

32/08 Procedures and sanctions for all standards in *Faithfulness in Service*

(A report from the Standing Committee.)

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Background

1. By resolution 32/08 Synod –
 - (a) noted that the Code of Conduct for personal behaviour and the practice of pastoral ministry by clergy and church workers *Faithfulness in Service* (FIS) has been adopted by the Diocese and is applicable to all clergy and church workers,
 - (b) noted that the Discipline Ordinance 2006 provides specific procedures and possible sanctions only for the FIS child abuse and sexual misconduct standards and for habitual drunkenness and failure to pay just debts,
 - (c) noted that Standing Committee is considering a report on “Bullying in Parishes” (SC Report para 5.5) and is awaiting a report from the Safe Ministry Board on the adequacy of grievance procedures in the area of pastoral relationships and personal behaviour (SC Report 5.14),

- (d) requested Standing Committee to report to the 2009 Synod (with proposed draft ordinances if thought necessary) on the outcome of these two reports and the possibility of providing specific procedures and sanctions in relation to all the other standards enunciated in FIS, and
 - (e) asked the Standing Committee to consider all possible procedures and sanctions including alternative non-legal mediatory and conflict solving processes.
2. On 16 February 2009, the Standing Committee –
- (a) established a working group comprising Archdeacon Ken Allen, Mrs Claire Smith, Mrs Nicky Fortescue, Canon Sandy Grant and Mr Clive Ellis to develop, in consultation with the Safe Ministry Board, a diocesan grievance policy and procedure taking into account the matters referred to in paragraph 6 below, and
 - (b) asked the working group to bring the proposed form of policy and procedure to the Standing Committee meeting on 29 June 2009 under cover of a report suitable for printing for the Synod in response to the Synod's request for a report in resolution 32/08, and
 - (c) revoked the reference made to the Safe Ministry Board at its meeting on 15 October 2007 on the adequacy of grievance procedures.
3. This report has been prepared in response to the Standing Committee's request that a diocesan grievance policy and procedure be developed and that a suitable report be prepared for Synod in response to resolution 32/08.

Grievance policy

Basis of policy

4. The working group has developed a grievance policy and procedure which is included as Attachment 1 to this report.

5. In developing the grievance policy and procedure, the working group was mindful that in the Bible, God has much to say about the requirements and responsibilities of Christian life and leadership, especially when one has a grievance against another Christian.

So prior to any discipline process, the Bible encourages Christians to speak directly with a person whom he or she believes may be sinning. For example, Matthew 18:15-17 says –

If your brother sins against you, go and show him his fault, just between the two of you. If he listens to you, you have won your brother over. But if he will not listen,

take one or two others along, so that 'every matter may be established by the testimony of two or three witnesses'. If he refuses to listen to them, tell it to the church; and if he refuses to listen even to the church, treat him as you would a pagan or a tax collector. (NIV)

In particular, Christians are to rightly honour those God has placed in positions of authority (1 Tim 5:17-20; Hebrews 13:7, 17). For example, 1 Thessalonians 5:12-13 says –

Now we ask you, brothers, to respect those who work hard among you, who are over you in the Lord and who admonish you. Hold them in the highest regard in love because of their work. Live in peace with each other. (NIV)

The Bible expects high standards of Christian leaders (Mark 10:42-45; 2 Tim 2:14-26; Titus 1:5-9; James 3:1-2; 1 Peter 5:1-4). In particular, 1 Timothy 3:2-3 indicates, among other matters, that any bullying behaviour is unacceptable. It says –

Now the overseer must be above reproach, the husband of but one wife, temperate, self-controlled, respectable, hospitable, able to teach, not given to drunkenness, not violent but gentle, not quarrelsome, not a lover of money. (NIV)

Yet covering all this – especially in the face of a grievance – is the priority of love and forgiveness (Gal 5:22-6:4; Col 3:12-14; James 1:19-21). These priorities are well illustrated by Ephesians 4:31-32 –

Get rid of all bitterness, rage and anger, brawling and slander, along with every form of malice. Be kind and compassionate to one another, forgiving each other, just as in Christ God forgave you. (NIV)

Such distinctives of Christian life and ministry provide a Scriptural framework for the policy.

6. At the Standing Committee's request, the working group also took the following specific matters into account when developing the grievance policy and procedure –

- Develop a “grievance policy and procedure” to deal with complaints of abuse by clergy and church workers rather than a policy and procedure which focuses just on bullying.
- Define “abuse” by reference to FIS. In FIS, the term abuse includes emotional abuse, harassment, physical abuse, sexual abuse, spiritual abuse, as well as bullying.
- Avoid the use of “legislation” in giving effect to any policy or procedure.

- Avoid overly prescriptive definitions of bullying and other forms of abuse. The primary concern of a grievance policy and procedure is resolving bona fide grievances not determining whether conduct fits within certain definitions.
- Avoid a grievance procedure which escalates complaints too quickly.
- Focus on conciliated outcomes with possible involvement of trained mediators. However recognise that extreme behaviour may give rise to a charge under the Discipline Ordinance 2006.
- Be alert to the possible misuse of any grievance procedure by complainants.
- Be alert to the possible cost implications of any grievance policy that is set up.
- Extend any grievance policy beyond parishes to include pastoral work undertaken by clergy and church workers in diocesan organisations.

7. The working group considers that, with one exception, the grievance policy and procedure takes into account each of these matters. The one exception is the extension of the policy and procedure beyond parishes to include pastoral work undertaken by clergy and church workers in diocesan organisations. Although the working group considers that the grievance policy and procedure could be used as a model for equivalent arrangements in diocesan organisations, the complexity in accommodating arrangements suitable for diocesan organisations within a single document meant that it was impractical to do so.

Scope of policy

8. The grievance policy and procedure deals with allegations of “unacceptable behaviour” by clergy and church workers in parishes. Unacceptable behaviour is defined by reference to FIS to mean “abuse” excluding sexual abuse and child abuse which continue to be dealt with directly by the Professional Standards Unit. The terms clergy and church worker are also defined by reference to FIS.

Context of policy

9. The immediate context of the policy and procedure is the standards and guidelines in FIS. The working group therefore considered it helpful to include with the policy relevant extracts from FIS. These are set out in Annexure 1 of the policy.

