

# Safe Ministry Board Ordinance 2001 Amendment Ordinance 2022

No 36, 2022

## Long Title

An Ordinance to amend the *Safe Ministry Board Ordinance 2001*.

The Synod of the Diocese of Sydney Ordains as follows.

### 1. Name

This Ordinance is the *Safe Ministry Board Ordinance 2001 Amendment Ordinance 2022*.

### 2. Amendment of the Principal Ordinance

*The Safe Ministry Board Ordinance 2001 (Principal Ordinance)* is amended by deleting clauses 2 to 20 and inserting the matter in the Schedule instead.

### 3. Savings Provision

(1) Nothing in this Ordinance invalidates anything validly done under or pursuant to the Principal Ordinance prior to the date of commencement of this Ordinance.

(2) Any acts of the Safe Ministry Board and the Professional Standards Unit Oversight Committee undertaken immediately before the commencement of this Ordinance are taken to have been undertaken pursuant to the Principal Ordinance where those acts correspond to functions and powers set out in the Principal Ordinance (as amended by this Ordinance).

### 4. Transitional

(1) Notwithstanding the terms of the Principal Ordinance (as amended by this Ordinance) the following people are, on the commencement on this Ordinance, deemed to have been –

- (a) elected/appointed as members of the Safe Ministry Board under subclause 10(1) of the Principal Ordinance, and
- (b) first and last elected/appointed for the purposes of clause 11 of the Principal Ordinance on the dates specified, with the expiry of each member's term listed in column 5 of the following table –

Name	Clause under which appointed / elected	Deemed date of first election / appointment	Deemed date of last election / appointment	Year of expiry of term
Miss Stephanie M Cole	10(1)(c)	01/09/2013	12/10/2020	2023
Dr Tim Channon	10(1)(b)	01/09/2016	12/10/2020	2023
Bishop Peter Lin	10(1)(a)	01/09/2020	12/10/2020	2023
The Rev Gary O'Brien	10(1)(c)	01/09/2017	06/09/2021	2024
Mrs Bethany Teuben	10(1)(c)	20/12/2021	20/12/2021	2024
Vacancy	10(1)(b)	Vacant	Vacant	2024
Ms Nicola Warwick-Mayo	10(1)(c)	01/12/2018	12/09/2022	2025
The Rev Thomas M Hargreaves	10(1)(c)	22/03/2021	12/09/2022	2025
The Rev Stephen Dinning	10(1)(b)	23/03/2018	12/09/2022	2025

(2) The person who held the office of Director of Professional Standards immediately before the commencement of this Ordinance is taken to have been appointed as the Director of Safe Ministry for the purposes of subclause 9(2) of the Principal Ordinance (as amended by this Ordinance).

### 5. Commencement

This Ordinance commences on a date determined by the Standing Committee by resolution.

**Schedule**

**2. Definitions**

In this Ordinance –

“abuse” has the meaning given in the *Ministry Standards Ordinance 2017*.

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

“Board” means the Safe Ministry Board.

“child” means a person who is less than 18 years old.

“Child Protection Legislation” means the *Children’s Guardian Act 2019*, *Child Protection (Working with Children) Act 2012* and the *Children and Young Persons (Care and Protection) Act 1998* as amended from time to time and the regulations and guidelines made under or pursuant to those Acts.

“Child Safe Standards” has the meaning given in the *Children’s Guardian Act 2019*.

“church worker” has the meaning given in the *Ministry Standards Ordinance 2017*.

“Church body” includes a parish but does not include any school, body corporate, organisation or association that exercises ministry within, or on behalf of the Church in the Diocese unless declared to be a Church body by the Standing Committee by resolution for the purposes of this definition.

“clergy” means a person in holy orders.

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

“Director” means the person who is appointed as the Director of Safe Ministry under clause 9.

“ODSM” means the Office of the Director of Safe Ministry comprised of the Director and the persons who assist the Director in the fulfilment of his or her functions by undertaking certain of the powers, discretions and duties of the Director under delegation.

“vulnerable person” means a person who is 18 years or above who is or may be unable to take care of themselves or protect themselves against harm of exploitation by reason of age, illness, trauma or disability, or any other reason.

**3. Interpretation**

In this Ordinance –

- (a) headings are used for convenience only and do not affect the interpretation of this Ordinance,
- (b) references to any legislation or to any section of any legislation include any modification or re-enactment of it and any legislation substituted for it,
- (c) a reference to a clause is a reference to a clause of this Ordinance,
- (d) words denoting the singular include the plural and vice versa, and
- (e) words referring to a gender include both genders.

