



**uniting  
church**  
in Australia,  
Synod of NSW & ACT

## Guideline - Persons of Concern in Congregations Synod of NSW & the ACT

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This guideline applies to all Congregations, Presbyteries and Parish Missions, (where the Parish Mission Protocol is not implemented) of the Uniting Church, Synod of NSW, and the ACT.

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## 1. Persons of Concern (POC) Guideline purpose

The Persons of Concern (POC) Guideline sits under the Persons of Concern Policy of the Synod of NSW and the ACT (Synod). Its purpose is to outline the process congregations, parish missions (where the Parish Mission Protocol has not been applied) and Presbyteries must undertake when a person is identified as a POC under the definition outlined in the Synod Person of Concern Policy.

## 2. Persons of Concern (POC) Guideline application

This guideline applies to all congregations, presbyteries and parish missions of the Synod of NSW and the ACT where the Parish Missions Protocol has not been applied.

## 3. Summary of Responsibilities under this Guideline

### Synod

- The Associate Secretary is responsible for deciding whether an agreement may be put in place which enables a POC to engage in the life of a congregation, presbytery or parish mission of the Synod of NSW and the ACT (Synod) and is responsible for the terms of that agreement and its development.
- Is responsible for ensuring a risk assessment of the POC in the context of the congregation, presbytery, or parish mission they wish to engage with is completed.
- Is responsible for deciding the terms under which an agreement relating to the POC is terminated.
- Is responsible for ensuring reviews of any agreement take place as agreed
- Is responsible for investigating any reported breach of an agreement by the POC
- Is responsible for developing the procedures regarding the management of POC's
- Is responsible for ensuring that the POC management process is carried out with compassion, respect, and procedural fairness.
- Is responsible for ensuring that matters relating to POC's are managed as confidentially as possible.
- Is responsible for managing all legal aspects relating to the management of POC's

### Presbytery

- Is a signatory to any agreement or safeguarding arrangement put in place to manage a POC
- Is responsible for any related pastoral support of the minister and/or key leaders managing a POC
- Ensures the POC receives appropriate pastoral support during any period during the POC process where the POC is excluded from attending. Responsibility for the pastoral support of a POC ceases if the POC is excluded from any congregation within Synod
- Supports the Synod during the POC management process, when a Synod representative cannot be present in person.
- Ensures any Joint Nominating Committee (JNC) chairperson or convenor working with a congregation who has a POC, is aware of the POC and communicates this to the prospective ministry agent.
- Where a POC is identified in a Faith Community, Presbytery is responsible for overseeing the POC process and identifying an appropriate congregation for the POC where a Safety Agreement can be offered.

## Congregation

- Signatory to the Safety Agreement or safeguarding arrangement put in place to manage a POC
- Assist Synod with the risk assessment and development of the terms of the Safety Agreement
- Ensure the terms of the Safety Agreement are upheld
- Appointing and supporting Monitors
- Pastoral support of the POC
- Reporting any breaches of the Safety Agreement
- Review existing Safety Agreements as required.

## Person of Concern

- A POC must demonstrate willingness to engage in a positive and cooperative manner with the POC management team and process
- Must comply with the terms of any interim arrangement
- Must sign the Safety Agreement and comply with the terms and conditions within the Safety Agreement
- Must respectfully co-operate with monitors, minister, designated person must inform Synod and designated leader, minister of any changed circumstance related to the Safety Agreement.

## 4. Pastoral Support

The identification of a POC and the POC process, may be difficult for a minister and congregation. It is important that all those who require pastoral support receive the appropriate support. All pastoral support matters will be treated with confidentiality, respect, and compassion.

### Person of Concern

- The Presbytery will provide pastoral support for the POC while the Interim Safety Measures are in place and while the Safety Agreement is being developed. Presbytery will also provide the pastoral support of a POC during any exclusion period after a SA is developed, e.g., while a suspected breach is investigated. This will be done in consultation with the ministry agent, designated leader or church council.
- If a Synod is unable to offer a Safety Agreement the responsibility of the Presbytery to provide pastoral support to the POC will be withdrawn.
- When a Safety Agreement has been offered and signed by all parties, the responsibility of the Presbytery to provide pastoral support to the POC will cease after appropriate ongoing pastoral support has been arranged within the Church congregation and minister in placement, designated leader.