10. The grievance policy and procedure should also be understood in the context of the range of procedures currently in place in the

Diocese to deal with various types of problems. The main ones are shown in the following table –

Discipline Ordinance 2006	Parish Relationships Ordinance 2001	Grievance Policy and Procedure	Parish Disputes Ordinance 1999	Parish Administration Ordinance 2008
<p>Complaints of –</p> <ul style="list-style-type: none"> • unchastity • sexual abuse • child abuse • drunkenness • failure to pay just debts • disgraceful conduct • habitual and wilful neglect of duty • criminal conviction <p>Against –</p> <ul style="list-style-type: none"> • licensed or resident clergy, and • church workers <p>AND</p> <p>in relation to breaches of faith, ritual or ceremonial by licensed or resident clergy</p>	<p>Where a serious breakdown may have occurred in the pastoral relationship between the senior minister of a parish and a substantial number of parishioners</p> <p>OR</p> <p>Where the physical or mental health of the senior minister raises concerns about his capacity to discharge his duties.</p>	<p>Allegations of unacceptable behaviour meaning (under FIS) –</p> <ul style="list-style-type: none"> • bullying • emotional abuse • harassment • physical abuse • spiritual abuse <p>(but excluding sexual abuse or child abuse)</p> <p>Against –</p> <ul style="list-style-type: none"> • Clergy and church workers in parishes 	<p>Where there is a disagreement between the senior minister and the parish council or at least 12 parishioners</p>	<p>Where there is any question or dispute about whether –</p> <ul style="list-style-type: none"> • a meeting has been properly called or conducted • an election has been properly conducted • a vacancy in an office has arisen • a church is a principal church • a person is a parishioner of a church, parish or congregation • a group is an associated congregation or congregation • a church is being used for a permitted purpose

Policy principles

11. The central provisions of the grievance policy are a series of ten “policy principles” which are intended to articulate the Synod’s expectations about how allegations of unacceptable behaviour should be handled. In summary the ten principles are as follows –

- Concerns about unacceptable behaviour should be raised as early as possible.
- Allegations of unacceptable behaviour should be dealt with as close as possible to their source.
- Anonymous allegations or allegations made by a person who does not want to be identified are not to be entertained.
- Allegations of unacceptable behaviour should be treated seriously and sensitively and dealt with promptly, having due regard to procedural fairness, confidentiality and privacy.
- Parties to an allegation should receive appropriate information, support and assistance in resolving the matter.
- Wherever possible, allegations should be resolved by a process of discussion, cooperation and conciliation with a view to reaching a mutually acceptable outcome.
- Sometimes an act of reparation, such as an apology, may be needed from the person about whom the allegation is made. Sometimes the person making the allegation may gain a better understanding of why certain actions were taken and accept that they are not unacceptable behaviour under the policy.
- Both parties are to participate in the resolution process in good faith.
- No person is to be victimised because they make an allegation or are associated with an allegation or a person making an allegation.
- Frivolous, malicious or false allegations are not to be made.

Grievance procedure

12. The procedure to be followed for dealing with allegations of unacceptable behaviour is set out in Appendix 2 of the policy. The procedure is to be applied in a way which gives effect to the purpose and principles of the policy.

Local resolution focus

13. In preparing the procedure, the working group was mindful of the need to ensure that, wherever possible, grievances are resolved either directly between the individuals concerned or where this is not possible or appropriate, at the local/parish level by referring the matter to the senior minister.

14. The working group recognised, however, that in certain situations it would not be proper for the senior minister to deal with the allegation, in particular where the allegation involves the senior minister or a member of his family. In such instances it should be open to the person making the allegation to refer the matter to a member of the parish council, usually an elected warden, as agreed by both parties (who will act in place of the senior minister in dealing with the matter) or otherwise to the Regional Bishop.

15. The procedure provides that the senior minister should seek to resolve the allegation expeditiously, normally within 2 months of the matter being referred to him. The procedure provides for a number of steps that the senior minister should take to deal with the allegation. Any mutually acceptable outcome reached between the parties is to be put in writing and signed by each party and the senior minister. A mutually acceptable outcome will usually involve the senior minister reviewing the situation at an agreed time or times after the outcome has been reached.

16. If during the local resolution process, it becomes apparent to the senior minister that the allegation may involve sexual abuse or child abuse, the procedure provides for the matter to be referred to the Director of Professional Standards to be dealt with under the Discipline Ordinance 2006. In this case, resolution of the matter under the procedure is discontinued.

17. The local resolution process is also discontinued if –

- (a) the senior minister, following consultation with the Director of Professional Standards, considers that the matter is not one involving unacceptable behaviour by a member of clergy or church worker in his parish, or
- (b) the senior minister considers that there is no reasonable prospect of resolving the matter at the local level or that the allegation is frivolous, malicious or false, or
- (c) it has not been possible to reach a mutually acceptable outcome under the local resolution process within one month of the matter being referred to the senior minister and either party indicates to the senior minister that they do not want to continue with the local resolution process.

Regional resolution process

18. In addition to a direct referral of an allegation to the Regional Bishop in the circumstances referred to in paragraph 14 above, an allegation may be referred to the Regional Bishop by either party if the local process has been discontinued for a reason referred to in paragraph 17. An allegation may also be referred to the Regional Bishop if either party considers that a mutually acceptable outcome reached at the local level has been materially breached and the other party has not adequately responded to the alleged breach, having been given a reasonable opportunity to do so.

19. A Regional Bishop handles any allegation referred to him in a similar way to the senior minister at the local level. The main differences are as follows –

- (a) For the purposes of seeking to reach a mutually acceptable outcome between the parties, the Regional Bishop is to appoint a regional conciliator and notify both parties about the appointment in writing. If both parties and the Regional Bishop agree, the Regional Bishop is to deal with the matter personally. A regional conciliator is a person appointed by the Regional Bishop from a pool of persons approved to be appointed as regional conciliators by the regional council.
- (b) A regional conciliator is to seek to resolve the allegation within 3 months of being appointed.
- (c) If the Regional Bishop considers that the allegation suggests there is a serious breakdown of pastoral relationships between the senior minister and a substantial number of parishioners, the working group considers that the Regional Bishop should have the capacity, in addition to any other action taken under the procedure, to request that the parish participate in a licensing review under the Parish Relationships Ordinance 2001. This would require an amendment to the Parish Relationships Ordinance 2001 (see paragraphs 42 to 44 below).
- (d) At any time during the regional resolution process, the Regional Bishop may, acting on the recommendation of the regional conciliator, determine that there is no reasonable prospect of resolving the matter under the procedure or that the allegation is frivolous, malicious or false. If such a determination is made, then the resolution process is brought to an end and is final for the purposes of the procedure.