**Part 2 – Constitution, Functions and Powers**

**4. Constitution**

The Board is constituted with the functions set out in this Ordinance.

**5. Purpose**

The purpose of the Board is to oversee safe ministry and ministry standards in the Diocese, namely through the promotion of safe ministry to children and other vulnerable persons and oversight of the ODSM.

**6. Functions of the Board**

The functions of the Board are –

- (a) to undertake the functions assigned to the Board under the *Safe Ministry to Children Ordinance 2020*, *Ministry Standards Ordinance 2017* and any other

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ordinance of the Diocese,

- (b) to promote an environment in which ministry to children and vulnerable persons can be safely undertaken by Church bodies in accordance with applicable laws and best practice,
- (c) to ensure the Child Safe Standards are implemented and maintained by Church bodies through systems, policies, and processes, including promotion of child safety, prevention of abuse and complaint handling,
- (d) to receive reports from bodies of the Diocese that are required to report to a regulator concerning their compliance with the Child Safe Standards,
- (e) to ensure the Director and ODSM are fulfilling the obligations set out in the *Ministry Standards Ordinance 2017*,
- (f) to oversee the budget and finances of the ODSM,
- (g) to make recommendations to the Standing Committee on payments associated with ministry standards matters,
- (h) to authorise the application of the assets of the ODSM to meet the costs and expenses of the Board in the fulfilment of its functions,
- (i) to ensure the Director receives appropriate training, regular professional supervision and suitable pastoral care, and
- (j) to receive and handle as necessary any complaints about the ODSM or the Director.

### **7. Further Functions of the Board**

Without limiting the generality of the functions referred to in clause 6, in exercising any such function or functions the Board may –

- (a) provide assistance, advice and education to Church bodies in relation to the prevention of and response to abuse of children and vulnerable persons,
- (b) evaluate the effectiveness of training, investigation and risk management practices and procedures, and pastoral care pertaining to safe ministry to children and vulnerable persons within Church bodies,
- (c) consult with the Director and any other persons, organisations and bodies (including Church, government and non-government bodies) regarding legislation, policies, procedures, systems and practices relating to safe ministry to and the protection of children and vulnerable persons, and
- (d) request, receive, consider and act on independent, expert and professional advice, including with respect to the abuse of children and vulnerable persons in the Diocese.

### **8. Powers of the Board**

(1) The Board has power to do all things necessary and desirable to enable it to carry out its functions under clauses 6 and 7.

(2) Without limiting the generality of clause 8(1), the Board has the following powers –

- (a) to delegate, by resolution, the exercise of its powers (except those contained in this paragraph) to any person or committee of persons appointed by the Board provided any such committee is chaired by a Board member and reports the exercise of its delegated powers at each Board meeting until such delegation is revoked, and
- (b) to revoke the appointment of a person or committee appointed under paragraph (a).

### **9. Appointment of Director**

(1) There shall be a Director of Safe Ministry.

(2) The Director shall be appointed by the Board, with the concurrence of the Archbishop, for such period and on such terms as the Board may resolve, and subject to those terms and the law, the Board, with the concurrence of the Archbishop, may revoke such appointment.

(3) The Director reports directly to the Board and is responsible to the Board for the implementation of the strategy, policies and decisions of the Board and for the general administration and daily operation of the Board.

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- (4) Subject to this Ordinance and the *Ministry Standards Ordinance 2017*, the Board may, in pursuit of its purpose and functions –
- (a) give the Director powers, directions and duties,
  - (b) withdraw, suspend or vary any of the powers, discretions and duties of the Director, and
  - (c) authorise the Director to delegate any of the powers, discretions and duties given to the Director.
- (5) If the Director has any actual or perceived conflict of interest in the exercise or performance of any power, authority, duty or function under this Ordinance in relation to a matter, the Director must declare to the Board that he is unable or unwilling to exercise or perform that power, authority, duty or function in relation to the matter.
- (6) If, for any reason, the Director is unable or unwilling to exercise or perform any power, authority, duty or function of the Director under this Ordinance, the Board may appoint another suitably qualified person to exercise or perform the power, authority, duty or function.