### Minister/Designated Leader and Congregation

- The Presbytery will ensure that the minister has the appropriate pastoral support needed to manage the POC
- The Presbytery in partnership with the minister will manage any pastoral support required by church council members, monitors and congregation members who are aware of the POC
- The minister or designated leader, with support of the Presbytery, shall manage any special needs of survivors of sexual abuse who are congregation members.

## 5. Persons of Concern (POC) Management Process Overview

The steps for managing the situation where a POC wishes to participate in the life of a Congregation are as follows:



## 6. Persons of Concern (POC) Management Process detailed steps.

### Step 1: Identification and Notification of Persons of Concern

A Person of Concern is defined as a person who wishes to participate in the life of any Uniting Church community or agency within the Synod, who has engaged in criminal sexual or abusive behaviours and /or is reasonably suspected of engaging or seeking to engage in harmful sexual or abusive behaviours to another person that has led or may lead to one or more of the following:

- criminal charges relating to sexual offences against children and/or adults
- conviction for sexual offences relating to children and/or adults
- conviction of abusive/violent offences relating to children and/or adults
- placement on the Register of Sexual Offenders
- suspension or refusal of a current Working with Children Check
- recording on the Nationally Coordinated Criminal History Check
- concerns reasonably held by the congregation, faith community, Presbytery, Parish mission, or Synod that the safety of others may be at risk.

Anyone who becomes concerned about the behaviour of a person attending a congregation or activity of the Church or has reasonable grounds to suspect that the person meets the definition of a POC above must, without any accusation of guilt, immediately inform the minister, Church Council Chairperson, Presbytery or Synod.

#### After the initial notification, the following applies:

- The receiving council of the church or Synod body must inform other relative councils of the Church, namely Church Council, Presbytery, and the Associate Secretary of the Synod.
- The Associate Secretary will ensure that the General Secretary, Head of Risk and Safe Church Unit are notified. The Synod will then manage the POC Process.
- Any required notifications must be made to the relevant authorities, including the Police, the Department of Communities and Justice and/or the Office of the Children's Guardian in NSW or Child and Youth Protective Services in the ACT. It is important to be aware of responsibilities under Mandatory Reporting and the Reportable Conduct scheme in NSW or the ACT, so these requirements are met.
- In the circumstance that a child is identified as a POC, the Synod must follow mandatory reporting processes for the safety of the child and other children including notification of the police/child protection unit.
- Should the POC be a child or a vulnerable adult, the parent/caregiver/guardian shall be included in all conversations with the POC about the Safety Agreement and, in the case of children under 18 years of age and people without legal capacity, be a party to the Safety Agreement. All communication with the child or vulnerable adult shall be conducted sensitively with consideration given to age and intellectual development and capacity.

### Step 2: Interim Safety Measures

Upon notification of a potential POC, the Synod must, without any accusation of guilt, ensure:

- the person is stood aside from any leadership role or activity within the life of the congregation
- ensure that the person does not act in any capacity that could be deemed a leadership role or activity or as representing the Church.
- The POC does not attend any Uniting Church service of worship or participate in any activity of

the congregation until it is determined that a Safety Agreement will be offered, agreed and signed. Any variation to this is at the discretion of Synod.