Referral of matter to Archbishop

20. In exceptional cases the Regional Bishop may refer the matter to the Archbishop for resolution. An exceptional case would require, as a minimum, the Regional Bishop, in consultation with the Director of Professional Standards, forming the view that –

- (a) there is no reasonable prospect of resolving the matter at the regional level or that a mutually acceptable outcome reached between the parties at the regional level has been breached irreparably, and
- (b) a failure to resolve the matter will lead to on-going and serious damage to relationships and ministry in the parish, and
- (c) the matter involves alleged conduct which, if not properly dealt with, could constitute grounds for disciplinary action being taken under the Discipline Ordinance 2006.

21. The reason for introducing a high threshold before any matter can be referred to the Archbishop is to ensure that referrals to the Archbishop are very much the exception rather than the rule. Further, it is important that no matter is referred to the Archbishop unless there is a real possibility that the conduct alleged could, if not properly dealt with, constitute grounds for disciplinary action under the Discipline Ordinance 2006. The issue of giving the Archbishop an appropriate capacity to impose a solution when all local and regional efforts to achieve resolution of a matter have failed is perhaps the most challenging aspect of preparing the grievance procedure. This issue is considered further below.

22. Upon receiving a matter from a Regional Bishop, the Archbishop may either –

- (a) direct the parties and any other person associated with the allegation to undertake such actions as the Archbishop considers is both fair and necessary in all the circumstances to prevent further damage to relationships in ministry in the parish, or
- (b) decline to take further action under the procedure.

23. In view of the threshold requirement referred to in paragraph 20(c) before a matter can be referred to the Archbishop, the procedure makes it clear that a failure to comply with a direction of the Archbishop may constitute grounds for disciplinary action being taken under the Discipline Ordinance 2006.

24. A direction given by the Archbishop or a decision given by the Archbishop to take no further action is final for the purposes of the procedure.

Response to specific matters concerning the policy and procedure

25. The working group consulted with a number of people during the development of the policy and procedure, including the Safe Ministry Board at a joint meeting on 17 June 2009. As a result of this consultation, a number of specific matters were raised about the policy and procedure which are addressed below.

Is the grievance policy and procedure necessary?

26. As indicated above, the working group has prepared the policy and procedure in response to Synod resolution 32/08 and a specific request by the Standing Committee at its meeting in February 2009 to do so. The working group has gone to some length to ensure that each of the specific matters which the Standing Committee asked be taken into account in developing the policy and procedure have been taken into account. While the working group understands the need to avoid promulgating unnecessary policies etc, it considers that in light of the views expressed by the Synod and the Standing Committee, the grievance policy and procedure is something that must be developed. The policy and procedure would also form part of a broader strategy for meeting our obligation to provide a safe working environment in parishes (see paragraphs 43 to 45 below).

27. The requests made by the Synod and the Standing Committee are not based on theoretical or potential concerns. The working group has had access to information received by the Professional Standards Unit over recent years. This information indicates that there is sufficient evidence of unacceptable behaviour by clergy and church workers in parishes (not just rectors) to indicate that we need to improve the way we handle these matters. This is a perspective which may not be apparent in parishes which have experienced few problems in this area.

28. There is also an underlying issue of what we do with the standards of conduct in *Faithfulness in Service* which have been adopted by the Synod for clergy and church workers in this Diocese. Unless we have a mechanism for responding to allegations that (at least) the more important standards have not been met, the working group considers that the efficacy of *Faithfulness in Service* as a code of conduct is significantly diminished.

Is the conduct covered by the policy trivial or insufficiently objective?

29. The working group has adopted the relatively moderate term "unacceptable behaviour" in describing the conduct which is the subject of the policy and procedure. Perhaps the use of this term obscures the fact that unacceptable behaviour has a specific meaning for the purposes of the policy, namely behaviour involving bullying, emotional abuse, harassment, physical abuse and spiritual abuse.

These in turn have specific meanings under *Faithfulness in Service* which the working group considers are at least as objective as the offences under the Discipline Ordinance 2006.

30. The working group does not accept that the conduct covered by the policy is trivial although it does accept that such conduct would not usually be sufficient to trigger the high thresholds that properly apply to offences under the Discipline Ordinance 2006. The working group considers that local resolution of such conduct wherever possible is much more desirable than, for example, creating a specific offence under the Discipline Ordinance 2006 for abuse or bullying etc.

Is the policy an example of creeping centralism?

31. The working group considers that rather than centralising the handling of allegations, the policy and procedure encourages allegations to be handled at the local level wherever possible and gives the senior minister considerable flexibility as to how the complaint is to be handled (see for example paragraph 2.5 of the procedure). Indeed one of our current problems is that allegations of unacceptable behaviour are often made (centrally) to the Professional Standards Unit. Given its proper focus on dealing with sexual abuse and child abuse matters, the Professional Standards Unit is not generally able to deal with such allegations. The existence of a grievance policy and procedure which clearly enables the Professional Standards Unit to refer allegations which do not involve sexual abuse or child abuse to the relevant senior minister at first instance would be of considerable assistance.

Does the policy adequately protect against clergy (and church workers) being victimised?

32. The working group understands the need not to expose clergy (and indeed lay church workers) to allegations of unacceptable behaviour simply because a person does not get their way or because the person is reacting against strong leadership. This matter is specifically addressed in paragraph 1.7 of the policy.

33. One aim of the policy is to provide a clearer and therefore more effective way of dealing with frivolous, malicious or false allegations than exists under the current ad hoc arrangements. It is not possible to stop a person making such an allegation under the policy. However an allegation which, for example, is clearly aimed at damaging a member of clergy should be quickly and formally dismissed under the procedure as frivolous, malicious or false (para 2.9(b) or 3.11(b)). Any decision to do so should be informed by statements in the policy itself which, for example, make it clear that strong Christian leadership alone is not unacceptable behaviour even if a person does not agree with or is offended by that leadership (para 1.7). The policy also states that making frivolous, malicious or false allegations will be viewed seriously and may result in formal disciplinary action being taken (para 5.10).

