

**First Session of
53rd Synod**

(to be held on 11-13 and 18-19 September 2023)

Book 3

(Pages 398 to 621)

**Principal Legislation
and
Other Background Materials**

**Standing Committee of the Synod
Anglican Church Diocese of Sydney**

2023 Principal Legislation and Other Background Materials (proposed to be amended or otherwise considered)

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An Ordinance to make rules for the conduct of the business of the Synod of the Diocese of Sydney.
 The Synod of the Diocese of Sydney ordains.

1. Name

This Ordinance is the *Synod Standing Orders Ordinance 2019*.

2. Adoption of new rules of procedure

The rules for the conduct of the business of the Synod of the Diocese of Sydney are in the Schedule to this Ordinance.

3. Repeal of previous rules

- (1) The *Standing Orders Ordinance 1968* is repealed.
- (2) Each reference in an ordinance (other than this Ordinance) to the *Standing Orders Ordinance 1968* and the *Conduct of the Business of Synod Ordinance 2000* is changed to the *Synod Standing Orders Ordinance 2019*.

4. Commencement

Clauses 2 and 3 of this Ordinance commence on the day next following the last day of the second session of the 45th Synod or on the day on which assent is given to this Ordinance, whichever is later.

Schedule

Synod of the Diocese of Sydney

Rules for Conducting the Business of the Synod

Part 1 Meeting Time, President, Houses of the Synod and Quorum

1.1 Meeting time

- (1) The Synod is to meet at 3.15 pm on each appointed day unless it decides to meet at another time.
- (2) No motion about a proposed ordinance may be considered before 4.30 pm apart from the unopposed introduction of a proposed ordinance.

1.2 President

- (1) The Archbishop is the President.
- (2) In the absence of the Archbishop, the President is the person appointed by the Archbishop as his commissary under section 11 of the Constitutions in the Schedule to the 1902 Constitutions.
- (3) In the absence of the Archbishop and the commissary, the President is the person next in ecclesiastical rank who is licensed in the Diocese and is present at the meeting of the Synod.
- (4) If the person who is the President of the Synod is, for any reason, unwilling or unable (otherwise than by absence) to preside in respect of any business of the Synod, the President is the person next in ecclesiastical rank after that person who is licensed in the Diocese and is present at the meeting of the Synod.
- (5) Nothing in this rule amends the provisions of the Constitutions in the Schedule to the 1902 Constitutions concerning the giving of assent to an ordinance of the Synod. Accordingly, a person who is President of the Synod under rule 1.2(2) or (3) or (4) may not assent to an ordinance unless that person is authorised to do so under those Constitutions.
- (6) In this rule 1.2, the word "Archbishop" means, if the See is vacant, the person appointed under an ordinance of the Synod to administer the Diocese.

1.3 Houses of the Synod

- (1) Each member of the Synod (other than the President) is a member of a House of the Synod.
- (2) A member who is ordained is a member of the House of Clergy.
- (3) A member of the Synod who is not ordained is a member of the House of Laity.

1.4 Quorum

- (1) When a motion about a proposed ordinance is being considered, one fourth of the members of each House is a quorum.
- (2) Otherwise, 50 members of the House of Clergy and 100 members of the House of Laity is a quorum.
- (3) If at the time fixed for a meeting of the Synod or during a meeting of the Synod, a quorum is not present the President is to adjourn the Synod to a time determined by him. If a debate is interrupted as a consequence then, subject to rules 3.3, 3.4 and 3.5, the debate is to resume at the point where it was interrupted.

Part 2 Officers and Committees of the Synod

2.1 Introduction

The Synod elects several officers and committees to assist it in conducting its business. Those officers and committees are

- (a) the Secretary of the Synod
- (b) the Chair of Committee
- (c) the Deputy Chair or Chairs of Committee
- (d) the Committee of Elections and Qualifications
- (e) the Committee for the Order of Business
- (f) the Minute Reading Committee.

This Part sets out the functions of the officers and committees of the Synod.

2.2 The Secretary of the Synod

- (1) One member is to be elected as Secretary of the Synod on the first day of the first session of each Synod and, subject to rule 2.8, is to hold office until the first day of the first session of the next Synod.
- (2) The Secretary of the Synod is to
 - (a) prepare the business paper for each day after the first day of each session of a Synod, and
 - (b) take minutes of the meetings of the session, and maintain the minute book, and
 - (c) record the ordinances passed by the Synod, and
 - (d) prepare and publish the report of the session of the Synod.
- (3) With the permission of the President, the Secretary of the Synod may give notices to the Synod about any matter concerning the business of the Synod.
- (4) The Secretary of the Synod may approve any report or other material from a Diocesan Body or Organisation being made available to members.

2.3 The Chair of Committee

- (1) One member is to be elected as the Chair of Committee on the first day of the first session of each Synod and, subject to rule 2.8, is to hold office until the first day of the first session of the next Synod.
- (2) The Chair of Committee presides during meetings of the Synod in Committee and, when presiding, has the same authority as the President.

2.4 The Deputy Chair or Chairs of Committee

- (1) One or more members is to be elected as the Deputy Chair or Deputy Chairs of Committee on the first day of the first session of each Synod and, subject to rule 2.8, is to hold office until the first day of the first session of the next Synod.
- (2) The Deputy Chair of Committee presides during meetings of the Synod in Committee if the Chair of Committee is unable or unwilling to act, or if the Chair of Committee requests that a Deputy Chair of Committee act. When presiding, the Deputy Chair has the same authority as the President.
- (3) If more than one Deputy Chair of Committee is elected, the person to preside in the place of the Chair of Committee is to be determined by the persons who have been elected as Deputy Chairs of Committee or, if they are unable to agree, by the President.
- (4) If
 - (a) the Chair of Committee, and
 - (b) the Deputy Chair of Committee or each of the Deputy Chairs of Committee,

are unable or are unwilling to preside during a meeting of the Synod in Committee, the person to preside during that meeting is to be a member appointed by the Synod as a result of a motion without notice passed by the Synod. When presiding, that person has the same authority as the President.

2.5 The Committee of Elections and Qualifications

- (1) The Committee of Elections and Qualifications is to consist of not more than 5 members elected on the first day of the first session of each Synod and who, subject to rule 2.8, are to hold office until the first day of the first session of the next Synod.
- (2) The Committee of Elections and Qualifications is to investigate and report when required by rule 6.1.

- (3) A person may not act as a member of the Committee of Elections and Qualifications in relation to a question referred by the Synod about
- (a) the validity of the election or appointment of that person as a member of the Synod, or
 - (b) that qualification of that person to be a member of the Synod.

2.6 The Committee for the Order of Business

- (1) The Committee for the Order of Business is to consist of
- (a) the Secretary of the Synod, and
 - (b) not more than 5 members elected by the Synod on the first day of the first session of each Synod and who, subject to rule 2.8, are to hold office until the first day of the first session of the next Synod
- (2) The Committee for the Order of Business is to review the business paper for each day of a session, other than the first day, and settle the order and scheduling of motions and presentations appearing on the business paper.