### **A leadership position or role or one that represents the Church includes but is not limited to:**

- Nomination for any position within the congregation, Presbytery or Synod including membership of any associated committee or working group.
- Contributing to worship in any capacity and/or participating in any activity that might lead people to think the POC acted in an approved and trusted role. This includes, but is not limited to, saying grace, leading prayer, singing as an individual or member of a band/group/choir, Bible reading, lighting candles, offering votes of thanks, carrying Communion elements or the Bible into the Church, serving Communion elements, addressing the congregation in any way that implies leadership.
- Leading or assisting in any church-related event or activity; especially those involving children and/or youth.
- Greeter, welcomer, pastoral care visitor
- Key access to any Church property and afterhours access to any Church property
- Access to any Church computer equipment or technology or involvement in managing any streaming of church activities over the internet.
- Leading Bible studies, home/life/fellowship groups, organising or hosting any Church events, activities or programs, involvement in religious education programs
- Identification on Church websites as a person associated with or representing the Church in any way
- Any other activity which a reasonable person might identify as acting in a leadership role/position with the Uniting Church.

### **Step 3: Risk Assessment**

The Synod, in consultation with the Church Council, Presbytery, and Ministry agent will evaluate the risks of a POC attending a specific congregation. The outcome of the risk assessment will determine whether a Safety Agreement will be offered. Wherever possible the risk assessment will include an onsite meeting between the Synod, the ministry agent and POC and a tour of the premises. A representative from Presbytery may also be present.

The risk assessment shall take into consideration all aspects of the POC within the context of the congregation they engage with.

In evaluating the risk, consideration should be given, but not limited to the following factors:

- **Commitment of the Congregation to Child Safety**
  - It is important that the congregation display a commitment to child safety e.g., safe church policy, codes of conduct, compliance with background check requirements
  - commitment of the church council members and monitors to Safe Church training, Child Safe Principles, legislated Child Safe Standards and their willingness and capacity to manage a POC appropriately
  - recognition that the Church community may include known and unknown survivors of sexual abuse
  - The Church Council and Ministry agent's understanding of, and willingness to engage in, the POC process with Synod
  - The nature of the congregation's ministry to children

- **POC characteristics**
  - Exploring the nature of convictions, charges and/or allegations made against a POC
  - the POC's adherence to interim safety measures
  - the POC's understanding of and remorse for the harm their behaviour has caused and their commitment not to re-offend
  - the POC's willingness to engage in the Safety Agreement process
- **Monitoring and review**
  - capacity of the Church Council and Ministry Agent to monitor the Safety Agreement
  - capacity of the congregation to appoint appropriate monitors (see section below)
  - capacity of the church council process for oversight and review of the SA
  - process for reviewing and supporting the monitors

It is recognised that there will be situations where, for reasons beyond the control of the Church, it is not possible either to conduct a full risk assessment and/or to place the POC on a Safety Agreement (for example at the direction of the Police). In these circumstances, and mindful of the paramount need to take reasonable care to keep children, young people, and vulnerable people safe from harm, the Church will take such steps as are available to it to manage and minimise the risk in respect to that POC unless and until a full risk assessment and/or a Safety Agreement can take place.

#### **Step 4: Determine whether a Safety Agreement will be offered or denied**

A Safety Agreement can only be offered when the Synod believes the Church Council can manage the risk presented by the POC's presence in the life of the congregation.

The Associate Secretary, with reference to the risk assessment carried out will either

- agree that a Safety Agreement be offered, in which case the Safety Agreement will be drafted by the Safe Church Unit in consultation with the Minister or Church Council chairperson
- or will decide that a Safety Agreement cannot be offered to the POC, in which case the procedure for declining a Safety Agreement will be followed.

#### **Safety Agreement not offered**

Where Synod deems that the risk associated with a POC is unacceptable, a Safety Agreement will not be offered, and the Synod will:

- notify the POC (and if the POC is a child their parent/caregiver, or an adult with lack of legal capacity, their legal guardian) in writing that it has been determined that the Church is unable to satisfactorily manage the risk of the POC in the life of the Church community
- Identify the consequences of this decision and the date from which this takes affect
- clearly state the steps that will be taken should the POC seek to ignore or defy the decision.
- confirm that this decision has been communicated to other councils of the Church and ecumenical partners as deemed appropriate

#### **Step 5: Safety Agreement**

Where Synod deems that the risk associated with a POC can be appropriately mitigated, a Safety Agreement (SA) will be offered to the POC. The SA outlines the terms under which a particular POC can engage with a particular Congregation. A SA is established between the Synod and the POC and consented to by the General Secretary of the Synod of NSW and the ACT or their appointee, a representative from the congregation, the Presbytery and the POC.