34. Although not directly covered in the policy or procedure, it would be entirely appropriate to ask a person who has clearly made a frivolous, malicious or false allegation, at least, to apologise to the member of clergy or church worker concerned. A decision to dismiss an allegation as frivolous, malicious or false may also lend support to any decision of the senior minister to remove the person making the allegation from an office or position they hold in the parish.

Is the development of the policy an unhelpful diversion from growing churches?

35. In one sense policy and procedures such as these are not about growing churches. However for the minority of parishes where problems arise, the procedures are aimed at minimising damage (and sometimes severe damage) to parish ministry including a consequential reputational damage both with those inside and outside the church. Hence a failure to resolve allegations of unacceptable behaviour may significantly impede the ability of a church to grow. The church growth imperatives for these measures is therefore strong.

Should the focus be on training persons to deal with allegations rather than on a procedure for dealing with allegations?

36. Training senior ministers, regional bishops and regional conciliators to effectively handle allegations of unacceptable behaviour will be an important part of implementing the policy and procedure. In large part this is the reason for proposing that the policy and procedure not commence until 1 April 2010. However the working group considers that training alone is insufficient. Even if it were theoretically possible to train all senior ministers and regional bishops to handle allegations in an exemplary fashion, there still remains an important need for transparency and consistency in the way allegations are handled.

Legislative basis for grievance policy and procedure

37. As indicated above, the working group has sought to develop a procedure which would be conducive to resolving complaints of unacceptable behaviour through mutually acceptable outcomes reached either directly or at the local/parish level. The working group considers that an important part of maintaining this “downward pressure” in resolving complaints at the local/parish level is to ensure that allegations are not too easily escalated to the Regional Bishop and, in particular, to the Archbishop. Further, there needs to be a sense of progression if a matter has to be escalated. In particular the working group considers that while the Archbishop is likely to use his moral authority to achieve an acceptable outcome to an allegation, he ultimately needs to have some mechanism to impose a solution on an intractable problem which threatens serious and on-going damage to ministry and relationships within a parish. The working group considers that a lack of capacity to impose a solution as a last resort

would significantly undermine the downward pressure to reach a mutually acceptable outcome at the local or regional level.

38. The working group therefore recommends that consideration be given as to whether the grievance policy and procedure should be given a legislative basis under, say, the Parish Administration Ordinance 2008. This is not to suggest that the policy and procedure should be enacted in the form of an ordinance but rather that the Ordinance recognise that the Synod may adopt a grievance policy and procedure for allegations of unacceptable behaviour. This would also give the Synod an opportunity to consider whether a failure by a member of clergy or church worker to comply with a direction ultimately given by the Archbishop under the policy and procedure adopted pursuant to the Ordinance should be made an offence for the purposes of the Discipline Ordinance 2006.

Extending the meaning of “unacceptable behaviour” to cover a failure to meet any standard in Faithfulness in Service

39. The terms of reference of the working group were to develop a grievance policy and procedure for dealing with complaints of abuse by clergy and church workers. During the course of developing the policy and procedure the working group was mindful, however, of Synod resolution 32/08 which asked the Standing Committee to report to the 2009 session of the Synod on the possibility of providing specific procedures in relation to all standards enunciated in FIS.

40. The working group recommends that consideration be given as to whether the meaning of unacceptable behaviour under the policy and procedure should be extended to a failure to meet any standard in FIS (excluding sexual abuse and child abuse).

41. If the definition of unacceptable behaviour was to be extended in this way, the working group considers that it would nonetheless be appropriate to limit any offence for failing to comply with a direction of the Archbishop under the grievance policy and procedure (see paragraph 38 above) to matters involving abusive behaviour.

Amendment to the Parish Relationships Ordinance 2001

42. As indicated above, the working group considers that as a complementary measure to the policy and procedure, the Parish Relationships Ordinance 2001 should be amended in 2 main respects. Firstly, the working group considers it would be appropriate to reduce from 4 years to 2 years the moratorium on requesting a licensing review for parishes which have a newly appointed rector. Secondly, the working group considers it would be helpful to give Regional Bishops the entitlement to convene a general meeting of parishes to consider a motion as to whether there is a serious breakdown in the

pastoral relationship between the minister and a substantial number of parishioners.

43. The proposed amendments address the situation where it becomes apparent to the Regional Bishop that an allegation received under the policy and procedure represents the “tip of the iceberg” of a more widespread concern involving the senior minister.

44. The working group has prepared for Standing Committee’s consideration a bill for the Parish Relationships Amendment Ordinance 2009 to give effect to these recommendations. The bill is included as Attachment 2 to this report.

Dealing with abusive behaviour in parishes generally

45. The working group is aware that the grievance policy and procedure only deals with allegations of abuse (or unacceptable behaviour) by clergy and church workers. It does not deal with situations where parishioners or others are engaging in abusive behaviour, particularly to ministry staff and volunteers involved in parish ministry.

46. The working group considers that it is beyond its terms of reference to include within the grievance policy and procedure processes for dealing with allegations of abuse or unacceptable behaviour by parishioners (other than clergy and church workers). Given our fairly loose concepts of membership, one of the particular difficulties would be to delineate who are parishioners for the purposes of any extended policy and procedure.

47. In order to address this issue, the working group recommends that the next risk management module developed for parishes should address issues of abusive behaviour in the parish context, with a particular focus on responsibilities in providing a safe working place for parish staff. The working group considers that the module should include a code of conduct which would articulate the standards generally expected of parishioners.

Training and education

48. The working group is mindful that there is a need for on-going training and education concerning the standards in FIS generally and the difficulties associated with abusive (or unacceptable) behaviour within parishes in particular.

49. The working group recommends that the Safe Ministry Board in conjunction with Ministry Training and Development be asked to oversee and coordinate appropriate training and education to ensure that the grievance policy and procedure is made widely available and, in particular, that those who are responsible for dealing with allegations under the procedure have the opportunity to receive training in resolving allegations.