2.7 The Minute Reading Committee

- (1) The Minute Reading Committee is to consist of not more than 8 members elected on the first day of the first session of each Synod and who, subject to rule 2.8, are to hold office until the first day of the first session of the next Synod.
- (2) Any 2 members of the Minute Reading Committee are to review the minutes of the proceedings of each day and certify their correctness, or otherwise, to the President.

2.8 Casual vacancies

- (1) A casual vacancy in any office or in the membership of any committee elected under this Part 2 arises if the person holding the office or membership –
- (a) dies,
 - (b) resigns by written notice given to the President, or
 - (c) ceases to be a member of the Synod.
- (2) A casual vacancy in any office or in the membership of any committee held by a person elected under this Part 2 also arises if the Synod declares, as a result of a motion with or without notice passed by the Synod, the office or membership to be vacant.
- (3) A casual vacancy arising under rule 2.8(1) or (2) may be filled by the Synod or, if the Synod is not in session, by the Standing Committee. A person who is elected by the Standing Committee to fill a casual vacancy holds office or remains a member of the committee until the next session of the Synod.

Part 3 The Order of Business of the Synod

3.1 Introduction

This Part sets out the order in which the business of the Synod is to be conducted on each day of a session.

3.2 Order of business for the first day of a session

The order of business for the first day of a session of is as follows.

- (a) The President, or a person appointed by him, is to read prayers.
- (b) The President is to table a list of the members of the Synod.
- (c) The President may address to the Synod at a time of his choosing.
- (d) The President is to table a document appointing a commissary.
- (e) The President is to call the motions on the business paper appearing in relation to paragraphs (f) and (g) of this clause.
- (f) The Synod is to consider any motion to declare a vacancy or vacancies among the membership of the Property Trust in accordance with the *Anglican Church Property Trust Diocese of Sydney Ordinance 1965*.
- (g) Where required under Part 2, the Synod is to consider motions for the election of -
 - (i) the Secretary of Synod,
 - (ii) the Chair of Committee,
 - (iii) the Deputy Chair or Chairs of Committee,
 - (iv) the Committee of Elections and Qualifications,
 - (v) the Committee for the Order of Business, and
 - (vi) the Minute Reading Committee.
- (h) The President is to table a list of the results of uncontested elections and declare the persons concerned elected.
- (i) The minute book of the Standing Committee is to be tabled.
- (j) The President is to allow members to present petitions.
- (k) The President is to table a list of questions asked by members in accordance with 6.3(2)(a).
- (l) The President is to invite members to give notice of motions.
- (m) The President is to call the motions, including procedural motions, in the order in which they appear on the business paper in accordance with rule 4.5.
- (n) The President is to allow members to move procedural motions.
- (o) The Synod is to consider motions for the formal reception and printing of reports, accounts and other documents in the order in which they appear on the business paper.
- (p) The Synod is to consider motions for proposed ordinances, in the order in which they appear on the business paper.
- (q) The Synod is to consider motions to be moved at the request of the Synod or the Standing Committee in the order in which they appear on the business paper.
- (r) The Synod is to consider motions to be moved at the request of a regional council in the order in which they appear on the business paper.
- (s) The Synod is to consider motions received by the Standing Committee from members in accordance with rule 4.3(3) in the order in which they were received.

3.3 Order of business for the second and third days of a session

The order of business for the second and third days of a session is as follows.

- (a) The President, or a person appointed by him, is to read prayers.
- (b) The President, or a person appointed by him, is to read a passage from the Bible and apply it.
- (c) The minutes of the proceedings of the previous day are to be signed by the President as a correct record, or be otherwise dealt with.
- (d) Subject to rules 6.3(2)(d) and 6.3(5), answers to questions asked on previous days are to be given.
- (e) The President is to allow members to ask questions in accordance with rule 6.3(2)(c).
- (f) The President is to invite members to give notice of motions.

- (g) The President is to call the motions, including procedural motions, in the order in which they appear on the business paper in accordance with rule 4.5.
- (h) The President is to allow members to move procedural motions.
- (i) The Synod is to consider motions about proposed ordinances in the order in which they appear on the business paper.
- (j) The Synod is to consider other motions in the order in which they appear on the business paper.

3.4 Order of business for the fourth and subsequent days of a session

(1) The order of business for the fourth and subsequent days of a session of the Synod is the order specified in rule 3.3 except that no member may

- (a) ask a question, or
- (b) give notice of a motion,

except with the permission of the majority of the members then present.

(2) The order of business for the last day of a session may include motions of thanks without notice.

(3) The President is authorised to sign the minutes of the final sitting day as a correct record, upon the production to the Standing Committee of the certificate of any two members of the minute reading committee.

3.5 Order of motions

Motions are to be considered in the order in which they appear on the business paper. The Synod may determine, as a result of a procedural motion passed by the Synod,

- (a) to vary the order in which motions are considered, or
- (b) to fix a time for when a motion is to be considered.

3.6 Presentations to Synod

(1) The President may invite persons at his discretion to address the Synod.

(2) Presentations approved by the Standing Committee will appear on the business paper for day 1.

(3) Presentations scheduled by the Committee for the Order of Business will appear on business papers for subsequent days.

(4) The Synod may, as a result of a procedural motion, allow other presentations to be made to the Synod on any subject related to the Synod. Such presentations –

- (a) must be no longer than ten minutes, and
- (b) may not be scheduled to a time following the dinner break.

(5) Synod members, or individuals who are not members of Synod but who are named as intended presenters in a procedural motion, may combine for a presentation (including visuals) in accordance with this clause.

Part 4 Resolutions

4.1 Introduction

The main way in which the Synod expresses a view on a matter is by the making of a resolution. Generally, a resolution is made in the following way.

- (a) A member of the Synod (referred to in these rules as the “mover”) moves a motion (referred to in these rules as the “principal motion”). Usually, the mover will have given notice of the principal motion on a previous day.
- (b) Except during a meeting of the Synod in Committee, a motion is to be seconded.
- (c) When called by the President, the mover will speak in support of the principal motion and the seconder may also speak in support of the motion.
- (d) Instead of making separate speeches in support of the principal motion, the mover and seconder may, by notice to the Synod, elect to make a joint presentation in support of the principal motion for up to the combined length of time the mover and seconder would otherwise be permitted to speak.
- (e) A speech or presentation referred to in paragraph (c) or (d) may, by arrangement with the Secretary of the Synod, be accompanied by overhead visual material.
- (f) If any member wishes to speak against the principal motion, or move a proposed amendment, debate will proceed.
- (g) If no member wishes to speak against the principal motion or move an amendment, the President is to ask the Synod to vote on the principal motion.
- (h) After debate has concluded, the President is to ask the Synod to vote on any amendments. After any amendments have been agreed to or rejected, the President is to ask the Synod to vote on the principal motion, as amended by any amendments which have been agreed.
- (i) If the principal motion, with or without amendments, is passed, it becomes a resolution of the Synod.

The remaining rules in this Part contain the details of this procedure, and the details of the special situations in which the general procedure is modified.

