

Arden Anglican School Council Ordinance 2019

(Reprinted under the Interpretation Ordinance 1985.)

The Arden Anglican School Council Ordinance 1962 as amended by or in accordance with the Arden Anglican School Alteration of Name and Land Sale Ordinance 1972, the Arden Anglican School Council Ordinance 1962 Amending Ordinance 1981, The Council for the Promotion of Sydney Anglican Diocesan Schools (Change of Name) Ordinance 1982, Arden Anglican School Council (Change of Name) Ordinance 1982, the Diocesan Officers (Retirement) Ordinance 1987, the Arden Anglican School Council Ordinance Amending Ordinance 1989, the Arden Anglican School Council Ordinance Amending Ordinance 1990, the Accounts, Audits and Annual Reports Ordinance 1995, the Diocesan Officers (Retirement) Repeal Ordinance 2001, the Borrowing Limits of Diocesan Organisations Amendment Ordinance 2016, and the Arden Anglican School Council Ordinance 1962 Amendment Ordinance 2019.

Table of Provisions

Clause	
1	.....Name of Ordinance
2	.....Purpose of the Arden Anglican School Council
3	.....Council and Membership
4	.....Qualifications or restrictions on membership of the Council
5	.....Term of office of members
6	.....Further provisions regarding term of office
7	.....Casual vacancies
8	.....Filling of causal vacancies
9	.....President
10	.....Chair of the Council
11	.....Meetings of the Council
12	.....Meetings by way of an approved communications link
13	.....Circular resolutions
14	.....Attendance of other persons at meetings of the Council
15	.....Appointment of the Head
16	.....Advertising for staff
17	.....Functions
18	.....Powers
19	.....Duties of members
20	.....Indemnification
21	.....Financial responsibilities
22	.....Common seal
23Diocesan ordinances
24Reporting by the Council
25Not-for profit
26Winding up

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Long Title

An Ordinance to constitute a Council of and to provide for the governance and control by the Council of the School known as "Arden Anglican School" and for other matters in respect of the operation of the School.

Preamble

The Arden Anglican School Council was established in 1962 pursuant to the Arden Anglican School Council Ordinance 1962 to operate Arden Anglican School ('the School').

Part 1 – Introduction

1. Name of Ordinance

This Ordinance is the Arden Anglican School Council Ordinance 2019.

Part 2 – Purpose of the Council

2. Purpose of the Arden Anglican School Council

The purpose of the Arden Anglican School Council is to provide quality education and exemplary care for the students enrolled in the School in ways consistent with the teaching of the Bible and the gospel of Jesus Christ, and to maintain and uphold the Christian faith in teaching and practice so that students may understand their place in the world which God has made and will renew in Jesus.

Part 3 – Membership of the Council

3. Council and Membership

(1) The School shall be managed by a Council constituted in accordance with this Ordinance and to be known as “The Arden Anglican School Council” (‘the Council’).

(2) The members of the Council are –

- (a) ten persons elected by Synod, and
- (b) two persons appointed by the Archbishop.

(3) At least three of the members are to be ordained clergy licensed in the Diocese of Sydney or are to be persons 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.

4. Qualifications or restrictions on membership of the Council

(1) A person is not eligible to be appointed or elected as a member if the person –

- (a) is an employee of the Council, or
- (b) is the spouse, a sibling or a parent of a permanent full-time employee of the Council.

(2) Every Member must, upon being elected or appointed, sign the declaration specified in the Schedule and deliver it to the Chair by the earlier of –

- (a) 4 weeks after the date of that person's election or appointment, and
- (b) the date of first meeting of the Council next following the person's election or appointment.

(3) A copy of the declaration referred to in subclause 4(2) is to be retained by the Council in its records.

5. Term of office of members

(1) Subject to clauses 6, 7 and 8 –

- (a) three (3) members of the Council elected by the Synod are to retire on the first day of each ordinary session of the Synod provided that in each third year of each Synod cycle four (4) members shall retire on the first day of the ordinary session of the Synod, and
- (b) a member of the Council appointed by the Archbishop holds office for a period of 3 years.

(2) The members of the Council to retire under subclause 5(1)(a) are those who have held office the longest since last being elected but, in the case of competition, is to be determined by the members concerned. If those members cannot agree, the order of retirement is to be determined by lot.

6. Further provisions regarding term of office

A person is not eligible to be re-elected or re-appointed as a member if such re-election or re-appointment would, in the ordinary course, result in that person being a member for a continuous period of 14 years or more. For the purposes of this

clause, 2 or more periods of service as a member will be taken to be one continuous period of service unless they were separated by a continuous period of at least 12 months during which the person was not a member.