50. The need to make the grievance policy and procedure widely known and to make training available to persons who are responsible for dealing with allegations under the procedure is expressly recognised in the policy.

Commencement, amendment and review

51. In order to provide time for training and education and for regional councils to approve regional conciliators with sufficient competence in conflict resolution and conciliation, the working group recommends that the policy and procedure commence from 1 April 2010.

52. The working group recommends that the Standing Committee be given the authority to amend the grievance procedure.

53. In order to assess the effectiveness of the policy and procedure, the working group recommends that the Standing Committee review the policy and procedure after a period of 3 years from its commencement.

Standing Committee's response to recommendations

54. The Standing Committee requested that the following motion be moved at the Synod "by request of the Standing Committee" –

"Synod receives the report on procedures and sanctions for all standards in *Faithfulness in Service* and, noting the proposed Grievance Policy and Procedure and Parish Relationships Amendment Ordinance 2009 attached to the report –

- (a) requests that members provide comments on the proposed Grievance Policy and Procedure and Parish Relationships Amendment Ordinance 2009 to the Diocesan Secretary by 31 March 2010, and
- (b) requests that a form of the Grievance Policy and Procedure and Parish Relationships Amendment Ordinance 2009 be brought to the Synod in 2010 incorporating, as appropriate, comments made by members."

55. The Standing Committee requested that the following procedural motion be moved at Synod "by request of the Standing Committee" –

"Synod agrees, for the purposes of considering the motion appearing at item X on today's business paper, to a time for questions about the proposed Grievance Policy and Procedure and Parish Relationships Amendment Ordinance 2009 after the motion has been moved and seconded but before any debate on the

motion commences and suspends so many of the business rules as would prevent these arrangements.”

For and on behalf of the Standing Committee.

ARCHDEACON KEN ALLEN
Chair of the Working Group

1 September 2009

Attachment 1

Grievance policy and procedure for dealing with allegations of unacceptable behaviour by clergy and church workers in parishes

In the Bible, God has much to say about the requirements and responsibilities of Christian life and leadership, especially when one has a grievance against another Christian.

So prior to any discipline process, the Bible encourages Christians to speak directly with a person whom he or she believes may be sinning. For example, Matthew 18:15-17 says –

If your brother sins against you, go and show him his fault, just between the two of you. If he listens to you, you have won your brother over. But if he will not listen, take one or two others along, so that every matter may be established by the testimony of two or three witnesses. If he refuses to listen to them, tell it to the church; and if he refuses to listen even to the church, treat him as you would a pagan or a tax collector. (NIV)

In particular, Christians are to rightly honour those God has placed in positions of authority (1 Tim 5:17-20; Hebrews 13:7, 17). For example, 1 Thessalonians 5:12-13 says –

Now we ask you, brothers, to respect those who work hard among you, who are over you in the Lord and who admonish you. Hold them in the highest regard in love because of their work. Live in peace with each other. (NIV)

Of course, the Bible expects high standards of Christian leaders (Mark 10:42-45; 2 Tim 2:14-26; Titus 1:5-9; James 3:1-2; 1 Peter 5:1-4). In particular, 1 Timothy 3:2-3 indicates, among other matters, that any bullying behaviour is unacceptable. It says –

Now the overseer must be above reproach, the husband of but one wife, temperate, self-controlled, respectable, hospitable, able to teach, not given to drunkenness, not violent but gentle, not quarrelsome, not a lover of money. (NIV)

Yet covering all this – especially in the face of a grievance – is the priority of love and forgiveness (Gal 5:22-6:4; Col 3:12-14; James 1:19-21). These priorities are well illustrated by Ephesians 4:31-32 –

Get rid of all bitterness, rage and anger, brawling and slander, along with every form of malice. Be kind and compassionate to one another, forgiving each other, just as in Christ God forgave you. (NIV)

Context of policy

- 1.1 The Synod of the Anglican Church in the Diocese of Sydney acknowledges and gives thanks to God for the godly leadership exercised by the clergy and church workers of the Diocese
- 1.2 The Synod expects that all persons who hold positions of leadership in our parishes will exercise the authority that comes with such positions in a manner which is godly and reflects best practice.
- 1.3 However the Synod recognises the potential for persons in positions of leadership to exercise authority in an unacceptable way.
- 1.4 The unacceptable exercise of authority in parishes has the potential, if not adequately addressed, to cause significant damage to relationships, undermine ministry and ultimately bring the gospel of our Lord Jesus into disrepute.
- 1.5 The Synod is therefore committed to ensuring that the potential for this unacceptable exercise of authority is acknowledged and allegations of such behaviour are dealt with properly.
- 1.6 An important part of achieving this end is to provide a process by which persons can come forward with allegations of unacceptable behaviour by clergy and church workers in parishes in the knowledge that such allegations will be treated seriously and sensitively and dealt with promptly, fairly and effectively.
- 1.7 In making provision for this process, the Synod wishes to affirm that strong Christian leadership sometimes involves clergy and church workers making decisions and taking other action with which some people disagree and which may, on occasions, even offend some people. Strong Christian leadership is a necessary part of growing our churches and fellowships and of itself should not give rise to any allegation of unacceptable behaviour under this policy.

Purpose of policy

- 2.1 The purpose of this policy is to promote an opportunity for persons to deal with allegations of unacceptable behaviour in a godly manner encouraging reconciliation, repentance and the need to seek and respond to God's wisdom.

Scope and application of policy

- 3.1 This policy applies to allegations of unacceptable behaviour by clergy or church workers in parishes of the Diocese of Sydney. For this purpose, unacceptable behaviour means the following conduct in relation to an adult –
- bullying
 - emotional abuse
 - harassment
 - physical abuse, or
 - spiritual abuse.
- 3.2 Allegations of sexual abuse or child abuse should be referred directly to the Director of Professional Standards (or a Contact Person appointed by the Director to receive such allegations). Such allegations will be dealt with under the Discipline Ordinance 2006.

Understanding this policy

- 4.1 This policy is intended to complement *Faithfulness in Service* and should be read in light of the standards and guidelines in that code.
- 4.2 The terms clergy, church worker, bullying, emotional abuse, harassment, physical abuse and spiritual abuse have the same meaning as in *Faithfulness in Service*. Any other terms which are used in this document and defined in *Faithfulness in Service* also have the same meaning as in *Faithfulness in Service*.
- 4.3 Extracts from *Faithfulness in Service* which are particularly relevant to this policy are set out in Appendix 1.