### **Part 3 – Membership of the Board**

#### **10. Membership of the Board**

- (1) The Board shall comprise 9 members, with –
- (a) 1 person appointed by the Archbishop,
  - (b) 3 persons appointed by the Board, and
  - (c) 5 persons elected by the Standing Committee.
- (2) The persons appointed under subclause (1)(b) or elected under subclause (1)(c) as members are to include –
- (a) an experienced lawyer;
  - (b) at least two persons who have been members of the clergy for not less than 10 years, who are 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; and
  - (c) at least two persons with professional training and/or experience in the areas of child protection, social welfare or counselling.
- (3) The Board must, so far as reasonably practicable:
- (a) include at least one person who is not a parishioner of an Anglican Church, and
  - (b) include a suitable gender balance.
- (4) Every member must, upon being appointed or elected as, or otherwise becoming, a member, sign the “Statement of Personal Faith” set out in the Governance Policy for Diocesan Organisations, and deliver it to the Secretary within 28 days of the date of that person becoming a member. If a person fails to do so, the person is disqualified from being, and automatically ceases to be, a member.

#### **11. Duration of Office**

- (1) At the first meeting of the Standing Committee following the first ordinary session of each Synod, one member appointed under each of sub-clause 10(1)(a) and (b), and elected under subclause 10(1)(c), are to retire. At the first meeting of the Standing Committee following the second and third ordinary sessions of each Synod, one member appointed under sub-clause 10(1)(b) and two members elected under clause 10(1)(c) are to retire from office.
- (2) Subject to this Ordinance, a retiring member is eligible for re-election or re-appointment, and a retiring member remains a member until his or her successor is elected or appointed.
- (3) The members who are to retire are those members who have been in office longest since their last election. As between persons who were elected or appointed as members on the same day, those to retire (unless they otherwise agree among themselves) are to be determined by lot.
- (4) 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 11(4), 2 or more periods of service as a member will be taken to be one continuous period of service unless they were

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separated by a continuous period of at least 12 months during which the person was not a member.

### 12. Casual Vacancies

- (1) A vacancy also occurs when a member who is elected or appointed to the Board –
  - (a) dies,
  - (b) resigns the office of member by writing addressed to the Archbishop, and in such case, unless the writing specifies a later date, the resignation is effective when the Archbishop receives the writing,
  - (c) becomes an insolvent under administration,
  - (d) becomes a person of unsound mind or whose person or estate is liable to be dealt with in any way under any law relating to mental health,
  - (e) becomes disqualified from managing a corporation within the meaning of the *Corporations Act 2001*,
  - (f) becomes disqualified from being a responsible person by the Commissioner of the Australian Charities and Not-for-profits Commission,
  - (g) is convicted of a crime or an offence punishable by imprisonment for more than 12 months,
  - (h) becomes subject to an order or subsisting recommendation issued or recognised under an ordinance of the Synod which prohibits them from holding the office of member (or from a comparable tribunal or body in another diocese or church), or
  - (i) becomes an employee of the Board or any entity which, or a self-employed person who, provides services (for a fee) to the Board or becomes a partner of such an entity,
  - (j) is appointed or elected to an office with responsibilities under the *Ministry Standards Ordinance 2017*, or
  - (k) becomes subject to an adverse finding in relation to a complaint under the *Ministry Standards Ordinance 2017*, or
  - (l) is absent for 3 consecutive meetings of the Board without leave of the Board and the Board resolves that the person's membership should cease,
  - (m) fails to disclose his or her actual material conflict of interest in any matter brought for the consideration of the Board which, in the opinion of the Board, resulted in a resolution of the Board which would not have been made if the actual material conflict of interest had been disclosed, and the Board resolves by at least three-quarters majority that the person's membership should cease as a result of this failure,

and a person is disqualified from being elected or appointed as a member if any of the circumstances referred to in paragraphs (c) to (k) apply to the person.

- (2) In addition to the circumstances set out in clause 12(1), and for any or no reason –
  - (a) the Archbishop or the Board may revoke at any time the membership of a person appointed to the Board by each of them, and
  - (b) the Standing Committee may by resolution revoke at any time the membership of a person elected to the Board by the Standing Committee.
- (3) A vacancy in the office of a member of the Board may be filled –
  - (a) in the case of a vacancy of a member appointed by the Archbishop or the Board, by each of them, and
  - (b) in the case of a vacancy of a member elected by the Standing Committee, by the Standing Committee.
- (4) A person elected or appointed to fill a casual vacancy for the purposes of this Ordinance (other than for the purpose of continuing service under subclause 11(4)) is taken to have been elected or appointed on the date that the person whose place they have taken was last elected or appointed.

### 13. Duties of members

- (1) Each member must –
  - (a) in performing their functions exercise the care and diligence that a reasonable person would exercise as a member,

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- (b) act in good faith in the best interests of the Board and to further its purpose,
- (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, and
- (g) ensure that the financial affairs of the Board are managed in a responsible manner.

