentation relevant to the complaint. The complainant and respondent may submit witness statements or other documents relevant to the complaint.
- 6.4 If the complainant is to be interviewed further by those conducting the investigation, they will be encouraged to attend with his/her Adviser. (Interviews may be conducted via video conferencing.) The complainant may invite up to two support people to provide personal support. However, support persons are not to be permitted to address those conducting the investigation. The respondent will not be present at this meeting.
- 6.5 The respondent will be advised of their interview time and is encouraged to attend with his/her Adviser. (Interviews may be conducted via video conferencing.) The respondent may also invite up to two support people who offer personal support. However, support persons are not to be permitted to address those conducting the investigation. The complainant will not be present at this meeting. The respondent may present a written response to the complaint in addition to being interviewed.
- 6.6 Having considered the evidence presented, the investigators will decide if, on the balance of probabilities, they find the complaint to be established or not. This is called the Determination.
- 6.7 The Determination will be presented in writing to a Professional Standards Misconduct Sub-Committee (consisting of the Chair of the PSG, the Professional Standards Consultant and another member of the PSG not involved in the investigation and who has no conflict of interest in relation to the parties involved in the complaint). The Sub-Committee will recommend the appropriate course of action required. This is called the Recommendations.

- 6.8 Recommendations may include, but are not limited to:
- A. A requirement to undertake remedial work on personal issues and/or ministry practice with an appropriate professional engaged by the BUV;
  - B. Enhanced ongoing supervision and accountability;
  - C. A recommendation to the Director of Mission and Ministry that the Pastoral Leader's BUV Accreditation be suspended or cancelled. This may include removal of Marriage Celebrant Licence. This will include the minimum time to elapse before an application for reaccreditation would be considered.
  - D. A recommendation to Union Council that the Pastoral Leader's Ordination be revoked (This may occur when there is a finding of serious misconduct by a Pastoral leader such as involving adult-to-child sexual abuse, significant violence, or significant predatory behaviour).
  - E. Notification of misconduct to all churches, committees or working groups with whom the Pastoral leader has been involved. This may include other Baptist Unions in Australia and overseas and other denominations.
  - F. Notification to other current employers where appropriate.
  - G. A recommendation of mediation or other processes in line with the BUV's *Guidelines for Healthy Church-Pastor Relationships* and the church's grievance policy.
  - H. No further action.
- 6.9 The sub-committee may also make recommendations regarding support for the complainant or secondary victims and systemic matters to be addressed in the church or agency.
- 6.10 The Determination and Recommendations will be presented to the Professional Standards Group for consideration and endorsement before being presented to the complainant and respondent. The document presented to the complainant and respondent will clearly cover all aspects of the decision by the PSG and include the right to appeal set out in section 8 below.
- 6.11 Where a respondent is stood aside from their position or has their Accreditation suspended pending completion of work required by the PSG, they must obtain clearance from the PSG prior to resuming their ministry in their current role or elsewhere. Before granting such clearance, the PSG will consider a report from the professional(s) the respondent has been working with and a sub-committee of the PSG will interview the respondent to ascertain the impact of the work done and readiness for any return to ministry.

## 7. Communication of Outcomes

- 7.1 Generally, within 14 days of the Professional Standards Group endorsing the Recommendations, the complainant will be informed of the outcome. The Professional Standards Consultant informs the complainant by phone and in writing or via video conferencing. Thereafter, the Consultant and the Chair of PSG will meet with the respondent to inform her or him of the outcome by phone or via video conferencing and in writing and of any action to be taken. Advisers of the complainant and respondent and, if deemed appropriate by the Chair, any other participants in the process will also be informed of the outcome.
- 7.2 As deemed appropriate, the Chair of PSG will notify the leaders and/or members of the respondent's church or agency of the outcome of the complaint process. Where this notification is in electronic or paper form, it is not to be distributed to others.