7. Casual vacancies

(1) A casual vacancy in the office of member of the Council elected by the Synod arises in a circumstance set out in rule 7.1(2) of the Schedule to the Synod Elections Ordinance 2000.

(2) A casual vacancy in the office of member of the Council appointed by the Archbishop arises –

- (a) if the person holding that office resigns by notice in writing to the Archbishop, or
- (b) if the Archbishop revokes the person's appointment to that office, or
- (c) if the person fails to sign the declaration required under clause 4(2) or declares that he or she is no longer able to subscribe to the applicable declaration, or
- (d) if a circumstance set out in rule 7.1 (2)(a) (except rule 7.1 (2)(a)(i)) of the Schedule to the Synod Elections Ordinance 2000 occurs in respect of that person.

8. Filling of casual vacancies

(1) A casual vacancy in the office of a member of the Council elected by the Synod may be filled by the Standing Committee.

(2) A casual vacancy in the office of a member of the Council appointed by the Archbishop is to be filled by the Archbishop.

(3) A person elected to fill a casual vacancy holds office until the day on which the person whose vacancy he or she fills would have retired had the vacancy not occurred.

9. President

(1) The Archbishop is the President of the Council.

(2) The Archbishop –

- (a) is not a member of the Council and so is not entitled to vote on any question or proposal being considered by the Council,
- (b) is entitled to receive a copy of papers sent to members in connection with meetings of the Council upon request,
- (c) is entitled to attend meetings of the Council,
- (d) is entitled to address the Council on any pastoral or policy issue concerning the Anglican Church of Australia as it applies to the Council, including the appointment of a Head, and
- (e) by notice in writing to the Council, may nominate another person to receive the papers and exercise other entitlements on his behalf and may, at any time, by notice in writing to the Council, revoke such a nomination.

Part 4 – Meetings of the Members

10. Chair of the Council

(1) The members of the Council are to appoint one of their number to be the Chair of the Council for a term not exceeding three (3) years. A person is eligible to stand for re-election as Chair but should not serve as Chair for more than nine (9) consecutive years.

(2) The Chair of the Council is to be chair of meetings of the Council.

(3) In the absence of the Chair of the Council, the meeting is to appoint one of its number then present to be Chair of the meeting of the Council.

(4) The person chairing at a meeting shall have a deliberative vote only.

11. Meetings of the Council

(1) The Council is to meet at such times as it may determine, and is to meet at least once in any 3 month period.

(2) A meeting of the Council may be convened by –

- (a) the President, or
- (b) the Chair of the Council, or
- (c) any 4 members of the Council.

(3) A quorum for a meeting of the Council is 6 members.

12. Meetings by way of an approved communications link

(1) If, through an approved communications link, any member of the Council present for the meeting but absent from the place of meeting can hear and be heard by all other members present at the place of meeting, then those members are taken to be assembled together at a meeting held at that place. All proceedings conducted with the aid of the approved communications link are to be as valid and effectual as if they had been conducted at a meeting at which all of those members were present.

(2) In subclause 12(1), “approved communications link” means a link established by means of any system of telephone, audio or audio-visual communication approved by the members of the Council and made known to each member for the purpose of any meeting of the members.

13. Circular resolutions

(1) If a document containing a statement that the signatories to it are in favour of a proposed resolution in the terms set out or otherwise identified in the document has been signed by all the members of the Council (other than members who are, at that time, overseas or have leave of absence), a resolution in those terms shall be taken to have been passed at a meeting of the members of the Council held on the day on which and at the time at which the document was last signed by a member.

(2) For the purposes of subclause 13(1) -

- (a) 2 or more separate documents containing statements in identical terms each of which is signed by 1 or more members together are to be taken to be 1 document containing a statement in those terms signed by those members on the respective days on which they signed the separate documents, and
- (b) an email message which is received by the secretary of the Council and is expressed to have been sent by a member shall be taken to be a document signed by that member at the time of the receipt of the email by the secretary of the Council.

14. Attendance of other persons at meetings of the Council

The Council may invite any person who is not a member of the Council to be present for the whole or part of any meeting of the Council.

15. Appointment of the Head

(1) In appointing a person to be Head of the School, the Council will (in addition to the other requirements of the position) appoint a person of Christian faith and character who is committed to furthering and is capable of furthering allegiance to Christ as Lord and the cause of Christian education in the School as a Christian school.

(2) A person is not to be appointed as Head if he or she has not first produced to the Council a signed copy of the declaration set out in the Schedule.

(3) The Council is to observe the following protocol in selecting and appointing a person as Head –

- (a) prior to the beginning of the selection process, the Chair of the Council is to brief the President on the proposed process and the composition of any selection committee and seek the President’s views on the principles of selection and the process involved,
- (b) the President is to be invited to be involved in the final interview process,
- (c) the President is to be consulted if any significant issue arises during the final interview process of which he should be aware, and
- (d) the President is to be immediately notified upon acceptance of any offer for the position of Head.