4.2 General rules

- (1) A member may only address the Synod when called by the President to do so.
 - (1A) A member who wishes to be called by the President to address the Synod is to stand in his or her place, or if directed by the President, to stand near a microphone. The President is to call from among those standing the member who may address the Synod.
- (2) The President may take part in debate.
- (3) If the President stands, all other members are to sit and remain seated until the President sits down.
- (4) Any member may speak to a question about procedure. A question about procedure is to be decided by the President whose decision is final unless immediately altered as a result of a motion without notice passed by the Synod.
- (5) The President is to confine each speaker to the subject matter being debated. A member may not interrupt a speaker, except with the permission of the President, or as a result of a motion without notice passed by the Synod.
- (6) A speaker may not make a remark which reflects adversely on the personality of any member or imputes an improper or questionable motive to any member. If a speaker makes such a remark, the President is to
 - (a) ask the speaker to withdraw the remarks and apologise and,
 - (b) warn the speaker against making such remarks in future.

If, having been asked, the speaker refuses to withdraw the remark and apologise, the member may be suspended from the Synod as a result of a motion with or without notice passed by the Synod, for the time specified in the motion.

- (7) A member may not act in a disorderly way. If a member acts in a disorderly way, he or she may be suspended from the Synod as a result of a motion with or without notice passed by the Synod, for the time specified in the motion.

4.3 Notice of motions required

- (1) The Synod is not to consider a motion unless notice of the motion was given on a previous day.
- (2) Motions intended to facilitate the consideration of business are known as 'procedural motions'. Rule 4.3(1) does not apply to procedural motions and those other motions for which notice is not required by Parts 4 and 5.
- (2A) Rule 4.3(1) does not apply to motions to amend a motion.
- (3) A member may send notice of a motion to the Standing Committee to be received at least 1 month before the first day of the session. Notice of such motion is to be printed on the business paper for the first day of the session. A member may not send notice of more than 2 motions.

4.4 Motions to be seconded

- (1) No motion, or motion to amend a motion, is to be considered unless it is seconded.
- (2) Rule 4.4(1) does not apply to a motion moved in a meeting of the Synod in Committee.

4.5 Calling the motions on the business paper

- (1) At the time required by rule 3.2, 3.3 or 3.4, the President is to call the motions in the order in which they appear on the business paper, except those motions about a proposed ordinance or policy or those motions to be considered at a time fixed by the Synod.
- (2) When a motion is called, the President is to ask for the motion to be formally moved and seconded unless 8 or more members stand to object or any member calls "amendment". If the motion is formally moved and seconded, the Synod is to vote on the motion without any speeches or debate.
- (3) If 8 or more members stand to object or any member calls "amendment"
 - (a) the President is to immediately call the next motion on the business paper to be called under this rule or, if there is no such motion, proceed to the next item of business, and
 - (b) any member who calls "amendment" is to
 - deliver a written copy of the proposed amendment to the Secretary of the Synod, and
 - make himself or herself available to discuss the proposed amendment with the mover of the motion on the day on which the call is made.

4.5A Incorporation of amendments in principal motion

If the mover of a principal motion (the 'Mover') notifies the Secretary of the Synod that –

- (a) having discussed a proposed amendment with the mover of the amendment, the Mover agrees to include the proposed amendment in the principal motion, or
- (b) the Mover wishes to move the principal motion in an amended form,

the motion in the amended form becomes the principal motion and is to be printed in a suitably marked form on the list of proposed amendments provided on day 1 or on the next day's business paper.

4.6 Time limits for speeches

- (1) The following time limits for speeches apply.
 - (a) For a motion that a proposed ordinance be approved in principle –
 - the mover may speak for up to 15 minutes, and up to 5 minutes in reply
 - other members may speak for up to 5 minutes.
 - (b) For a speech following the Synod's approval to consider a proposed ordinance formally, the mover may speak for up to 3 minutes.
 - (c) For other motions, except the motions referred to in paragraphs (d) and (e) –
 - the mover may speak for up to 10 minutes, and up to 5 minutes in reply
 - other members may speak for up to 5 minutes.
 - (d) For motions to amend a motion, a member may speak for up to 5 minutes.
 - (e) For procedural motions and for motions moved in a meeting of the Synod in Committee, a member may speak for up to 3 minutes.
- (2) A member, not being the speaker at the time, may, without making a speech, move a procedural motion for the speaker to continue for a nominated number of minutes.

4.7 Number of speeches

- (1) No member may speak more than once on the same motion except

- (a) during a meeting of the Synod in Committee, or
 - (b) when invited to give an explanation, or
 - (c) when exercising a right of reply under rule 4.11.
- (2) A member who formally seconds a motion is not regarded as having spoken to the motion.
- (3) Once a motion to amend a motion (the principal motion) has been moved, it is a separate motion for the purpose of this clause. Accordingly, if a member has already spoken on the principal motion, they may not move a motion to amend the principal motion, but they may speak on any amendment to the principal motion.

4.8 After a motion has been seconded

- (1) After a motion has been moved and seconded, the President is to ask a question to the effect “Does any member wish to speak against the motion or move an amendment?”
- (2) If no member indicates a wish to speak against the motion or move an amendment, the Synod is to vote on the motion without further debate.
- (3) If a member indicates a wish to speak against the motion or move an amendment, debate on the motion is to proceed, commencing with speeches for and against the motion before considering amendments to the motion, unless the President determines otherwise.

4.9 Amendments to motions

- (1) A member may move a motion to amend a principal motion at any time before the close of debate. The motion to amend must be in writing and a copy handed to the President.
- (2) A member may move a motion to amend a motion to amend a principal motion. The motion to amend must be in writing and a copy handed to the President.
- (2A) A motion to amend is not to be irrelevant to the principal motion or give rise to an entirely different subject matter from or a direct negative of the principal motion.
- (3) A member may, with the permission of the Synod, withdraw their own motion to amend at any time before the close of debate.
- (4) If motions to amend have been moved, but not passed by the Synod, the motion to be put to the vote is the principal motion.
- (5) If motions to amend have been moved and passed by the Synod, the motion to be put to the vote is the amended principal motion.
- (6) If a member has moved a motion to amend and another member moves a motion for a different amendment or indicates an intention to move a motion for a different amendment, the President may
- (a) put to the Synod questions about the principal motion and the proposed amendment to establish the mind of the Synod on the principle or principles of the motions, or
 - (b) nominate a person or persons to
 - prepare a suitable form of words which expresses the mind of the Synod
 - report to the Synod,and adjourn the debate on the principal motion and the proposed amendments until the report has been received.
- (7) If debate on a motion is adjourned under rule 4.9(6)(b), the Synod is to proceed to the next item of business.
- (8) If the President considers that the strict application of rule 4.9 may cause confusion or prevent the Synod from expressing its mind, he may waive the application of this rule, or so much of it as he thinks fit.

4.10 Putting a motion to the vote

- (1) If, during the time for debate on a motion, no further member indicates a wish to speak to the motion, the President may declare that the debate has ended, subject to the mover of the motion exercising or declining to exercise a right of reply under rule 4.11.
- (2) If the President thinks that sufficient time has been allowed for debate on a motion but there remains one or more members indicating a wish to speak to the motion, the President is to ask the Synod a question to the effect
- “Does the Synod consider that the motion has been sufficiently debated and should now be voted on?”

If the majority of the members present answer “Aye”, the debate on the motion will be regarded as having ended, subject to the mover of the motion exercising or declining to exercise a right of reply under rule 4.11. If the majority of members present answer “No” the President is to allow the debate to continue. Rule 4.10(1) and rule 4.10(2) apply until debate has ended.