Policy principles

- 5.1 A person who is concerned that a member of clergy or church worker in a parish has engaged in unacceptable behaviour should raise their concerns as early as possible, although it is recognised that raising such a concern can be a difficult step to take.
- 5.2 Allegations of unacceptable behaviour should be dealt with close as possible to their source. This may be modified by the nature of the allegation and the wishes of the person making the allegation.

- 5.3 Anonymous allegations or allegations made by a person who does not want to be identified are not to be entertained.
- 5.4 Allegations of unacceptable behaviour should be treated seriously and sensitively and dealt with promptly, having due regard to procedural fairness, confidentiality and privacy. Procedural fairness includes the right to be heard, the right to be treated without bias, the right to be informed of the allegations being made and to be provided with an opportunity to respond to them. It also includes the right to find out about progress in dealing with the allegation. Requirements relating to confidentiality and privacy extend to the way in which any information or records relating to an allegation are stored and used.
- 5.5 Both parties to an allegation should receive appropriate information, support and assistance in resolving the matter. This will usually include providing both with a copy of this document and allowing both to be accompanied by a support person during any interview.
- 5.6 Wherever possible, allegations should be dealt with by a process of discussion, cooperation and conciliation. The aim is to reach a mutually acceptable outcome that minimises the potential for on-going damage to relationships and enables the ministry of the parish to continue effectively. Except in special circumstances, parties to an allegation are to deal with the allegations without legal representation.
- 5.7 Sometimes an act of reparation, such as an apology, may be needed from the person about whom the allegation is made in order to resolve the matter in a meaningful way. Sometimes the person making the allegation may gain a better understanding of why certain actions were taken and, while perhaps not agreeing with the actions, accepts that the actions were not unacceptable behaviour for the purposes of this policy.
- 5.8 Both parties are to participate in the resolution process in good faith.
- 5.9 No person is to be victimised because they make an allegation or are associated with an allegation or a person making an allegation. A breach of this principle will be viewed seriously and may result in formal disciplinary action being taken.
- 5.10 Frivolous, malicious or false allegations are not to be made. A breach of this principle will be viewed seriously and may result in formal disciplinary action being taken.

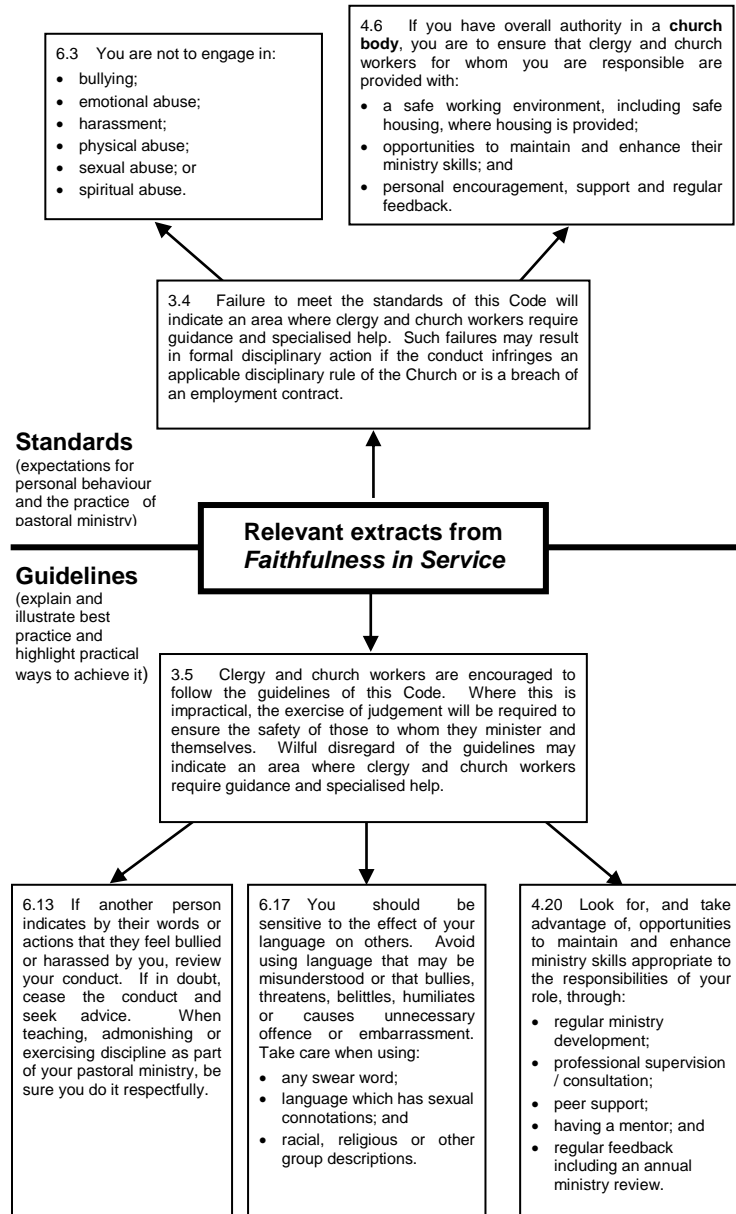
Procedure

- 6.1 The procedure that should be followed for dealing with allegations of unacceptable behaviour under this policy is set out in Appendix 2.
- 6.2 The procedure should be applied in a way which gives effect to the purpose and principles of this policy. If the person responsible for dealing with an allegation considers that, in a particular case, strict compliance with the procedure will not give effect to the purpose and principles of this policy, the procedure should be modified to achieve these ends with the agreement of both parties to the allegation. In other cases, while strict compliance with the procedure is encouraged, a failure to do so will not invalidate any outcome under the procedure provided the purpose and principles of this policy are substantially met.

Commencement and implementation

- 7.1 This policy and procedure commences on 1 April 2010.
- 7.2 In order to ensure that this policy and procedure is effectively implemented, the Synod expects that it will be made generally available.
- 7.3 The Synod also expects that appropriate training will be made available to persons, including senior ministers, who are responsible for dealing with allegations under the procedure.