16. Advertising for staff

No position for teaching in the School is to be advertised without the Council stating in the advertisement its commitment to being a Christian school and to furthering Christianity and inviting applications from those who are committed to the Christian aims of the School.

Part 5 – Function and Powers of the Council

17. Functions

Subject to this Ordinance the Council shall manage, govern and control the School in such a manner as it deems expedient for the benefit of the School as a Christian School and in the exercise of such functions shall –

- (a) control the use of the property held by the Council for the purposes of or in connection with the School,
- (b) make financial and other arrangements and decisions for the present and future conduct of the School and the maintenance, improvement and extension of and addition to the lands, premises and other property of any kind owned by the Council or occupied or used directly or indirectly by the Council in connection with the School,
- (c) use and apply for the benefit of the School all property of the Council and all moneys derived therefrom or from the conduct of the School, and
- (d) determine the course of education and instruction to be provided in the School and all matters of order and discipline relating to the pupils, teaching staff, other employees of the Council and persons carrying out services for or functions in the School.

18. Powers

(1) Subject to this Ordinance, the Council shall have all powers necessary to enable it to perform the duties imposed upon it by this Ordinance and in particular shall have the following powers (the conferring of which shall not be taken as limiting the generality of the preceding words of this clause) –

- (a) to borrow or raise money and secure the repayment thereof with or without interest in such manner as the Council may think fit and to secure the same or the repayment or performance of any debt contract guarantee or other liability incurred or entered into by the Council in any way and in particular by charging all or any of the lands premises and other property of any kind both present and future owned by the Council or occupied or used directly or indirectly by it in connection with the School,
- (b) to invest and deal with moneys in accordance with the provisions of the Investment of Church Trust Property Ordinance 1990 as amended or any such other form or forms of investment as shall be approved by resolution of the Standing Committee at the request of the Council provided that no such approval shall be effective for a period in excess of three years,
- (c) to purchase, lease or hire or in exchange or otherwise by any means whatsoever acquire any real or personal property and any rights or privileges which the Council may think fit,
- (d) to sell, improve, develop, exchange, lease, dispose, turn to account or otherwise deal with all or any part of the lands occupied or used directly or indirectly by it in connection with the School,
- (e) to enter into contracts of any kind (including contracts of guarantee and indemnity) and to draw, make, accept, endorse, execute, or issue cheques,
- (f) to lend and advance money or give credit to any person or company whether on security or not and to take such security (if any) as the Council may think fit for money lent or advanced or credit given by it,
- (g) to employ or appoint or cause to be employed or appointed such persons on such terms and conditions and for such periods as the Council or any person thereto authorised may think fit, and to dismiss or cause to be dismissed or terminate or cause to be terminated the appointment of any person so employed or appointed,

- (h) to control or cause to be controlled the admission withdrawal suspension and expulsion of pupils,
- (i) to appoint such executive or other committee with such powers and duties and to delegate thereto or to a member or employee such matters as the Council may think fit,
- (j) to solicit and accept real or personal property of any kind by way of gift, subsidy or subvention as the Council may think fit,
- (k) to consult with the Councils or governing bodies of other independent schools on matters of common interest and subject to this Ordinance to join with such Councils or governing bodies in endeavours to maintain proper standards of education, preserve independence from control by government whether Federal, State or local and regulate relationships with Federal, State and local governments, and
- (l) to make such rules regulations or by-laws not inconsistent with this Ordinance as the Council may think fit.

(2) The Council shall not execute or deliver and shall not have power to execute or deliver any mortgage, charge, debenture, guarantee or indemnity unless the following clause is included therein –

“Notwithstanding anything contained herein to the contrary, each of the parties hereto acknowledges and agrees that Arden Anglican School Council shall not be liable to any other party hereto for any amount whatsoever (whether by virtue of any express or implied obligation) beyond such amount (if any) as the Arden Anglican School Council may be able to pay to that party in the event of Arden Anglican School Council being wound up.”

(3) The said land and other assets for the time being under the control of the Council shall, subject to the trusts upon which they are held, be used for the purposes of the School.

19. Duties of members

Each member must –

- (a) in performing their functions exercise the care and diligence that a reasonable individual would exercise as a member,
- (b) act in good faith in the best interests of the School, and to further the purpose of the Council,
- (c) not misuse their position as a member,
- (d) not misuse information obtained in the performance of their duties as a member,
- (e) promptly disclose at a meeting of members, any actual conflict of interest they have as a member and any circumstances which might reasonably be perceived as a conflict of interest,
- (f) not participate in discussions, or vote on any matter, in which an actual or perceived conflict of interest arises without the approval of the other members,
- (g) ensure that the financial affairs of the Council are managed in a responsible manner, and
- (h) not allow the Council to operate while insolvent.

