

Anglican Youth and Education Diocese of Sydney Ordinance 1919

(Reprinted under the Interpretation Ordinance 1985.)

The Anglican Youth and Education Diocese of Sydney Ordinance 1919 as amended by the Anglican Education Commission Ordinance 1994, the Accounts, Audits and Annual Reports Ordinance 1995, the Anglican Youth and Education Diocese of Sydney Ordinance 1997, the Anglican Youth and Education Division Diocese of Sydney Ordinance 1919 Amendment Ordinance 2001, the Diocesan Officers (Retirement) Repeal Ordinance 2001, the Anglican Education Commission (Transitional Provisions) Ordinance 2006, the Anglican Education Commission and Anglican Youthworks (Special Religious Education) Amendment Ordinance 2014, the Anglican Youth and Education Diocese of Sydney Ordinance 1919 Amendment Ordinance 2017, the Anglican Youth and Education Diocese of Sydney Ordinance 1919 Amendment Ordinance 2018 and the Anglican Youth and Education Diocese of Sydney Ordinance 1919 Amendment Ordinance 2020.

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Long Title

An ordinance to provide a constitution for the body corporate known as Anglican Youth and Education Diocese of Sydney.

The Standing Committee of the Synod of the Diocese of Sydney Ordains as follows.

Part 1 – Definitions and Interpretation

1. Name of Ordinance

This Ordinance is the Anglican Youth and Education Diocese of Sydney Ordinance 1919.

2. Definitions

In this ordinance, unless contrary to the context or inconsistent therewith –

“Anglican Youthworks” is a registered Business Name of the Body Corporate.

“Appointed Member” means a person appointed to be a Member by the Archbishop under Clause 8(1)(a).

“Archbishop” means the Archbishop of Sydney but, in his absence, his Commissary or, if the See is vacant, the Administrator of the Diocese.

“Council” means the Members acting collectively as the governors of the Body Corporate.

“Body Corporate” means the Anglican Youth and Education Diocese of Sydney, a body corporate constituted under the *Anglican Church of Australia (Bodies Corporate) Act 1938*.

“Chair”, at any time, means the person who, at that time, is acting as Chair of the Council.

“Clause” means a clause of this ordinance.

“Council Elected Member” means the person appointed to be a Member by the Council under Clause 8(1)(c).

“Diocese” means the Diocese of Sydney in the Anglican Church of Australia.

“Member” means a person who is a member of the Body Corporate.

“Property” means real and personal property of every description and includes every estate or interest therein.

“Quarter” means a period of 3 consecutive calendar months, the first such month being January, April, July or October.

“Synod” means the Synod of the Diocese and includes, when the Synod is in recess, the Standing Committee of the Synod.

“Synod Elected Member” means a person elected to be a Member by the Synod under Clause 8(1)(b).

“Synod Governance Policy” means the Governance policy for Diocesan Organisations made by the Synod on 20 October 2014, as amended from time to time.

3. Interpretation

In this ordinance, headings are for convenience only and do not affect interpretation and except to the extent that the context otherwise requires –

- (a) references to any legislation or to any provision of any legislation include any modification or re-enactment of it, any legislative provision substituted for it, and all statutory instruments issued under such legislation or provision;
- (b) words denoting the singular include the plural and vice versa; and
- (c) words denoting individuals include corporations and vice versa.

4. Interpretation Ordinance

The Interpretation Ordinance 1985 applies.

Part 2 – Objects

5. Vision and Mission

(1) The vision of the Anglican Youth and Education Diocese of Sydney is to see an effective youth and children’s ministry in every church.

(2) The Anglican Youth and Education Diocese of Sydney shall seek to achieve the vision by pursuing the mission.

(3) The mission of the Anglican Youth and Education Diocese of Sydney shall be to support the work of the gospel in churches and schools in presenting children, youth and families mature in Christ.

(4) This mission may be pursued by such means as the Council shall think expedient (provided that they are in accordance with the Fundamental Declarations and Ruling Principles of the Anglican Church of Australia), including –

- (a) the provision of resources and programs in evangelism, nurture and education;
- (b) the provision of training in Christian leadership;
- (c) the encouragement of ministry by young people to young people;
- (d) advocacy for the delivery of Special Religious Education in government schools;
- (e) supporting the delivery of Special Religious Education by parishes in government schools, including, the provision of support and training for teachers, the provision of curricula, the monitoring of the quality of such delivery and of its compliance with relevant Diocesan and State Government requirements;
- (f) the provision and encouragement of camping as a Christian ministry;
- (g) the publication and distribution of religious and educational materials;
- (h) study and research;
- (i) ministry to families and adults;
- (j) the acquisition, maintenance and development of facilities to achieve the mission.