(2) A member is not to be remunerated for their service as a member. A member may be reimbursed for reasonable out of pocket expenses incurred in performing their duties as a member.

### **Part 4 – Meetings**

#### **14. Chair**

- (1) The members are to appoint one of their number to be chair for a term which ends on the first to occur of –
- (a) the date the Chair ceases to be a member,
  - (b) the date (if any) specified in the resolution, and
  - (c) the third anniversary of the date of appointment, and
  - (d) the date on which the appointment is revoked by resolution of the members.
- (2) Subject to clause 11(4), a member of the Board who retires as Chair under clause 14(1)(b), (c) or (d) may be reappointed for a further term.
- (3) A person cannot serve as the Chair of the Board for more than nine consecutive years.

#### **15. Secretary**

- (1) The members shall appoint a person to be the Secretary.
- (2) A person is not required to be a member to be appointed as Secretary.

#### **16. Children’s Advocate**

The members are to appoint one of their number to advocate for the interests of children in relation to the business coming before the Board.

#### **17. Meetings**

- (1) The Board shall hold at least 3 ordinary meetings each year with additional special meetings as the Chair or any 3 members may determine.
- (2) The quorum for a meeting of the Board is 5.
- (3) The Director shall attend meetings of the Board by invitation.
- (4) A vacancy in the membership of the Board or a defect in the election or appointment of a person acting as a member of the Board does not invalidate any act or proceeding of the Board.
- (5) A meeting of the members may be held by using any technology approved by the members. A member who is absent from the place of meeting may attend that meeting by using any technology approved by the members. All meetings conducted with the aid of technology under this clause 17(5) are as valid and effective as if they had been conducted at a meeting at which those members were physically present.
- (6) The members must cause minutes to be made of each meeting of the members which record –
- (a) the names of the members present,
  - (b) the name of the person or names of the persons who chaired the meeting, or any part of the meeting,
  - (c) all disclosures made by a member of any actual or perceived conflicts of interest, and

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- (d) all resolutions of the members passed at the meeting, or taken to have been passed at a meeting.
- (7) The minutes of each meeting are to be signed by the chair of that meeting, or by the chair of the next meeting of the members.
- (8) Subject to the provisions of this Ordinance, the Board may regulate its own proceedings and for that purpose may make or rescind or alter regulations from time to time.

### **18. Decisions of the members**

- (1) Usually, the members will make decisions by resolution passed at a meeting of the members.
- (2) If a document contains a statement that the signatories to it are in favour of a resolution set out in the document or otherwise identified in the document and the document is signed by all members (other than members who are, at that time, overseas or have leave of absence), a resolution in those terms will be taken to have been passed at a meeting of members held on the day and at the time at which the document was last signed by a member.
- (3) For the purposes of clause 18(2) –
  - (a) 2 or more separate documents containing statements in identical terms each of which is signed by 1 or more members will be taken together to constitute 1 document containing a statement in those terms signed by those members on the respective dates on which they signed the separate documents, and
  - (b) an email message which is received by the Secretary and is expressed to have been sent by a member will be taken to be a document signed by that member at the time of receipt of the email message by the Secretary.

### **19. President**

- (1) The Archbishop is President of the Board.
- (2) The President may attend any meeting of the Board and address the Board on any pastoral or policy issue concerning the Anglican Church of Australia as it applies to the Board.
- (3) If the President requests, the Secretary is to send him a copy of the agenda for the meeting of the Board referred to in the request.
- (4) The President is not a member of the Board, and so is not entitled to vote on any question or proposal being considered by the Board.
- (5) The President is permitted to appoint a nominee to exercise his entitlements as President on his behalf.

## **Part 5 – Miscellaneous**

### **20. Reports to be made to Synod and Standing Committee**

The Board must provide annual reports of its activities to the Standing Committee and must provide a report to each session of the Synod.

### **21. Indemnification**

- (1) The Board must ensure that there is indemnity insurance for its members.
- (2) Each member of the Board is indemnified out of the assets held by or for the purposes of the ODSM against all loss or liability properly incurred for or on behalf of the Board by reason of being or having been a member of the Board other than that incurred or occasioned by the member's own wilful act or neglect.

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

P COLGAN  
Chair of Committee

**Safe Ministry Board Ordinance 2001 Amendment Ordinance 2022**

I Certify that this Ordinance was passed by the Synod of the Diocese of Sydney on 13 September 2022.

D GLYNN  
Secretary

I Assent to this Ordinance.

BISHOP CHRIS EDWARDS  
Commissary for Archbishop of Sydney

26/09/2022