## Important points regarding Safety Agreements

- The Synod holds the responsibility for the final decision to offer a SA to a POC.
- The Synod takes a leading role in the development of the SA in consultation with the ministry agent or Church Council nominee, presbytery representative and the POC.
- The SA will clearly define the roles of the ministry agent, Church Council and approved monitors, outline how the SA will be monitored and the frequency of reviews.
- A SA is only valid if agreed and signed by all parties.
- The Church Council has the responsibility for ensuring the SA is upheld by the POC and monitors. The SA will be reviewed routinely. In cases of a reported breach or incident, or when relevant circumstances change, the SA may also be reviewed. For example, where online worship or social distancing measures negatively impact the effectiveness or completeness of the safety agreement.
- Where a POC is a child or vulnerable adult, the process as it applies to adults will be implemented but the parent/caregiver/guardian shall be included in all conversations. In the case of children and people without legal capacity, the appropriate caregiver shall be a party to the Safety Agreement. All ensuing notifications and communications must be undertaken with consideration to the age and capacity of the child/vulnerable person. The situation where a POC lacks mental capacity is covered separately below.
- The POC has the right not to consent to a SA or to withdraw at any time from the process of developing a SA. If a POC does not wish to proceed with a SA, the process for when a SA is not offered shall apply.

## Capacity of the POC to enter into a Safety Agreement

A threshold issue to be considered in relation to each SA is whether the POC has sufficient capacity to enter into an agreement. If there is any doubt about the POC's capacity to enter into a SA and/or to abide by its terms, evidence as to capacity should be obtained from the POC's treating medical practitioner. If they do not have sufficient capacity, their guardian/the individual with Power of Attorney should be involved as discussed elsewhere in this policy.

If, at any time, during the life of a SA, it becomes apparent that a POC no longer has the capacity to be a party to the SA and/or abide by its terms, the SA will be terminated. A fresh SA will need to be negotiated with that POC's guardian/individual with Power of Attorney or an arrangement put in place with the Church Council.

Where a Church Council or Guardian is unwilling to act as signatory to a SA where a POC lacks capacity, the POC will be excluded from attending that congregation. The POC may seek permission to have an agreement with another congregation in this situation.

## Safety Agreement terms

The terms of the SA will be determined by the Synod in consultation with the Church Council, Presbytery, and the Ministry Agent, and in conversation with the POC (and when the POC is a child or vulnerable adult, their parent/caregiver). The Synod Safety Agreement template will be the basis of all Safety Agreements. Any alteration of the terms outlined in the Synod Safety Agreement template will be decided by the Synod after input from the ministry agent of the congregation concerned or their representative.

## Step 6: Person of Concern decides not to sign the Safety Agreement

The POC will be given a period during which the SA must be signed. Failure to sign the SA within that timeframe without a valid excuse will be taken as a refusal to accept the terms of the SA.

If the POC does not accept the terms of the SA, then the offer of a SA will be withdrawn, and they will be unable to attend any congregations within the Synod. The procedure for when a SA is not offered at Step 4 will then be followed.



## Step 7: Finalisation and Communication of the Safety Agreement

When the POC, Presbytery and Congregation Representatives have signed the SA it will be sent to Synod for signature and archiving along with the signed monitor agreements. Synod will keep electronic documents filed confidentially.

### Communication of the Safety Agreement

The existence and the relevant terms of the Safety Agreement will be shared with:

- The POC
- Church Council/ or relevant body Presbytery representative
- The General Secretary of the Synod or their appointee
- Ministry Agent of the congregation
- Monitors
- The parents/caregivers of the POC when the POC is a Child/Vulnerable Adult
- Persons responsible for the welfare and safety of children and/or vulnerable adults involved in the Congregation
- Appropriate ecumenical partners
- Other people nominated by the POC and agreed to by the Synod

Each of them will be required to respect the confidential and sensitive nature of the existence of, and reasons for, the SA.