Part 3 – Governance

6. Powers and Functions

- (1) The Body Corporate has the powers and functions provided in the *Anglican Church of Australia (Bodies Corporate) Act 1938* and in this ordinance.
- (2) Subject only to any limitations in this ordinance, the Body Corporate has the legal capacity and powers of an individual.
- (3) The governance of the Body Corporate is vested in the Council.
- (4) The Council has power to carry out the objects of the Body Corporate subject to this ordinance and to all applicable laws but otherwise as it considers fit.
- (5) Subject to this ordinance, the Council may regulate its affairs as it thinks fit.

7. President

- (1) The Archbishop is the President of the Body Corporate.
- (2) The President may attend any meeting of the Council and may –
 - (a) receive Council papers at his request, and
 - (b) address the Council on any pastoral or policy issue concerning the Anglican Church of Australia as it applies to the Body Corporate including the appointment of the Chief Executive Officer.
- (3) The President is not an ex-officio Member of the Council, and so is not entitled to vote on any question or proposal being considered by the Council.

8. Membership

- (1) The Members of the Council are –
 - (a) up to three persons appointed by the Archbishop;
 - (b) six persons elected by the Synod; and
 - (c) one person aged not more than 35 years at the time of his or her election, elected by the other Members of the Council.
- (2) At least two of the Synod Elected Members are to be ordained clergy licensed in the Diocese of Sydney with at least a three-year theological degree from Moore Theological College or another college that is endorsed by the Archbishop for the purposes of this Clause.
- (3) To be eligible for appointment or election as a Member, a person must –
 - (a) be of Christian faith and character; and
 - (b) attend regularly and be actively involved in a Bible-based Christian Church.
- (4) Every Member must, upon being appointed or elected, sign –
 - (a) the “Statement of Personal Faith” set out in the Synod Governance Policy, and
 - (b) an acknowledgement of duties and responsibilities in a form prepared by the Body Corporate including a confirmation that they are able and willing to devote the time

required to be spent by a board member to properly fulfil those duties and responsibilities,

and deliver them to the Chair of the Council within 4 weeks of their appointment or election.

(5) One of the persons referred to in Clause 8(1)(a) and two of the persons referred to in Clause 8(1)(b) shall retire on the first day of each ordinary session of Synod. Subject to Clause 9(2) a retiring Member is eligible for re-appointment or re-election.

(6) A person is disqualified from being appointed or elected or remaining as a Member and a casual vacancy will arise if the person –

- (a) is appointed as the Chief Executive Officer, or
- (b) dies, or
- (c) resigns as a Member by written notice addressed to the Chair and, in such a case, unless the notice specifies a later date, the resignation is effective when the Chair receives the notice, or
- (d) is disqualified from managing a corporation within the meaning of the *Body Corporates Act 2001*, or
- (e) has been suspended or removed by the Commissioner of the Australian Charities and Not-For-Profits Commission, at any time during the preceding 12 months, from being a responsible entity under the *Australian Charities and Not-for-profits Commission Act 2012*, or
- (f) becomes an insolvent under administration, or
- (g) becomes of unsound mind or is a person whose person or estate is liable to be dealt with in any way under the laws relating to mental health or who is otherwise incapable of acting, or
- (h) is convicted of an offence punishable by imprisonment for 12 months or longer, or
- (i) is subject to a recommendation from a tribunal or body under the Ministry Standards Ordinance 2017 (or from a comparable tribunal or body in any other diocese or church) that he or she be prohibited from holding office or should be removed from office as a Member,
- (j) is absent without leave for three consecutive meetings of the Council and the Council resolves by at least three-quarters of its Members that the person's membership should cease, or
- (k) fails to sign the declaration required under Clause 8(4)(a) or fails to deliver this declaration to the Chair of the Council within 4 weeks of the date of their appointment or election or declares that he or she is no longer able to subscribe to the applicable declaration, or
- (l) fails to deliver the acknowledgement required under clause 8(4)(b) to the Chair of the Council within 4 weeks of the date of their appointment or election, or
- (m) is in breach of Clause 18(1) and the Council resolves by at least three-quarters of its Members that the person should cease to be a Member, or
- (n) being an Appointed Member, has their appointment revoked by the Archbishop, or
- (o) being a Synod Elected Member, has their membership ended by resolution of the Synod, or
- (p) being the Council Elected Member, has their appointment revoked by a resolution of the Council.

9. Membership Term

(1) The term of membership for each Member appointed or elected under Clause 8(1) is not to exceed three years.