If a statement is to be read at a meeting it should:

- A. Affirm the complainant for coming forward.
  - B. Provide the details of the Determination and Recommendation
  - C. Outline any procedures to be put in to place to help people involved debrief and recover from the incidents.
- 7.3 In all instances of notification, care will be taken to describe the nature of the misconduct in broad terms without unnecessary details in order to protect the complainant's right for the matter to be managed with discretion. This will usually include not naming the complainant or other specific details that may lead to identification of them.

## 8. Right of Appeal

- 8.1 Under this process, appeals are to be made to the BUV Union Council. The right to appeal for both complainants and respondents is limited to the process not being correctly applied or the discovery of new evidence. The specific grounds of appeal must be presented in writing within 14 calendar days of the notification of the outcome of the complaint process.
- 8.2 The Chair of Union Council or another Council member serving as their delegate will investigate the appeal, with the assistance of two people chosen by Council, one of whom may be another member of Union Council. The people conducting the review must not have played a part in the investigation nor have a conflict of interest in relation to the parties involved in the complaint.
- 8.3 If the Appeal Panel determines that the process was followed correctly, or that any departure from it or new evidence provided would be unlikely to have bearing on the outcome, the appellant will be advised and there will be no further action.
- 8.4 If the Appeal Panel determines that the process was not followed correctly and this would have made a crucial difference to the outcome of the investigation, or that there is significant new evidence to be considered, the investigation may be re-opened. The re-investigation will be conducted by an independent investigator approved by the Chair of Union Council. Both the complainant and respondent will be advised of this Determination and the process that will follow.

## 9. New Evidence

- 9.1 At any time, the Professional Standards Group has the right to re-open a closed investigation on the basis of fresh evidence that may have a material impact on the Determination or Recommendations.

## 10. Storage of Records

- 10.1 During and after investigations, all documents, whether physical or digital, will be managed securely as confidential within the BUV Support Hub's processes and facilities.
- 10.2 Access to these records is only with the approval of the Director of Mission and Ministries or the Chair of the Professional Standards Group.

Reasons for access may include:

- the furnishing of further information by the complainant, the respondent or another person;
- requests by Statutory Authorities for information regarding the matter.



## 11. Responsibility to the Local Congregation or Baptist Agency

- 11.1 In the event of a complaint of alleged pastoral misconduct or a finding of misconduct, the local congregation or agency involved must be appropriately informed and supported with care and understanding. There are immediate needs for the congregation, whose circumstances change rapidly, often without warning and with significant legacies of distress, disbelief, confusion, hurt and loss.
- 11.2 All contact with the local congregation or agency by the BUV will endeavour to be pastorally sensitive, while holding to the need to undertake processes that some may consider to be rigorous and challenging.
- 11.3 Whenever an allegation or its implications is being discussed with the church or agency leadership or the congregation generally, the right and the courage of the complainant to speak out must be affirmed at all times.
- 11.4 When an outcome is determined, the congregation or agency should be adequately informed. Any announcement will come from the Chair of PSG or their delegate. The statement should include a general description of the allegations made, the process that was followed, the outcome of the investigation, the consequent implications for the ministry of the church/agency and of the respondent, the support provided to the parties involved and a restatement regarding the right of the complainant to bring the inappropriate behaviour to the attention of the leadership and the BUV. Where this notification is in electronic or paper form, it is not to be distributed to others.
- 11.5 The issue of congregational healing then needs to be considered. There may be need to engage the BUV Church Health & Capacity Building Team and/or appoint an experienced Interim Pastor to oversee the healing process. It may also be appropriate to bring in a consultant, with experience in this field, in order to assist the leadership and/or the congregation to come to terms with what has happened.

