

Ministry Standards Ordinance 2017 Amendment Ordinance 2018

No 35, 2018

Long Title

An Ordinance to amend the Ministry Standard Ordinance 2017.

The Synod of the Diocese of Sydney Ordains as follows.

1. Name

This Ordinance is the Ministry Standards Ordinance 2017 Amendment Ordinance 2018.

2. Amendment

The Ministry Standard Ordinance 2017 is amended as follows –

- (a) by deleting the words “reportable conduct” wherever they appear and replacing them with the words “serious child-related conduct”;
- (b) by adding the matter “For example, where the person is no longer in ministry.” after the matter “Referrals to the Diocesan Tribunal will typically occur when a complaint concerns discipline and not fitness.” in the Diagrammatic Summary of the Complaints Process;
- (c) by amending clause 4 as follows –
 - (i) insert a new definition in clause 4(1) as follows –

“disqualifying offence” means a criminal offence listed in Schedule 2 of the *Child Protection (Working with Children) Act 2012*;
 - (ii) by deleting the definition of “**reportable conduct**” in its entirety;
 - (iii) insert a new definition in clause 4(1) as follows –

“serious child-related conduct” has the meaning given in clause 7;
- (d) by amending clause 6(2) as follows –
 - (i) delete the words “emotional harm to lead to serious behavioural or cognitive disorders” in the definition of emotional abuse in clause 6(2)(b)(iii) and insert instead –

“significant harm to the wellbeing or development of another person, which may include but is not limited to:

 - subjecting a person to excessive and repeated personal criticism;
 - ridiculing a person, including the use of insulting or derogatory terms to refer to them;
 - threatening or intimidating a person;
 - ignoring a person openly and pointedly; and
 - behaving in a hostile manner or in any way that could reasonably result in another person feeling isolated or rejected;”
 - (ii) insert the following at the end of the definition of neglect in clause 6(2)(b)(v) before the semi-colon –

“, which may include but is not limited to being deprived of food, clothing, shelter, hygiene, education, supervision and safety, attachment to and affection from adults and medical care;”
 - (iii) insert a new paragraph (i) in the definition of “process failure” in clause 6(2)(f) as follows (and consequentially renumber the remaining paragraphs) –

“(i) failure without reasonable excuse to comply with the laws of the Commonwealth or a State or Territory requiring the reporting of child abuse to the police or other authority;”
 - (iv) insert a new clause 6(2)(g) as follows (and consequentially relettering the remaining paragraphs) –

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- (g) **safe ministry training failure**, which means a failure without a reasonable excuse to satisfactorily complete mandatory training approved by the Safe Ministry Board for the purpose of Chapter 7 of Schedule 1 and Schedule 2 of the Parish Administration Ordinance 2008;”
- (v) insert a new clause 6(2)(i) as follows and (and consequentially relettering the remaining paragraphs) –
 - (i) threatening or taking, or attempting to take, action against a person because they have made, or have been involved in, a complaint under this Ordinance;”
- (e) by deleting footnote 2 in its entirety (and consequentially renumbering the remaining footnotes);
- (f) by amending clause 16(1) as follows –
 - (i) delete the words “Apart from complaints about reportable conduct, the” in clause 16(1) and insert instead the word “The”;
 - (ii) delete the words “including but not limited to alternative dispute resolution, whether through the process set out in the Diocesan policy for dealing with allegations of unacceptable behaviour or otherwise, and there is a reasonable likelihood that it will be dealt with by those other means” in clause 16(1)(d) and insert instead “unless the conduct is serious child-related conduct”;
- (g) by amending clause 16(2) by inserting a new paragraph (h) as follows (and relettering the existing paragraph (h) as paragraph (i)) –
 - (h) the complaint has only been dealt with under Part 3E, or”,
- (h) by amending clause 20(b) as follows –
 - (i) delete the words “a period of suspension” in the first line of clause 20(b) and insert instead “any period of suspension by the Church Authority”;
 - (ii) substitute clause 20(b)(iii) with the following –
 - (iii) the person against whom the complaint is made is entitled to continue to receive their ordinary stipend, salary, allowances and other benefits in connection with the position, except to the extent that these are provided on account of expenses incurred in undertaking their duties or functions; and”;
 - (iii) insert a new clause 20(b)(iv) as follows –
 - (iv) in the case of a respondent who is licensed or authorised for ministry in a parish – the parish concerned is entitled to reimbursement from funds under the control of the Synod for the reasonable additional costs incurred by the parish for the engagement of any temporary personnel to undertake the duties of the person against whom the complaint is made during the period of suspension;”
- (i) by inserting the following after clause 21 (and consequentially renumber the following Parts in Chapter 3 of the Ordinance and relevant cross references throughout the Ordinance) –