(2) Subject to this Ordinance, a retiring Member is eligible for re-appointment or re-election provided that such re-appointment or re-election would not result in that Member being a Member for more than 14 consecutive years.

(3) For the purpose of Clause 9(2), years are consecutive unless they are broken by a period of at least 12 months.

(4) This Clause does not apply to the Archbishop if the Archbishop is a Member appointed under Clause 8(1)(a).

10. Revocation of Appointment

- (1) The Archbishop may revoke at any time the appointment of any of the Members he has appointed.
- (2) The Synod, by resolution, may revoke at any time the appointment of any of the Members elected by the Synod.
- (3) The Council, by resolution, may revoke at any time the appointment of the Member elected by the Council.

11. Casual Vacancies

- (1) Casual vacancies arising for Members appointed by the Archbishop may be filled by the Archbishop.
- (2) Casual vacancies arising for Members elected by the Synod may be filled by the Synod.
- (3) A casual vacancy arising for the Member elected by the Council may be filled by the Council.
- (4) A person filling a casual vacancy for a Member appointed or elected under Clause 8(1)(a) or 8(1)(b) does so for the remainder of the term of the previous occupant.
- (5) A person filling a casual vacancy for the Member elected under Clause 8(1)(c) commences a new term not exceeding three years.

12. Defect in Appointment

- (1) If it is discovered that –
 - (a) there was a defect in the appointment of a person as a Member or as a member of a Council committee; or
 - (b) a person appointed to one of those positions was disqualified;
all acts of the Council or the Council committee before the discovery was made are as valid as if the person had been duly appointed and was not disqualified.

Part 4 – The Council

13. Meetings

- (1) A meeting of the Council may be convened by –
 - (a) the Archbishop;
 - (b) the Chair; or
 - (c) any 3 Members.
- (2) The Council must meet at least once in each Quarter.
- (3) The Council may act even if there are vacancies on the Council.
- (4) The Council meeting may be held by the Members communicating with each other by any technological means by which they are able simultaneously to hear each other and to participate in discussion. The Members need not all be physically present in the same place for a Council meeting to be held. A Member who participates in a meeting held in accordance with this subclause is taken to be present and entitled to vote at the meeting.

14. Council Quorum

- (1) The quorum necessary for the transaction of the business of the Council is more than 50% of the number of Members where the number of Members required shall be calculated without taking into account any Member who, at the time the transaction of the business, is on leave of absence formally approved by the Council.

15. Chair and Deputy Chair

- (1) The Members must elect a Member as Chair and a Member as Deputy Chair at the first meeting of the Council after the first ordinary session of each Synod. If the Chair or Deputy Chair ceases to be a Member, that person is taken to have vacated the office of Chair or Deputy Chair as the case may be.
- (2) The term of office of the Chair and the Deputy Chair is not to exceed three years. However, a Member retiring as the Chair or Deputy Chair is eligible for re-election to that office provided

that such re-election would not result in a Member being the Chair for more than 9 consecutive years.

(3) Clause 15(2) does not apply to the Archbishop if the Archbishop is a Member appointed under Clause 8(1)(a) and has been elected Chair under Clause 15(1).

(4) In the absence of the Chair and the Deputy Chair from any meeting of the Council, the Members present shall from among themselves elect a chair of the meeting.

16. Voting at Meetings of the Council

(1) Questions arising at a Council meeting are decided by a majority of the votes of the Members present and voting.

(2) The Chair of any meeting of the Council has a deliberative vote but does not have a casting vote.

(3) The Council must cause minutes to be made of –

- (a) the names of the persons present at all Council meetings and meetings of Council committees;
- (b) all disclosures of perceived or actual material conflicts of interest; and
- (c) all resolutions made by the Council and Council committees.

(4) Minutes must be signed by the Chair of the meeting or by the Chair of the next meeting of the relevant body following an agreed resolution to do so. If so signed the minutes are conclusive evidence of the matters as between the Members stated in such minutes.

17. Council Resolutions without a Meeting

(1) The Council may pass resolutions without a meeting if –

- (a) a copy of the proposed resolution is sent to all Members and a reasonable timeframe within which Members may indicate their support for or objection to the proposed resolution being passed is specified, and
- (b) at least 75% of Members (excluding any Member who, at the time the proposed resolution is sent, is on leave of absence formally approved by the Council) indicate within the specified timeframe that they support the proposed resolution being passed, and
- (c) no Member objects within the specified timeframe either to the proposed resolution being passed or the proposed resolution being passed without a meeting.

(2) A resolution in the terms of the proposed resolution that was sent to Members is taken to have been passed at a Council meeting held on the day that Clause 17(1) is complied with.