4.11 Right of reply

- (1) The mover of a motion has a right of reply after debate on a motion has ended unless the motion is
 - (a) a procedural motion, or
 - (b) a motion for an amendment, or
 - (c) a motion moved in a meeting of the Synod in Committee.
- (2) After the mover has exercised or declined to exercise their right of reply, the motion is to be voted on.

4.12 Voting on a motion

- (1) A vote on a motion is taken by the President asking members present who are in favour of the motion to say “Aye” and then to ask those members who are against the motion to say “No”. Voting may also take place by a show of hands at the option of the President or if requested by a member. A motion is passed only if a majority of the persons present and voting vote in favour of the motion.
- (2) If requested by 8 or more members, voting on a motion is to be conducted by ballot. If a ballot is requested, the Synod shall vote in accordance with the directions of the Secretary of the Synod.
- (3) The members of the Synod are to vote collectively unless 8 members request that the vote be taken by Houses.
- (4) If a vote is required to be taken by Houses, each House is to vote separately in accordance with the directions of the Secretary of the Synod, provided that the House of Laity is to vote first. The motion is passed only if a majority of persons present and voting in each House vote in favour of the motion. If a majority of the persons present and voting in the House of Laity do not vote in favour of the motion, the House of Clergy is not required to vote.

4.13 Adjournment of debate

- (1) A procedural motion for the adjournment of either the Synod or a debate may be moved without notice at any time between speeches.
- (2) If debate on a motion is adjourned, that debate takes precedence over all other business, unless these rules provide otherwise, or the Synod decides otherwise as a result of a motion without notice passed by the Synod.

4.14 Not voting on a motion

- (1) If it is desired not to vote on a motion, at any time following the speeches of the mover and seconder and prior to the motion being put to a vote, a member may move without notice the procedural motion –
 - “That the motion not be voted on.”
- (2) When this procedural motion is moved, debate on the principal motion shall be suspended and the Synod shall immediately consider speeches for and against the procedural motion.
- (3) If –
 - (a) the procedural motion is carried, debate on the Principal motion ceases and it is not put to the vote,
 - (b) the procedural motion is not carried, debate on the Principal motion continues from that point where the procedural motion was moved.
- (4) The procedural motion in rule 4.14(1) may not be amended and is not to be moved in a meeting of the Synod in Committee.

4.14A Ending debate on a motion

- (1) If it is desired to end debate on a motion, a member may move without notice the procedural motion –
 - “That debate cease and the motion be immediately put to the vote.”
- (2) When this procedural motion is moved, debate on the principal motion shall be suspended and the Synod shall immediately consider speeches for and against the procedural motion.
- (3) If –

- (a) the procedural motion is carried, the principal motion, and any amendments that have been moved, are subject to the mover of the principal motion exercising or declining to exercise a right of reply under rule 4.11 to be voted on immediately without further debate, and
- (b) the procedural motion is not carried, debate on the principal motion continues.

(4) The procedural motion in rule 4.14A(1) may not be amended and is not to be moved in a meeting of the Synod in Committee.

4.15 Withdrawal of a motion

A motion may be withdrawn at any time by its mover with the permission of the Synod.

4.16 Motions previously voted on

(1) No motion which has been considered by the Synod and voted on is to be debated again during the same session of the Synod.

(2) No motion which is substantially the same as one which has been voted on during the same session is to be considered. However a motion is not to be regarded as substantially the same as one which has been voted on during the same session if –

- (a) the motion is a direct negative of the one voted on, and
- (b) the one voted on was not passed.

(3) Any question about whether a motion is substantially the same as one which has been voted on during the same session is to be decided by the President whose decision is final unless immediately altered as a result of a motion without notice agreed to by the Synod.

4.17 Synod in Committee

(1) The Synod may, as a result of a procedural motion passed by the Synod, resolve itself into the Synod in Committee to consider any matter. A motion for the Synod to resolve itself into the Synod in Committee to consider the text of a proposed ordinance (see rule 5.6) is

“That Synod resolves itself into the Synod in Committee to consider [further] the text of the [name of proposed ordinance].”

(2) During a meeting of the Synod in Committee, the Chair of Committee or the Deputy Chair of Committee has the functions set out in rules 2.3 and 2.4.

(3) The Synod in Committee may, as a result of a procedural motion passed by the Committee, resolve to adjourn its meeting. A motion to adjourn a meeting of the Synod in Committee is

“That the Chair of Committee leaves the chair and reports progress.”

(4) On a motion to adjourn a meeting of the Synod in Committee being passed, the Chair of Committee is to report progress to the Synod.

(5) When the Synod in Committee has concluded consideration of the matter before it, the Chair of Committee is to report to Synod. Where the matter being considered was the text of a proposed ordinance, the Chair of Committee is to report in the manner referred to in rule 5.6(3).

(6) The rules of procedure in this Part 4, so far as applicable, apply to a meeting of the Synod in Committee.

(7) In a meeting of the Synod in Committee the same number of members constitutes a quorum as in the Synod itself. If a quorum is not present, the Chair of Committee is to leave the chair and report progress.

4.18 Proposed policies of the Synod

(1) The Standing Committee or the Synod may designate a written statement as a proposed policy of the Synod. A statement designated by the Standing Committee as a proposed policy of the Synod must be clearly marked as such.

(2) The Synod may consider a proposed policy of the Synod only if a copy has been circulated to members present before consideration of the proposed policy commences in accordance with rule 4.18(3).

(3) For the purposes of considering a proposed policy of the Synod, the procedures for the making of ordinances under Part 5 (from and including rule 5.5 but excluding rules 5.7(3)(b), 5.9 and 5.10) apply as if the proposed policy were a proposed ordinance.