“PART 3E – COMPLAINTS INVOLVING SERIOUS CRIMINAL CONVICTIONS

21A. Application of this Part

This Part 3E applies to complaints concerning respondents who have been convicted of a disqualifying offence, being an offence listed in Schedule 2 of the *Child Protection (Working with Children) Act 2012*, and the conviction is not subject to a stay or an appeal against the conviction.

21B. Notification to respondent

(1) If the Director is in possession of the reasons for judgment or other record from a court, a police history check, or a notification from a statutory authority, which indicates that the respondent has been convicted of a disqualifying offence, the Director may:

- (a) notify the substance of the complaint to the respondent,
- (b) provide the respondent with a copy of the judgment, record or notification evidencing the conviction,

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- (c) inform the respondent that it is the intention of the Director to refer the complaint to the PSC for a recommendation to the Archbishop that a prohibition order be issued, and
- (d) invite a response to the complaint within a period of not less than 21 days or such longer period specified by the Director.

(2) Following expiration of the period within which the respondent may provide a response under clause 21B(1)(d), the Director must refer the complaint to the PSC, including a copy of all the material provided to the respondent and any response from the respondent.

21C. Recommendations of the PSC

If the PSC is satisfied that the respondent has been convicted of a disqualifying offence, the PSC may recommend to the Archbishop that a prohibition order be made against a respondent in terms recommended by the PSC. If the PSC is not satisfied that the respondent has been convicted of the relevant offence, this Part 3E ceases to apply to the complaint and the Director is to deal with the complaint in accordance with the other provisions of this Ordinance.”

- (j) by substituting clause 30 with the following –

“30. Powers and Recommendations of the Adjudicator

- (1) If the Adjudicator is satisfied that the church worker:
 - (a) is not fit to hold a role office or position; or
 - (b) is not fit, whether temporarily or permanently, to exercise ministry or perform any duty or function of the role or position; or
 - (c) should be subject to any condition or restriction in the exercise of ministry or in the performance of any duty or function;

the Adjudicator must find accordingly in writing and make recommendations to the relevant Church Authority, including but not limited to any one or more of the following:

- (d) that the church worker be counselled;
- (e) that the church worker be suspended from performing function(s) for such period determined by the Adjudicator;
- (f) that the authority of the church worker be revoked;
- (g) that any agreement for the church worker's engagement (if any) be terminated;
- (h) that the church worker's performance of function(s) be made subject to such conditions or restrictions as the Adjudicator may specify;
- (i) that the church worker be directed to do or to refrain from doing a specified act;
- (j) that a prohibition order be made in terms specified by the Adjudicator.

(2) Prior to making any recommendations under subclause (1), the Adjudicator may inform the Archbishop, the relevant Church authority and the respondent of the proposed recommendations and provide a reasonable opportunity for each to make written submissions.”

- (k) by inserting the word “and” at the end of clause 35(2)(m);
- (l) by deleting the word “or” and inserting instead the matter “, or is satisfied” in clause 48(1);
- (m) in clause 49 substitute the rider in the middle of the clause with the following –

“the Board must determine in writing accordingly and make recommendations to the Archbishop or relevant Church authority, including but not limited to any one or more of the following:”
- (n) by inserting the word “and” at the end of clause 49(m);
- (o) by inserting the word “or” at the end of clause 51(1)(e);
- (p) by substituting the words “natural justice” in clause 59(a) with the words “procedural fairness”;
- (q) by deleting the words “The relevant Church authority may” in clause 106 and inserting instead “The Archbishop or the relevant Church authority may, following consultation with the Director,”;

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(r) by deleting the word “the” after the word “allegation” in clause 107(2).

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

R TONG
Chair of Committees

I Certify that this Ordinance was passed by the Synod of the Diocese of Sydney on 22 October 2018.

D GLYNN
Secretary

I Assent to this Ordinance.

GN DAVIES
Archbishop of Sydney
25/10/2018