(3) The minutes of the next Council meeting must record that a resolution was passed in accordance with this Clause.

18. Material Conflict of Interest

(1) A Member who has a perceived or actual material conflict of interest in a matter that is to be considered by the Council –

- (a) must disclose that interest to the Council before it is considered by the Council;
- (b) must not vote on the matter or be present while the matter is being considered by the Council; and
- (c) must not be counted in a quorum in relation to that matter.

(2) Clause 18(1) does not apply to an interest that the Member has as a Member in common with the other Members.

(3) Without limiting the situations in which a Member could have a material conflict of interest, a Member has a material conflict of interest in any transaction or proposed transaction under which the Body Corporate provides or could provide a material financial benefit to the Member or to a related person (being the Member's spouse, children, grandchildren, parents, siblings or spouse of any of them) or to any entity in which the Member or a related person has an interest.

(4) The obligations under this Clause do not limit in any way the obligations on Members under the law.

(5) A contravention by a Member of this Clause does not affect the validity of any act, transaction, agreement, instrument, resolution or other thing.

Part 5 – Chief Executive Officer

19. Chief Executive Officer

(1) The Council may appoint a Chief Executive Officer of the Body Corporate (who is to report directly to the Council) for such period, for such remuneration and on such terms as the Council may resolve and, subject to those terms and the law, may revoke such appointment.

(2) A Chief Executive Officer may only be appointed by the Council with the agreement of the Archbishop.

(3) Before being appointed as Chief Executive Officer, a person must sign the “Statement of Personal Faith” set out in the Synod Governance Policy and deliver it to the Chair of the Council.

(4) The Chief Executive Officer is responsible to the Council for the leadership of the Body Corporate, for the implementation of the policies and decisions of the Council and for the general administration and daily operation of the Body Corporate.

(5) The Council may –

- (a) give the Chief Executive Officer powers, discretions and duties;
- (b) withdraw, suspend or vary any of the powers, discretions and duties given to the Chief Executive Officer; and
- (c) authorise the Chief Executive Officer to delegate any of the powers, discretions and duties given to the Chief Executive Officer.

(6) The Chief Executive Officer may attend and participate in all meetings of the Council but may not vote. The Chief Executive Officer may be excluded by resolution of the Council.

(7) The Chief Executive Officer may, within Council policy, employ such people as he or she deems necessary, for such period, for such remuneration and on such terms as the Chief Executive Officer may determine and, subject to those terms and the law, may terminate such employment.

Part 6 – Income, Property and Liabilities

20. Use of Income and Property

(1) The Body Corporate's income and property is to be applied solely towards the promotion of the Body Corporate's objects as set out in this ordinance. No part of the Body Corporate's income and property may be paid or transferred directly or indirectly by way of dividend, bonus or otherwise by way of profit to the Members. However, this Clause does not prevent –

- (a) the payment in good faith of remuneration to any employee of the Body Corporate or to any other person in return for any services actually rendered to the Body Corporate;
- (b) the payment to a Member of out-of-pocket expenses incurred in carrying out the duties of a Member;
- (c) the payment to a Member for any service rendered to the Body Corporate in a professional or technical capacity where –
 - (i) the provision of that service has the prior approval of the Council; and
 - (ii) the amount payable is approved by the Council and is on reasonable commercial terms;
- (d) the payment to Members of interest on any money borrowed from such Members for the purpose of the Body Corporate at a rate not exceeding the lowest rate paid for the time being by the Body Corporate's principal bank in New South Wales in respect of term deposits of \$50,000 for six months;
- (e) the payment to Members of reasonable market rent for premises leased by any Member to the Body Corporate.

21. Liabilities

(1) The Body Corporate shall remain and continue to be solely responsible for all liabilities incurred by it or on its behalf.

(2) The Body Corporate and its Members and each of them shall not represent to any person or corporation that the Archbishop of Sydney or the Synod or any person or persons or any other corporate body or corporation holding church trust property for the Anglican Church of Australia in the Diocese of Sydney or any other corporate body constituted by or pursuant to the *Anglican Church of Australia (Bodies Corporate) Act 1938* shall or may meet or discharge all or any part of any liability or liabilities which have been or may or will be incurred wholly or partly by or on behalf of the Body Corporate.

(3) Any mortgage, charge, debenture or other negotiable instrument given by the Body Corporate over its property (other than a cheque drawn on a bank account held by the diocesan organisation) must limit the liability of the Body Corporate to the amount available to be paid in the event it is wound up.

(4) The Body Corporate must not offer its property as security for any liability other than a liability of the Body Corporate or a body controlled by the Body Corporate.