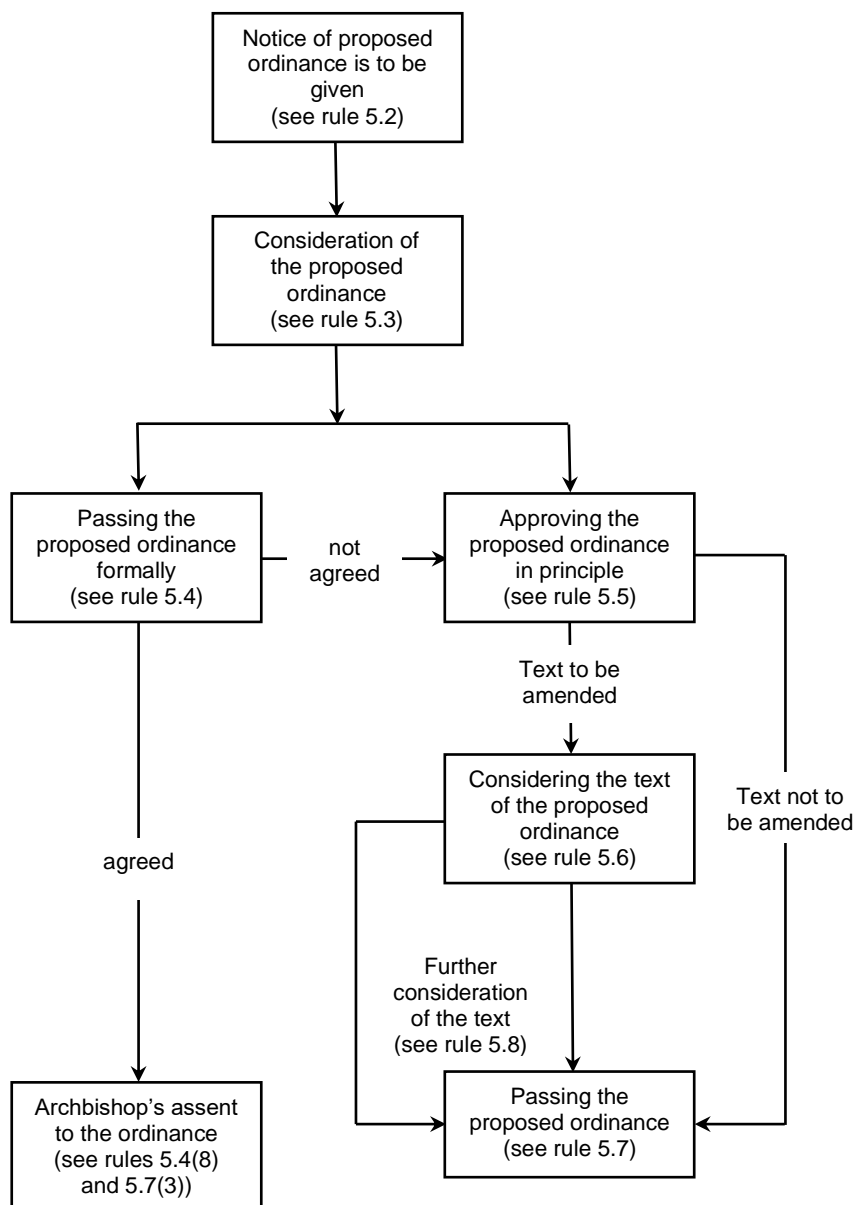
4.19 Expedited time limits and procedures

- (1) Notwithstanding clause 4.6, the Synod may as a result of a procedural motion passed by the Synod to “adopt the expedited time limits”, adopt any or all of the following time limits for speeches for the remainder of a session –
- (a) for a motion that a proposed ordinance be approved in principle –
 - (i) the mover may speak for up to 12 minutes, and up to 5 minutes in reply, and
 - (ii) other members may speak for up to 3 minutes,
 - (b) for a speech following the Synod’s approval to consider a proposed ordinance formally, the mover may speak for up to 3 minutes,
 - (c) for other motions, except the motions referred to in paragraphs (d) and (e) –
 - (i) the mover may speak for up to 8 minutes, and up to 4 minutes in reply,
 - (ii) a member moving a motion to amend a motion may speak for up to 4 minutes, and
 - (iii) other members may speak for up to 4 minutes,
 - (d) for procedural motions, a member may speak for up to 3 minutes, and
 - (e) for motions moved in a meeting of the Synod in Committee, a member may speak for up to 3 minutes.
- (2) The Synod may, as a result of a procedural motion passed by the Synod to “adopt the expedited procedural rules”, adopt any or all of the following rules for the remainder of a session –
- (a) Notwithstanding clause 6.3(5), the Archbishop is not required to read aloud the answers to questions.
 - (b) The afternoon session shall be extended 15 minutes, resulting in a correlating reduction in the length of the dinner break.
- (3) The Synod having passed a procedural motion or motions in this clause, notwithstanding clause 4.16, may on a subsequent day of the same session –
- (a) return to ordinary time limits and procedures prior to the end of a session by moving a procedural motion to that effect, or
 - (b) consider a procedural motion under this clause to vary the expedited time limits and procedures adopted for that session.
- (4) The President may, by indicating his decision, apply any or all of the expedited time limits specified in paragraphs (a) – (e) of subclause (1) for any particular matter before Synod.

Part 5 Making of Ordinances by the Synod

5.1 Introduction

The general procedure for the making of an ordinance by the Synod is summarised in the following diagram.



The remaining rules in this Part contain the detail of this procedure, and the details of the special situations where the general procedure is modified.

5.2 Notice of the proposed ordinance is to be given

(1) Notice of a proposed ordinance is to be given to members before the Synod may consider the proposed ordinance.

(2) Except as provided by rule 5.2(3), notice will be regarded as having been given only if a copy of the proposed ordinance has been circulated to members present before a motion to introduce the proposed ordinance is moved.

(3) If a proposed ordinance seeks

- (a) to assent to a canon of the General Synod of the Anglican Church of Australia to amend the Constitution in the Schedule to the Anglican Church of Australian Constitution Act 1961, or
- (b) to amend rule 5.2,

notice will be regarded as having been given only if

- (c) a copy of the proposed ordinance was sent to each member at least 3 months before the first day of the session at which the proposed ordinance is to be considered, or
- (d) 75% of the members present and voting permit the proposed ordinance to be introduced without notice, other than the notice provided for in rule 5.2(2).

5.3 Consideration of the proposed ordinance

(1) At the time permitted by these rules, a member may move that the Synod agree to consider a proposed ordinance by moving a motion as provided in subclause (2) or as provided in rule 5.5(1).

(2) A member desiring to move a proposed ordinance formally may move a motion to the effect –

“That Synod agrees to consider passing the proposed ordinance formally.”

(3) If the motion to consider passing the proposed ordinance formally is passed, the procedure in rule 5.4 applies. Otherwise the mover may immediately move the motion in rule 5.5(1). If the mover does not immediately move that motion, the mover is to move a motion to the effect –

“That Synod agrees to consider [at a specified time] a motion that the [name of the proposed ordinance] be approved in principle.”

5.4 Passing the proposed ordinance formally

(1) If the Synod agrees to consider passing a proposed ordinance formally, the mover may immediately make a speech in accordance with clause 4.6(1)(b) about the proposed ordinance.

(2) At the end of the speech, the President is to ask a question of the Synod to the effect

“Does any member have a question about the proposed ordinance?”

(3) If a member indicates that he or she has a question, the President is to allow the question to be asked and rules 5.4(4), 5.4(5) and 5.4(6) apply. If no member indicates that he or she has a question, the time for questions will be regarded as having ended.

(4) A question is to be answered by the mover or seconder unless the President allows another person to answer the question.

(5) If, during the time for questions, no further member indicates that he or she has a question, the President may declare that the time for questions has ended.

(6) If the President thinks that sufficient time has been allowed for questions but there remains one or more members indicating a wish to ask a question, the President is to ask the Synod a question to the effect

“Does the Synod consider that sufficient time has been allowed for questions?”

If the majority of members present answer “Aye”, the time for questions will be regarded as having ended. If the majority of members present answer “No”, the President is to allow the time for questions to continue. Rules 5.4(5) and 5.4(6) apply until the time for questions has ended.

(7) Subject to rule 5.4(9), after the time for questions has ended, the mover is to immediately move a motion to the effect

“That the [name of the proposed ordinance] pass formally as an ordinance of the Synod.”