### Other Communications regarding the POC and Safety Agreement may be:

- The Placements Committee (ACOMP) via its Executive will be informed of the existence of a POC within a congregation but will not be given details as to the terms of the Safety Agreement. The placement process will seek to ascertain the willingness and capacity of a ministry agent to work with the possibility of a POC in a potential placement.
- The presence of a POC in a congregation will be communicated to the incoming ministry agent, and the incoming Presbytery or Synod staff who oversee the POC process.
- The Synod will determine if other Uniting Church ministry agents in placements in geographic proximity to where the POC attends Church will be notified of the SA.
- When a POC identifies they wish to attend an extraordinary event, activity or program at a different Church location/community, the Ministry Agent of that community will be informed that a SA is in place (but not the terms of the agreement), be advised that the POC must be monitored while on those premises/at that event/activity/program and provided with details of what activities should be monitored and how. When there is no Ministry Agent this information will be given to the chair of the Church Council/Executive of that congregation.
- When information about the POC's criminal charges/conviction is in the public domain, the Synod will advise the Church Council what may be shared with the church community. The Church Council will communicate sensitively to the congregation. Children must be excluded from this meeting. Where allowed by law, the POC will be advised about the information that is to be shared and when the sharing will occur.
- The Ministry Agent will offer pastoral support to any members, adherents and members in association who require support after receiving this information. When there is no Ministry Agent this support will be facilitated by the presbytery minister.
- Where information is not in the public domain, the Church Council will ensure that the existence of the SA remains confidential known only known to the parties of the SA and where appropriate to the persons responsible for the welfare and safety of children and/or vulnerable adults involved in the Congregation.
- The Synod will advise the POC that a record is kept within the Office of the General Secretary about the POC including the SA and that the General Secretary will communicate in confidence this information to appropriate ecumenical partners.

## Step 8: Appointment and training of Monitors

Monitors have a crucial role in ensuring the effectiveness of the SA. The Church Council must ensure that monitors are appropriate people within the life of the Church who have received training for the role of monitor before the SA is signed.

The number of monitors will vary but there must be no less than two monitors appointed to any one POC. It is to be expected that over time replacement monitors may be required. In the event of the resignation of a monitor, the SA must be reviewed. It is possible that resignation of a monitor may mean that a POC cannot participate in some church events or activities for a period because monitors are not available for those events or activities.

The characteristics a monitor should hold include but are not limited to the following: Requirements:

- Over 18 years of age
- a regular member of the current congregation for at least twelve months
- appropriate age and gender in relation to the age and gender of the POC
- not be related to or have a close personal friendship or association with the POC or any associated alleged victim
- not be a co-accused or co-defendant of the POC
- Hold a Working with Children Check (NSW) or Working with Vulnerable People Check (ACT)
- Have undergone Safe Church training and any other specific training required by Synod
- Have read and signed a monitor agreement
- Maintain confidentiality and privacy about the Safety Agreement

### Qualities:

- have mature faith, reliability and integrity
- be able to express their understanding of the Church as a safe place for all people especially children, young people, and vulnerable adults
- understand grooming and the impact of sexual abuse and harm
- be able to articulate the role of a monitor including monitoring the POC and identifying, interrupting, and naming behaviour that may be considered a breach of the Safety Agreement
- recognise and understand the importance of a Safety Agreement and the POC meeting the terms of the Safety Agreement
- reflect on the nature of their relationship with the POC and their capacity to fulfil the role of monitor

### Capacity:

- consider their appropriateness as a monitor with the POC in relation to their own family commitments and vulnerabilities
- be self-aware of the impact of being in the role of monitor
- determine they have the capacity to fulfil the role of monitor
- exercise calm judgement if they believe the POC is breaching the Safety Agreement acting to ensure the safety of the POC and others in the church community including by advising the POC that they must immediately leave the Church event, activity, program, or premises
- be willing to meet, accompany and shadow the POC while they attend Church events, activities, and programs

The Church Council must appropriately support monitors to fulfil their role. Monitors must be fully briefed about their role and receive a written list of the responsibilities they have agreed to carry out.