(5) The Body Corporate shall not execute or deliver any bill of exchange or other negotiable instrument other than a cheque drawn on the Body Corporate's bank account.

Part 7 – General

22. Indemnity

(1) To the extent permitted by law, the Body Corporate must indemnify each person who is, or has been, a Member against any liability which results directly or indirectly from facts or circumstances relating to the person serving or having served as a Member –

- (a) to another person (other than that Body Corporate or a related body corporate) which does not arise out of conduct involving a lack of good faith; or
- (b) for costs and expenses incurred by that person –
 - (i) in defending proceedings, whether civil or criminal, in which judgement is given in favour of that person or in which that person is acquitted; or
 - (ii) in connection with an application, in relation to such proceedings, in which the court grants relief to that person under the Body Corporates Law.

(2) The Body Corporate need not indemnify a person under Clause 22(1) for a liability to the extent that the person is entitled to an indemnity for that liability under a contract of insurance.

(3) To the extent permitted by law, the Body Corporate may pay, or agree to pay, a premium for a contract insuring a person who is, or has been, a Member against any liability which results directly or indirectly from facts or circumstances relating to the person serving, or having served, in that capacity except where the liability (not being a liability for costs and expenses in defending proceedings, whether civil or criminal and whatever their outcome) arises out of conduct involving –

- (a) a wilful breach of duty to the Body Corporate; or
- (b) the improper use of information by the person, acquired by virtue of the person being, or having been, a Member to gain an advantage for that person or another person or to cause detriment to the Body Corporate; or
- (c) the improper use of the person's position as a Member to gain an advantage for himself or herself or for any other person or to cause detriment to the Body Corporate.

(4) To the extent permitted by law, the Body Corporate may pay, or agree to pay, a premium for a contract insuring a person who is, or has been, a Member against any liability which results directly or indirectly from facts or circumstances relating to that person serving, or having served, in that capacity in respect of costs and expenses in defending proceedings, whether civil or criminal and whatever their outcome.

23. Reporting

(1) The Council must –

- (a) provide to the Synod or the Standing Committee any information as to the affairs of the Body Corporate which it may be requested to provide by a resolution of the Synod or the Standing Committee respectively,
- (b) at least once in each year report to the Synod in respect to its proceedings and its pursuit of each of its objects, and

(c) comply with the *Accounts, Audits and Annual Reports Ordinance 1995*.

24. Affixing the Common Seal

(1) Every instrument to which the common seal of the Body Corporate is required to be affixed shall be signed by 2 Members pursuant to a resolution passed at a properly constituted meeting of the Council.

25. Winding Up

(1) If, on the Body Corporate's winding up or dissolution, there remains after satisfaction of all its liabilities any property, such property must not be distributed among the Members but must be given to the Anglican Church Property Trust Diocese of Sydney to be held on trust for the purposes of the Diocese of Sydney in the Anglican Church of Australia but, if the Diocese does not exist at that time, to some other similar institution or institutions, provided such other institution or institutions –

- (a) have objects similar to the Body Corporate's objects; and
- (b) prohibit the distribution of income and property among its or their members to an extent at least as great as is imposed on the Body Corporate; and
- (c) have been endorsed by the Australian Commissioner of Taxation as exempt from income tax.

(2) Such institution or institutions are to be determined by the members of the Body Corporate at or before the time of dissolution and, in default, by the Chief Judge in Equity of the Supreme Court of New South Wales or such other Judge of that Court or any other Court as may have or acquire jurisdiction in the matter.

(3) If effect cannot be given to this provision, then such property must be given to some charitable object which prohibits the payment of any income or property to its members.

Notes

1. Anglican Youth and Education Diocese of Sydney (formerly Anglican Education Commission Diocese of Sydney and before that The Council of the Board of Education of the Diocese of Sydney) is a body corporate incorporated under the Anglican Church of Australia (Bodies Corporate) Act 1938 by order published in the Government Gazette on 26 October 1962. The name of the body corporate was changed by Ordinance No. 24 of 1994.
2. The Anglican Youth and Education Diocese of Sydney Ordinance 1919 was amended by a number of Ordinances prior to Ordinance No. 25 of 2018. These amending Ordinances are no longer relevant since Ordinance No. 25 of 2018 amended completely the terms of the 1919 Ordinance.

Table of Amendments

Clause 2	Amended by Ordinance No 35, 2020.
Clause 8	Amended by Ordinance No 35, 2020.
Clause 19	Amended by Ordinance No 35, 2020.
Schedule	Deleted by Ordinance No 35, 2020.

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11 August 2020