(8) If the Synod passes the proposed ordinance formally as an ordinance of the Synod, as soon as possible the Secretary of the Synod is to send to the Archbishop for his assent, the original copy of the ordinance upon which

- (a) the Chair of Committee has certified the text of the ordinance, and
- (b) the Secretary of the Synod has certified that the ordinance has passed as an ordinance of the Synod.

(9) If

- (a) at any time after the motion in 5.3(2) is passed and prior to the motion in rule 5.4(7) being voted on, 8 members stand in their place to object to the proposed ordinance being passed formally, or
- (b) the motion in rule 5.4(7) is not passed,

the mover is to immediately move in accordance with clause 4.6(1)(a) a motion to the effect

“That Synod agrees to consider [forthwith or at a specified time] a motion that the [name of proposed ordinance] be approved in principle.”

5.5 Approving the proposed ordinance in principle

- (1) A member desiring to move a proposed ordinance in principle may move a motion to the effect
“That the [name of the proposed ordinance] be approved in principle.”
- (2) After this motion has been moved and seconded, and the mover and seconder have spoken, the President is to ask the Synod a question to the effect
“Does any member have a question about the proposed ordinance?”
- (3) If a member indicates that he or she has a question, the President is to allow the question to be asked and rules 5.5(4), 5.5(5) and 5.5(6) apply. If no member indicates that he or she has a question, the time for questions will be regarded as having ended.
- (4) A question is to be answered by the mover or seconder unless the President allows another person to answer the question. If, during the time for questions, no further member indicates that he or she has a question, the President may declare that the time for questions has ended.
- (5) If the President thinks that sufficient time has been allowed for questions but there remains one or more members indicating a wish to ask a question, the President is to ask the Synod a question to the effect –
“Does the Synod consider that sufficient time has been allowed for questions?”
- (6) If the majority of members present answer “Aye”, the time for questions will be regarded as having ended. If the majority of members present answer “No”, the President is to allow the time for questions to continue. Rules 5.5(5) and 5.5(6) apply until the time for questions has ended.
- (7) After the time for questions has ended, the President is to immediately ask the Synod a question to the effect
“Does any member wish to speak for or against the motion?”
- (8) If a member indicates that he or she wishes to speak for or against the motion, the President is to allow debate on the motion to proceed.
- (9) Upon a proposed ordinance being approved in principle, the President is to immediately ask the Synod a question to the effect
“Does any member wish to move an amendment to the text of the proposed ordinance?”
- (10) If a member indicates to the President that he or she wishes to move an amendment to the text of the proposed ordinance, rule 5.6 applies.
- (11) If no member indicates to the President that he or she wishes to move an amendment, rule 5.7 applies and the mover is to immediately move the motion in rule 5.7(1).

5.6 Considering the text of the proposed ordinance

- (1) If upon the President asking the question under rule 5.5(9) a member indicates that he or she wishes to move an amendment to the text of the proposed ordinance, the Synod is to
 - (a) immediately consider the text of the proposed ordinance in a meeting of the Synod in Committee, or
 - (b) determine another time for such consideration.
- (2) When considering the text of a proposed ordinance in a meeting of the Synod in Committee, the Chair of Committee is to put each clause of the proposed ordinance separately in the order in which the clauses occur in the proposed ordinance, leaving the title and the preamble to be considered last, unless, in the opinion of the Chair of Committee, it is expedient to put 2 or more consecutive clauses together.
- (3) When consideration of the text of the proposed ordinance has been completed by the Synod in Committee, the Chair of Committee is to report the proposed ordinance to the Synod, with or without amendments as the case may be.
- (4) Upon the report of an ordinance with amendments being adopted by the Synod as a result of a motion without notice passed by the Synod, the mover of the proposed ordinance is to immediately move a motion to the effect
“That Synod agrees to consider [on a specified future day/on a specified future day and at a specified time] a motion that the [name of the proposed ordinance] pass as an ordinance of the Synod.”
- (5) Upon the report of an ordinance without amendments being adopted by the Synod as a result of a motion without notice passed by the Synod, the mover of the proposed ordinance may move the motion

under rule 5.7(1) unless 8 members object, in which case the mover is to immediately move the motion under rule 5.6(4).

(6) Notwithstanding subclause (4), upon the report of an ordinance with or without amendments being adopted by the Synod as a result of a motion without notice passed by the Synod on the last sitting day of a session of Synod, the mover of the proposed ordinance may move the motion under rule 5.7(1).

5.7 Passing the proposed ordinance

- (1) When permitted by these rules, the mover may move a motion to the effect
“That the [name of proposed ordinance] pass as an ordinance of the Synod.”
- (2) A motion that a proposed ordinance pass as an ordinance of the Synod is not to be moved until the Chair of Committee has certified the text on the original copy of the proposed ordinance.
- (3) If the Synod passes a motion that a proposed ordinance pass as an ordinance of the Synod, the Secretary of the Synod is to
 - (a) certify on the original copy of the ordinance that the ordinance has passed as an ordinance of the Synod, and
 - (b) as soon as possible, send the original copy of the ordinance to the Archbishop to enable him to consider his assent.

5.8 Further consideration of the text of the proposed ordinance

At any time before the Synod passes a motion that a proposed ordinance pass as an ordinance of the Synod, the Synod may, as a result of a motion with or without notice passed by the Synod, refer the proposed ordinance, or any clause of the proposed ordinance, or any amendment, to the Synod in Committee for consideration. Rules 5.6, 5.7 and 5.8 then apply, so far as they are relevant.

5.9 Reconsideration of the text of the proposed ordinance if assent is withheld

If the Archbishop withholds assent to an ordinance then, ignoring rules 5.3, 5.4 and 5.5, the Synod may, as a result of a motion with notice passed by the Synod, refer the proposed ordinance, or any clause of the proposed ordinance, or any amendment, to the Synod in Committee for consideration. Rules 5.6, 5.7 and 5.8 then apply, so far as they are relevant.

5.10 Proposed ordinances referred from the Standing Committee

If an ordinance proposed to be made by the Standing Committee is referred to the Synod then, subject to notice of the proposed ordinance being given in accordance with rule 5.2, consideration of the proposed ordinance by the Synod is to commence with a member moving the motion in rule 5.3(1).

5.11 Referral of ordinances by the Synod

- (1) The Synod may, as a result of a motion with or without notice passed by the Synod, refer a proposed ordinance at any point in the procedure concerning it
 - (a) to the next session of the same Synod, or
 - (b) to a session of the next Synod.
- (2) Consideration of the proposed ordinance at the next session of the Synod or at a session of the next Synod, as the case may be, resumes at the point in the procedure reached when it was referred.

Part 6 Other Matters

6.1 Questions about the election or qualification of a member

- (1) A question about
 - (a) the validity of the election or appointment of a member, or
 - (b) the qualification of any person to be a member,may be referred by the Synod to the Committee of Elections and Qualifications for investigation.
- (2) The Committee of Elections and Qualifications
 - (a) may meet during a session of the Synod, and
 - (b) when investigating a question referred to it, may receive such evidence as is available, whether that evidence would be admissible in legal proceedings or not.
- (3) After completing its investigation, the Committee of Elections and Qualifications is to report to the Synod its findings about
 - (a) whether the relevant member was validly elected or appointed, or
 - (b) whether the person is qualified to be a member.
- (4) A member of the Synod may move, with or without notice, that the report of the Committee of Elections and Qualifications be adopted. The motion is to state whether the member who is the subject of the report has been validly elected or appointed or not, or whether the person is qualified to be a member.
- (5) If the Synod passes a motion to the effect that a person has not been validly elected or appointed, or that the person is not qualified to be a member, that person is not to thereafter take part in the proceedings of the Synod unless and until that person becomes duly elected, appointed or qualified, as the case may be.