Appendix 1 – Relevant extracts from *Faithfulness in Service*



Appendix 2 – Procedure for dealing with allegations of unacceptable behaviour by clergy and church workers in parishes

Step 1 – Direct resolution

1.1 Before making any allegation of unacceptable behaviour under this procedure in respect of a member of clergy or church worker in a parish, the person making the allegation is encouraged to try to resolve the matter directly with the person or persons concerned. *

* *Unacceptable behaviour means the following conduct in relation to an adult –*

- *bullying*
- *emotional abuse*
- *harassment*
- *physical abuse, or*
- *spiritual abuse.*

The meaning of these terms (and also the meaning of clergy and church worker) are set out in Faithfulness in Service.

1.2 If it is not possible or appropriate to resolve the matter directly with the person or persons concerned, the person making the allegation should proceed to step 2 of this procedure.



Step 2 – Local resolution

2.1 Where the person making the allegation has been unable to resolve the matter directly with the person or persons concerned, they should normally refer the matter to the senior minister of the parish in which the person concerned works.

2.2 If –

- (a) the allegation is about the senior minister or a member of the senior minister's family, or
- (b) the person making the allegation or the senior minister believes there is some other good reason why the senior minister should not deal with the allegation,

the person making the allegation should refer the matter to a member of the parish council, normally one of the elected wardens, as agreed

by both parties (who is to deal with the matter as if he or she was the senior minister for the purposes of this procedure) or otherwise to the Regional Bishop under paragraph 3.4.

2.3 If the matter has been referred to the senior minister and the senior minister has decided to deal with the allegation, the matter may only be referred to the Regional Bishop in the circumstances referred to in paragraphs 3.1 or 3.2.

2.4 The senior minister should deal with the allegation with a view to resolving it expeditiously, normally within 2 months of the matter being referred to him (whether the allegation is in writing or not).

2.5 Local resolution of an allegation will normally involve the senior minister –

- (a) listening carefully to the concerns and desired outcomes of the person making the allegation,
- (b) informing the person about whom the allegation has been made about these concerns and desired outcomes and providing the person with an opportunity to respond,
- (c) providing both parties with a copy of this grievance policy and procedure document,
- (d) allowing both parties to be accompanied by a support person to any interview,
- (e) working with both parties to achieve a mutually acceptable outcome which is both fair and effective and which minimises potential for future damage to relationships and ministry in the parish ,
- (f) keeping both parties informed about progress in resolving the matter,
- (g) monitoring the situation during the resolution process.

2.6 Any mutually acceptable outcome reached between the parties should be put in writing and signed by each party and the senior minister. A mutually acceptable outcome should usually include the senior minister reviewing the situation at an agreed time or times after the outcome has been reached.

2.7 If the senior minister considers that the allegation may involve sexual abuse or child abuse, the senior minister is to promptly refer the matter to the Director of Professional Standards and suspend resolution of the matter under this procedure. If the Director considers that the matter is properly dealt with under the Discipline Ordinance 2006, the Director is to promptly advise the senior minister accordingly and resolution of the matter under this procedure is to be discontinued.

Otherwise the Director is to promptly refer the matter back to the senior minister so that he can continue to deal with it under this procedure.

2.8 If, following consultation with the Director of Professional Standards, the senior minister considers that the matter does not involve unacceptable behaviour by a member of clergy or a church worker in his parish, the senior minister may discontinue the local resolution process. In doing so, the senior minister may advise the person making the allegation about other avenues for dealing with the matter.

2.9 The senior minister may discontinue the local resolution process at any time if he considers that –

- (a) there is no reasonable prospect of resolving the matter at the local level, or
- (b) the allegation is frivolous, malicious or false.

2.10 The local resolution process will also be treated as being discontinued if a mutually acceptable outcome has not been reached between the parties within the 2 month period referred to in paragraph 2.4 and either party indicates to the senior minister that they do not want to continue with the local resolution process.

2.11 The senior minister is to promptly inform the parties in writing if the local resolution process has been discontinued including reasons why the process has been discontinued. However the senior minister is to defer informing either or both parties that the local resolution process has been discontinued if the matter is being dealt with under the Discipline Ordinance 2006 and the Director of Professional Standards requests that the senior minister defer informing either or both parties because of the processes under that Ordinance.

2.12 At the end of his direct involvement with the matter, the senior minister should make an appropriate file note about the local resolution process which should be signed by the senior minister and, if possible, both parties. The file note should be stored in a separate and confidential grievance file. A copy of any mutually acceptable outcome reached between the parties should be included with the file note. If the process has been discontinued, a copy of the note referred to in paragraph 2.11 should be included with the file note.



Step 3 – Regional resolution

3.1 If the local resolution process has been discontinued under paragraph 2.8, 2.9 or 2.10, either party may refer the matter to the Regional Bishop within 1 month of the process being discontinued. The Regional Bishop may agree to accept a referral after 1 month of the process being discontinued if he considers there are good reasons for the delay in referring the matter to him.

3.2 If either party considers that a mutually acceptable outcome reached at the local level has been materially breached by the other party, that person may refer the matter to the Regional Bishop within 1 month of the alleged breach provided they have first –

- (a) informed the senior minister of the alleged breach, and
- (b) given the other party a reasonable opportunity to respond to the alleged breach.

The Regional Bishop may agree to accept a referral after 1 month of an alleged breach if he considers there are good reasons for the delay in referring the matter to him.

3.3 Where a matter is referred to a Regional Bishop in the circumstances referred to in paragraphs 3.1 or 3.2, the Regional Bishop is entitled to be provided with all material relevant to the local dispute resolution process, including a copy of the file note made under paragraph 2.12. The Regional Bishop may also require the person making the allegation to put the allegation in writing if this has not already been done.

3.4 Where a matter is referred to a Regional Bishop in the circumstances referred to in paragraphs 2.2, the Regional Bishop may require the person making the allegation to put the allegation in writing if this has not already been done.

3.5 If the Regional Bishop considers that the allegation may involve sexual abuse or child abuse, the Regional Bishop is to promptly refer the matter to the Director of Professional Standards and suspend resolution of the matter under this procedure. If the Director considers that the matter is properly dealt with under the Discipline Ordinance 2006, the Director is to promptly advise the Regional Bishop accordingly and resolution of the matter under this procedure is to be discontinued. Otherwise the Director is to promptly refer the matter back to the Regional Bishop so that he can continue to deal with it under this procedure.