## Appendices

### Appendix 1: The Role of Advisers

- An Adviser may be offered to Complainants and Respondents to assist them through the Complaint Investigation process.
- An adviser provides clarification about the process. If in doubt the adviser should seek clarification from the Professional Standards Consultant and communicate the response to the complainant/respondent.
- Advisers maintain contact with the complainant/respondent and with the Professional Standards Consultant to ensure that the complainant/respondent is kept up to date with the current state of proceedings.
- The complainant's adviser may assist as needed with the writing of the Complaint Document by the complainant.
- Advisers acknowledge the stressful nature of being involved in a formal Complaint process and the courage of the complainant in making a disclosure.
- Advisers explore the personal support network available to the complainant/respondent (ie. family, close friends, pastoral carer) so that they may receive additional care and support.
- Advisers counsel the complainant/respondent against 'lobbying' others.
- Advisers stress the importance and encourage the complainant's/respondent's practice of 'self-care'. This may mean exploration of helpful self-care practices (e.g. exercise, prayer, relaxation tapes, special attention to eating and sleeping well, time with loved ones, reading, saying no to extra demands at this time).
- Advisers ensure that the rights of the complainant/respondent are respected during the whole process.
- Advisers accompany the complainant/respondent to their interviews throughout the process.

## Notes:

- The Adviser provides information and clarification and is a supportive presence but maintains a healthy distance from the substance of the complaint. A 'rule of thumb' is to be mindful of process rather than the content. (This may require personal discipline in not asking questions out of personal curiosity).
- The Adviser may be invited to 'side with' the complainant/respondent. However, it is wise to adopt a stance that is more beneficial in the long run to the complainant/respondent. To understand the role, it may be helpful to visualize a sculpture where the complainant/respondent is facing the panel, his/her support people may stand alongside him/her and the Advisor is positioned slightly to one side behind the complainant/respondent.
- The complainant/respondent may be expressing strong feelings (i.e. anger, distress, shame). It will require skill to hear and acknowledge strong feelings and not be overwhelmed or be tempted to advocate for the complainant's/respondent's 'cause'.
- The Adviser is not expected to provide counselling to the complainant/respondent although the advisor may support him/her in seeking appropriate counselling.
- The Adviser is encouraged to consult or debrief with the Professional Standards Consultant at any time, particularly when the task is proving to be challenging.
- The Adviser's supportive role does not extend beyond the duration of the process. The BUV advises that the Adviser assists in establishing a source of pastoral care for the complainant/respondent and their respective families but does not remain personally involved.
- Any costs incurred by Advisers will be met by the BUV and expenses should be discussed with the Professional Standards Consultant before they are incurred.

## Appendix 2: Panel Process

### Panel

The BUV does not have a standing panel to investigate complaints. A panel will be formed when it is considered appropriate following the assessment of a complaint.

A panel will consist of up to five members, including the Panel Chair; an appropriately experienced Pastoral Leader; a professional with expertise in the field of the alleged misconduct; an appropriate representative from another denomination; a representative from the Baptist agency if the complaint involves that agency; and a person with the relevant cultural background. Panel members are independent with no conflict of interest in relation to the parties involved in the complaint. Wherever possible the panel shall include both male and female members.

The Professional Standards Consultant is responsible for the engagement of representatives from other denominations and of professionals with appropriate expertise.

Panel members may receive an honorarium each time they 'serve' on a Panel investigation process.

The Panel formed for an investigation process is responsible for:

- A. The investigation of the specific complaints of misconduct;
- B. Conducting an interview with the complainant and an interview with the respondent and witnesses if required.

It is critical that members of the Panel do not engage in pastoral or 'off the record' meetings or phone conversations with either the complainant or respondent as this creates a conflict of interest and increases the risk of actual or perceived bias. While the members of the Panel are to respond with sensitivity, their role is investigation and determination only.

### Panel Chair

- The Panel Chair meets with other panel members to prepare for the Panel Hearing.
- The Panel Chair is responsible for ensuring the panel process is conducted within the guidelines set out in this document.
- The Panel Chair documents the Panel's Determination based on information submitted and the interviewing of complainant and respondent.
- The Panel Chair presents the Determination in writing to the Professional Standards Consultant and/or the Chair of the Professional Standards Group.

# Flowchart Summary of Complaints Procedure

(See relevant sections for more detail)