6.2 Petitions to Synod

- (1) This rule 6.2 applies to the petitions referred to in rule 3.2(j).
- (2) Petitions must be in writing and conclude with the signatures of the petitioners.
- (3) No petition is to
 - (a) be expressed in language which, in the opinion of the President, is disrespectful or offensive, or
 - (b) have been altered by erasure or interlineation.
- (4) A member presenting a petition is to
 - (a) be acquainted with the contents of the petition, and
 - (b) affix his or her name at the beginning of the petition, and
 - (c) state from whom it comes and its contents.
- (5) On the presentation of a petition, the only motion the Synod is to consider is a motion to the effect "That Synod receives the petition."

6.3 Questions

- (1) This rule 6.3 applies to the questions referred to in rules 3.2(k) and 3.3(e).
- (2) A question may be asked by any member using the following procedure –
 - (a) A member seeking to include a question to be tabled on the first day of a session of Synod, must submit the full text of the question to the Secretary of the Synod no later than 7 days prior to the first day of the session.
 - (b) The Secretary is to make the full text of each question submitted in accordance with paragraph (a) available on the website and the noticeboard in the foyer of Synod, prior to the commencement of the first day of the session.
 - (c) On the other days provided for asking questions, a member called on by the President to do so is to make a brief statement informing the Synod of the subject matter of the question and hand the full text of the question to the Secretary of the Synod to be printed in the business paper for the next day of the session.
 - (d) If a member asking a question indicates in writing that they do not require the answer to their question to be read orally to the Synod, the President need not read the answer orally (but may do so at his discretion).
- (3) A question is to relate to a matter connected with the business of

- (a) the Synod, or
 - (b) any committee, board or commission of the Synod, or established by or under an ordinance, or by resolution of the Synod or the Standing Committee.
- (4) No question is to
- (a) contain an assertion, or
 - (b) express an opinion, or
 - (c) offer an argument, or
 - (d) make any inference or imputation, or
 - (e) be expressed in language which, in the opinion of the President, is disrespectful or offensive, or
 - (f) seek a legal opinion.
- (5) Except as provided in paragraphs 6.3(2)(d) and 4.19(2)(a), an answer to a question is to be read orally to the Synod by the President on the next day or as soon as convenient after the next day without the question being asked again. As soon as possible a written copy of the question and answer is to be posted on a notice board in a prominent position in or near the building in which the Synod is meeting. A written copy is also to be handed to the member asking the question upon request made to the Secretary of the Synod.
- (6) If the answer includes statistics or other detailed material, the answer may be supplemented with data projected on a screen or a document which need not be read orally.
- (7) Each question and reply is to be recorded in the minutes of the Synod.

6.4 Personal explanations

With the permission of the President, a member may explain matters of a personal nature. These matters are not to be debated.

6.5 Suspension of these rules

Any rule of procedure may be suspended by motion

- (a) with notice, or
- (b) without notice unless 8 members object.

6.6 Media

- (1) Unless the Synod otherwise determines as a result of a motion with or without notice passed by the Synod, the proceedings of the Synod are to be open to the media.
- (2) With the permission of the President, the proceedings, or parts of the proceedings, may be televised, broadcast or photographed.

6.7 Rules

A rule which the Synod is authorised to make by the Constitutions set out in the Schedule to the Anglican Church of Australia Constitutions Act 1902 may be made by resolution, unless those Constitutions require the rule to be made by ordinance. No rule made by resolution is to be contrary to the terms of an ordinance.

6.8 Application of business rules

- (1) Any question about the application of these rules, the form of motions and ordinances and the voting on motions and ordinances during a session of the Synod is to be decided by the President. The President's decision on all such questions is final unless immediately altered as a result of a motion without notice agreed to by the Synod.
- (2) In making a decision under rule 6.8(1), the President may have recourse to the rules, forms and practice of the Legislative Assembly of New South Wales.

Table of Amendments

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Extracts from the Schedule to the *Anglican Church of Australia Constitution Act 1961*

Chapter IX. - THE TRIBUNALS

60. (1) A tribunal shall make such recommendation as it thinks just in the circumstances, but shall not recommend any sentence other than one or more of the following –
- (a) deposition from orders;
 - (b) prohibition from functioning;
 - (c) removal from office;
 - (d) rebuke.

Except as otherwise provided herein such recommendation shall be made to the bishop of the diocese concerned.

The recommendation of the Special Tribunal, or of the Appellate Tribunal on an appeal from the Special Tribunal, shall be made to the Primate, provided that if the Primate be a party to the appeal or is disqualified from acting or considers that he should disqualify himself from acting, the recommendation shall be made to the metropolitan or bishop who would exercise the authorities powers rights and duties of the Primate, if the office were then vacant.

- (2) The person to whom the recommendation is made shall give effect thereto, provided that if any sentence is recommended, he may consult with the tribunal and in the exercise of his prerogative of mercy (a) mitigate the sentence or (b) suspend its operation or (c) mitigate the sentence and suspend its operation. In each case he shall pronounce the sentence recommended even though he mitigate or suspend it. Provided that if the operation of a sentence or mitigated sentence has been suspended and remains suspended for a period of two years such sentence shall thereafter have no operation.
- (3) If in any case the Appellate Tribunal is precluded from determining the appeal, either because the members present at the hearing are equally divided or because there is no such concurrence as is required by this Constitution, the provisions of this sub-section shall have effect, that is to say –
- (a) where any recommendation adverse to the person charged made by a diocesan or a provincial tribunal or by the Special Tribunal, or
 - (b) where any sentence pronounced against him would but for this sub-section continue in force,

the person to whom the recommendation was made or who pronounced the sentence shall in consultation with the Appellate Tribunal review the recommendation or sentence, and after such review may give effect or abstain from giving effect to the recommendation, or may confirm, mitigate or annul the sentence and may give or abstain from giving directions for restoration of office rights and emoluments as he shall think proper and for such compensation where compensation is available as in the circumstances he may deem to be fair and reasonable.