If a monitor determines that they no longer have the capacity to be a monitor, they must inform the Church Council, who must inform the Synod. The Synod will review the capacity for a new monitor to be appointed and consequently whether a Safety Agreement can continue to be offered to the POC.

## Step 9: Safety Agreement review and reporting

The Church Council has the responsibility for ensuring that the terms of the SA are being upheld by the POC.

The Church Council should consider Persons of Concern as a confidential standing agenda item at every meeting to ensure compliance with the SA is monitored.

Members of the Church Council, the Ministry Agent, and the assigned monitors all must:

- remain aware of the terms of the SA and up to date of any changes
- be vigilant about the behaviour of the POC in fulfilling the SA
- respond to any alleged breach of the SA by instructing the POC to immediately leave the premises of the Church and accompanying them while they leave.
- Make any required reports regarding an incident to external agencies (e.g., Police) or to affected church community members (e.g., parents of a child who may have been affected).

The Church Council must immediately report any alleged breaches of the SA to the Associate General Secretary of the Synod.

### Safety Agreement scheduled review

The Synod, Presbytery, Church Council and Ministry Agent will meet at least annually with the POC by way of pastoral visitation to review the SA. The visit should include reading the SA and seeking the POC's continued commitment to fulfilling the terms of the SA.

The Synod may choose to review the SA at other intervals if they consider that changes to the circumstances of the Church community warrant such a review. This includes changes made to worship associated with COVID19 such as holding streamed or online services, and modifications to face-to-face services such as social distancing. Where such changes have been made, or are made in the future, all Safety Agreements should be reviewed so any implications are addressed.

Any changes to a SA must be advised to all parties, and the updated agreement signed.

## Step 10: Safety Agreement termination and breaches

### Reasons for termination:

A SA will be terminated for the following reasons:

- if a POC is found to reoffend,
- an alleged breach of the SA is serious and upheld,
- the POC transfers to another congregation within the Synod,
- a review of the SA recommends it be discontinued.
- If the Synod or congregation can no longer provide the necessary resources to deliver the SA.
- If the POC no longer wishes the SA to continue and therefore leaves the congregation

### Breaches of a Safety Agreement

Where a potential breach of the SA is reported, the Synod has the responsibility for determining if a SA will continue or be terminated. Synod shall:

- Communicate to the POC that there has been an alleged breach of the SA and outline the breach and potential outcomes if the allegation is upheld
- Communicate the investigation process to the POC and inform them that while the breach is being investigated, they must not attend any events, programs, or activities in the church community.

- Ensure that the Presbytery provides pastoral support to the POC
- Undertake an investigation of the alleged breach
- Communicate the outcome of the investigation to the POC, Presbytery and congregation
- Confirm that any breaches of the SA that constitute a criminal offence will be reported to appropriate authorities
- Determine the outcome of the investigation in dialogue with Presbytery, congregation and this will then be communicated to the POC.

The consequences for a breach of the SA could include any of the following.

- Discussion between the Church Council, Presbytery, Synod and the POC to remind them of the SA requirements and seeking explanation as to why the breach occurred,
- Revision of the SA or
- immediate withdrawal of the SA and subsequent exclusion of the POC from any further participation in the life of the Church community.
- Any breaches of the SA that constitute a criminal offence will be immediately reported to appropriate authorities.

### **Transfer to another Congregation within Synod**

If a POC changes congregation or denomination the original SA will be automatically terminated.

The Church Council must inform the Synod and Presbytery when the POC has ceased their involvement in the Congregation

The Church Council or Presbytery representative must inform the Synod if it becomes aware that the POC has commenced participation in the life of another church. Where the POC wishes to join another UCA congregation in the Synod of NSW and the ACT, the process for determining if a SA can be offered will commence.

The Synod will inform appropriate ecumenical partners when it is becomes known or suspected that a POC has commenced participation in the Church community of another denomination.