3.6 If, following consultation with the Director of Professional Standards, the Regional Bishop considers that the matter does not

involve unacceptable behaviour by a member of clergy or church worker in a parish, the Regional Bishop should promptly inform the parties that no further action can be taken under these procedures to resolve the matter. In doing so, the Regional Bishop may advise the person making the allegation about other avenues for dealing with the matter. For example, if the matter involves a disagreement between the senior minister and a number of parishioners, it may be appropriate to deal with the matter under the Parish Disputes Ordinance 1999.

3.7 If the Regional Bishop considers that the allegation suggests there is a serious breakdown of pastoral relationships between the senior minister and a substantial number of parishioners, the Regional Bishop may (in addition to any other action taken under this procedure) make a request under clause 6 of the Parish Relationships Ordinance 2001 that the parish participate in a licensing review.

3.8 Otherwise, the Regional Bishop is to appoint a regional conciliator* to deal with the allegation and notify both parties about the appointment in writing. However if both parties and the Regional Bishop agree that the Regional Bishop should deal with the matter personally, the Regional Bishop is to deal with the matter as if he was the regional conciliator for the purposes of this procedure.

** A regional conciliator is a person appointed by the Regional Bishop from a pool of persons approved to be appointed as regional conciliators by the Regional Council. If the Regional Bishop appoints a regional conciliator, he or she must not be a current or former parishioner of the parish concerned and should usually demonstrate sufficient competence in conflict resolution and conciliation.*

3.9 The regional conciliator is to seek to resolve the matter within 3 months of being appointed following a process similar to the one outlined in paragraph 2.5.

3.10 Any mutually acceptable outcome reached between the parties should be put in writing and signed by each party, the regional conciliator and the Regional Bishop. A mutually acceptable outcome should usually include the regional conciliator reviewing the situation at an agreed time or times after the outcome has been reached.

3.11 At any time during the regional resolution process, the Regional Bishop may, acting on the recommendation of the regional conciliator, determine that –

- (a) there is no reasonable prospect of resolving the matter under this procedure, or

- (b) the allegation is frivolous, malicious or false.

Any such determination has the effect of discontinuing the resolution process and is final for the purposes of this procedure.

3.12 The Regional Bishop is to promptly inform the parties in writing if the regional resolution process has been discontinued including reasons why the process has been discontinued. However the Regional Bishop is to defer informing either or both parties that the regional resolution process has been discontinued if the matter is being dealt with under the Discipline Ordinance 2006 and the Director of Professional Standards requests that the Regional Bishop defer informing either or both parties because of the processes under that Ordinance.

3.13 In exceptional cases, the Regional Bishop may refer the matter to the Archbishop for resolution. An exceptional case would require, as a minimum, the Regional Bishop, in consultation with the Director of Professional Standards, forming the view that –

- (a) there is no reasonable prospect of resolving the matter at the regional level or that a mutually acceptable outcome reached between the parties at the regional level has been irreparably breached , and
- (b) a failure to resolve the matter will lead to on-going and serious damage to relationships and ministry in the parish, and
- (c) the matter involves alleged conduct which, if not properly dealt with, could constitute grounds for disciplinary action being taken under the Discipline Ordinance 2006.

3.14 At the end of his direct involvement with the matter, the Regional Bishop should make an appropriate file note about the regional resolution process which should be signed by the Regional Bishop, the regional conciliator and, if possible, both parties. The file note should be stored in a separate and confidential grievance file. A copy of any mutually acceptable outcome reached between the parties should be included with the file note. If the process has been discontinued, a copy of the note referred to in paragraph 3.12 should be included with the file note.



Step 4 – Diocesan resolution

4.1 Upon receiving a matter from a Regional Bishop, the Archbishop may –

- (a) direct the parties and any other person associated with the allegation to undertake such action as the Archbishop considers is both fair and necessary in all the circumstances to prevent further damage to relationships and ministry in the parish, or
- (b) decline to take any further action under this procedure.

4.2 Before giving a direction to a person, the Archbishop is to give the person an opportunity to show cause why the direction should not be given.

4.3 A failure, without just cause, by a member of clergy or a church worker to comply with a direction of the Archbishop given under paragraph 4.1 may constitute grounds for disciplinary action being taken under the Discipline Ordinance 2006.

4.4 The Archbishop is not required to give any reasons for a decision to take no further action under this procedure.

4.5 A direction given by the Archbishop or a decision by the Archbishop to take no further action will be final for the purpose of this procedure.

Attachment 2

Parish Relationships Amendment Ordinance 2009

No. _____, 2009

Long Title

An ordinance to amend the Parish Relationships Ordinance 2001.

The Synod of the Diocese of Sydney Ordains as follows.

1. Name of Ordinance

This Ordinance is the Parish Relationships Amendment Ordinance 2009.

5 **2. Amendment**

The Parish Relationships Ordinance 2001 is amended as follows –

- (a) delete the matter “4 years” in clause 4(a) and insert instead “2 years”, and
- (b) in clause 6 –
 - 10 (i) delete the first occurrence of the word “consider” and insert instead the words “or the Regional Bishop considers”, and
 - (ii) delete the words “substantial majority of parishioners of the view that there is a serious breakdown of pastoral of relationships between the minister and” and insert instead the following –
 - 15 “serious breakdown of pastoral relationships between the minister and a substantial number of”
 - 20 (iii) insert the words “or he” after the word “they”, and
- (c) delete the words “who have requested the vestry meeting may convene it” in clause 7 and insert instead the following –
 - 25 “or the Regional Bishop who made the request may convene the meeting”, and
- (d) delete the words “area archdeacon” in clause 8 and insert instead the word “Chancellor”, and
- (e) in clause 9 –

30

- (i) delete the word "leading" and insert instead the words "which has led", and
- (ii) insert the words "a substantial number of" before the words "the parishioners".

5

I Certify that the Ordinance as printed is in accordance with the Ordinance as reported.

Chairman of Committees

We Certify that this Ordinance was passed by the Synod of the Diocese of Sydney on 2009.

Secretaries of Synod

I Assent to this Ordinance.

Archbishop of Sydney
/ /2009