Part 6 - General

20. Indemnification

The members of the Council shall be indemnified out of the assets for the time being under the control of the Council against all loss or liability which they or any of them may have properly incurred, for and on behalf of the School, and to which they, or any of them, may be subject by reason of his or her being or having been a member of the Council.

21. Financial Responsibilities

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

(2) The Council and each member thereof shall not represent to any person or persons or corporation that the Archbishop of Sydney or the Synod of the Diocese of Sydney or the Standing Committee thereof 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 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 Council.

22. Common Seal

(1) The common seal of the Council is not to be affixed to a document except pursuant to a resolution of the members.

(2) The affixing of the common seal is to be witnessed by 2 members.

23. Diocesan Ordinances

The Council shall comply with all ordinances and policies of the Synod applying to the Council (as amended from time to time), including –

- (a) the *Accounts, Audits and Annual Reports Ordinance 1995*,
- (b) the *Anglican Schools Ministry Ordinance 2016*, and
- (c) *Sydney Anglican Use of Property Ordinance 2018*.

24. Reporting by the Council

The Council shall at least once in every year present a report on its proceedings and the progress and condition of the School to the Synod and shall furnish such other information as may be required from time to time by resolution of Synod or the Standing Committee thereof.

25. Not-for-Profit

The Council's income and property is to be applied solely towards the promotion of the Council's purposes. No part of the Council'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 Member or other person in return for any services actually rendered to the Council,
- (b) the payment to a Member of out-of-pocket expenses incurred in carrying out the duties of a Member where the payments do not exceed an amount previously approved by the Council, or
- (c) the payment to a Member for any service rendered to the Corporation 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 a resolution of the Council and is on reasonable commercial terms.

26. Winding up

(1) In the event that the Council or the Standing Committee of the Synod for the Diocese of Sydney resolves to wind up the Council and, upon winding up or dissolution of the Council there remains, after satisfaction of all its liabilities, any property then that property must be applied for the purposes of the Diocese as the Synod may determine provided that such purposes are similar to the purposes of the Council in providing education.

(2) Where the Council has any fund or funds which is endorsed as a deductible gift recipient then, upon winding up or dissolution of the Council any moneys held in that fund or those funds must be transferred by the Synod to one or more endorsed deductible gift recipients to be used for purposes similar to the purposes for which the fund or funds held the amounts in the fund or funds.

Schedule

1. I believe and hold to the truth of the Christian faith as set forth in the Nicene Creed, as well as the Apostles' Creed set out below -
*I believe in God, the Father Almighty,
maker of heaven and earth;
and in Jesus Christ, his only Son our Lord,
who was conceived by the Holy Spirit,
born of the virgin Mary,
suffered under Pontius Pilate,
was crucified, dead, and buried.*

*He descended into hell.
The third day he rose again from the dead
He ascended into heaven,
and is seated at the right hand of God the Father Almighty;
from there he shall come to judge the living and the dead.*

*I believe in the Holy Spirit;
the holy catholic church;
the communion of saints; the forgiveness of sins;
the resurrection of the body,
and the life everlasting.*
2. In particular I believe -
 - (a) that God's word written, the canonical Scriptures of the Old and New Testaments, is the supreme authority in all matters of faith and conduct;
 - (b) there is only one way to be reconciled to God which is through his Son, Jesus Christ, who died for our sins and was raised for our justification; and
 - (c) that we are justified before God by faith only.
3. I acknowledge that the Arden Anglican School Council (the "Council") aims to educate young people in ways consistent with the teaching of the Bible and the gospel of Jesus Christ, and to this end I support the Council's commitment to maintain and uphold the Christian faith in teaching and practice.
4. I shall endeavour to fulfil my duties as [a member of the Council/Head] of the Arden Anglican School Council in accordance with its Christian ethos and its constituting ordinance.
5. I agree that my continuance as [a member of the Council/Head] is dependent upon my continuing agreement with this declaration and I undertake to resign if this ceases to be the case.

Notes

By order published in the Government Gazette on 3 January 1975 under the Anglican Church of Australia (Bodies Corporate) Act 1938 the Council was incorporated under the name "Arden Church of England School Council". The name of the body corporate was changed to "Arden Anglican School Council" by Ordinance No 50 of 1982.

Table of Amendments

The Arden Anglican School Ordinance 1962 was amended by a number of ordinances prior to Ordinance No 21, 2019. These amending ordinances are no longer relevant since Ordinance No 21, 2019 amended completely the terms of the 1962 Ordinance.

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20 August 2019