- (4) The provisions of this Constitution with respect to an appeal from the determination of a tribunal shall extend to and authorise an appeal from the recommendation or sentence but shall not extend to a ruling of a tribunal of an interlocutory nature.
61. (1) Where a charge has been promoted before a tribunal against any person licensed by the bishop of a diocese, the bishop with the concurrence of the diocesan council may suspend such person from the duties of his office until the determination of the charge or for some lesser time, and may make such arrangements for the performance of the duties of the office as may be authorised by any canon ordinance or rule or in the absence of such canon ordinance or rule as the bishop may deem proper.
- (2) The bishop of a diocese may suspend a person referred to in Section 54(2) from the duties of his office where –
- (a) the bishop or some other person authorised by ordinance proposes to promote a charge against the person;

- (b) the charge will not allege a breach of faith, ritual or ceremonial; and
 - (c) the relates to an offence that is punishable by imprisonment for twelve months or upwards of which the person has been charged or convicted or in respect of which the bishop has received a report from a lay person qualified to be a member of the Appellate Tribunal stating that there is a prima facie case of the person having committed the offence.
- (3) Suspension under subsection (2) must be by written instrument signed by the bishop, served on the person to be suspended, and which states –
- (a) the intention of the bishop or any other authorised person to promote the charge
 - (b) the conduct complained of; and
 - (c) the period of suspension.
- The period of suspension may not exceed 28 days from the date of service on the person to be suspended. Where –
- (d) a person has been suspended under subsection (2);
 - (e) the period of suspension has elapsed; and
 - (f) a charge has not been promoted during the period of suspension;
- no further suspension is possible under subsection (2) in relation to the conduct specified in the instrument.
- (4) If during the period of suspension referred to in subsection (2) the bishop or other authorised person promotes the charge the suspension of the person shall continue until the first meeting of the diocesan council thereafter.
- (5) The bishop of a diocese may revoke the suspension of a person suspended by him under this section and may do so at any time during the period of suspension.
- (6) Suspension of a person from the duties of office under this section does not deprive that person of the emoluments appertaining to that office.

61A. Where a charge has been promoted against the bishop of a diocese, the President of the Special Tribunal with the concurrence of the Diocesan Council, meeting when the bishop is not present, may, after considering any submission from the bishop, suspend the bishop from the duties of office until the determination of such charge or for some lesser time. If such suspension is made and is from a paid office, or if the person voluntarily stands aside from performing the duties of office, the person shall be deemed to be on paid leave and to be absent from the State or Territory in which the duties of office would otherwise be performed.

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Chapter XII. - THE OPERATION OF THIS CONSTITUTION

74. (1) In the constitution unless the context or subject matter otherwise indicates –
- “Alteration” includes repeal, and “alter” and “altered” have a meaning corresponding with that of alteration.
- “Australia” includes the Commonwealth of Australia and any Territory under the control of the Commonwealth of Australia whether by trusteeship or otherwise.
- “Canonical fitness” means, as regards a person, that:
- (a) the person has attained at least 30 years of age;
 - (b) the person has been baptised; and
 - (c) the person is in priests’ orders.
- “Canonical Scriptures” means the canonical books as defined by the sixth of the Thirty-nine Articles.

"Ceremonial" includes ceremonial according to the use of this Church, and also the obligation to abide by such use.

"Church trust property" means property held in trust for or on behalf of or for the use of this Church and includes property held for the benefit of or in connection with any diocese or parish or otherwise.

"Diocesan bishop" means the bishop of a diocese.

"Diocesan council" in a diocese where there is a synod means the body exercising powers and functions of the synod on its behalf when it is not in session.

"Diocesan synod" and "synod of a diocese" include a diocesan council where there is no diocesan synod.

"Diocese" means a diocese of this Church.

"Doctrine" means the teaching of this Church on any question of faith.

"Faith" includes the obligation to hold the faith.

"General Synod" or "Synod" means the General Synod under this Constitution.

"Incumbent" includes the minister in charge of a parish, a parochial district or similar pastoral division.

"Licence" means a licence under seal of the bishop of a diocese, and "licensed" has a meaning corresponding with that of licence.

"Member of this Church" means a baptised person who attends the public worship of this Church and who declares that he is a member of this Church and of no church which is not in communion with this Church.

"Metropolitan" includes the bishop exercising the authorities powers rights and duties of the metropolitan.

"Month" means a calendar month, that is, a period commencing at the beginning of a day of one of the twelve months of the year and ending immediately before the beginning of the corresponding day of the next month or, if there is no such corresponding day, ending at the expiration of the next month.

"Ordinance" includes any act canon constitution statute legislative measure or provision of a provincial or diocesan synod or of the competent authority in or with respect to a missionary diocese.

"Parish" includes any parochial district or similar pastoral division constituted by or under ordinance of the synod of a diocese.

"Parishioner" means a member of this Church who is entitled to vote at a meeting of a parish for the election of churchwardens, or who if no such meeting is provided for is at least eighteen years of age.

"Primate" includes the metropolitan or bishop exercising the authorities powers rights and duties of the Primate.

"Printing" shall include typing, duplicating or any other method of producing facsimile copies.

"Provincial synod" includes a provincial council.

"Ritual" includes rites according to the use of this Church, and also the obligation to abide by such use.

"See" means a see of this Church.

"State" means a State of the Commonwealth of Australia.

"This Church" means the Anglican Church of Australia.

"This Constitution" or "the Constitution" means the Constitution of this Church.

"Voting by houses" means the procedure whereby three distinct votes are taken, that is to say, a vote of the House of Laity, a vote of the House of Clergy, and a vote of the House of Bishops.



General Synod – Episcopal Standards (Child Protection) Canon 2017 Adopting Ordinance 2017

(Reprinted under the *Interpretation Ordinance 1985*.)

The General Synod – Episcopal Standards (Child Protection) Canon 2017 Adopting Ordinance 2017 amended by the General Synod – Episcopal Standards (Child Protection) (Amendment) Canon 2022 Adopting Ordinance 2022.

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Long Title

An Ordinance to adopt Canon No 5, 2017 of the General Synod of the Anglican Church of Australia.

The Synod of the Diocese of Sydney ordains as follows.

1. Name

This Ordinance is the *General Synod – Episcopal Standards (Child Protection) Canon 2017 Adopting Ordinance 2017*.

2. Adoption of Canon No 5, 2017

The Synod adopts Canon No 5, 2017 of the General Synod of the Anglican Church of Australia, the text of which is set out in the Schedule.

Schedule

The General Synod prescribes as follows:

Title

1 This Canon is the Episcopal Standards (Child Protection) Canon 2017.

Definitions

- 2 (1) In this Canon, unless the context otherwise requires:
- assistant to the Primate** means any bishop assistant to the Primate in the Primate's capacity as Primate;
 - Bishop** means a bishop who is or was a member of the House of Bishops or an assistant to the Primate;
 - child** has the same meaning as in the National Register Canon 2007;
 - child abuse** has the same meaning as in the National Register Canon 2007;
 - complying ordinance** means an ordinance of a diocese relating to episcopal standards or professional standards in which examinable conduct or misconduct which may give rise to a question of fitness to be determined by the board constituted under that ordinance is defined as including examinable conduct as defined in this canon and which applies to a Bishop;
 - examinable conduct** means:
 - (a) in relation to a Bishop who is a member of the House of Bishops or assistant to the Primate, any conduct or omission, other than exempt conduct, involving:
 - (i) child abuse; or
 - (ii) conduct that impedes or undermines a professional standards process; or

- (iii) the failure without reasonable excuse to perform a function under a professional standards process; or
- (iv) the failure without reasonable excuse to comply with the laws of the Commonwealth, a State or Territory requiring the reporting of child abuse to the police or other authority;

wherever or whenever occurring, and the subject of information which, if established, might call into question the fitness of the Bishop to hold office or to remain in Holy Orders, but excludes any breach of faith, ritual or ceremonial;

- (b) in relation to a Bishop who was a member of the House of Bishops or an assistant to the Primate, any conduct or omission involving:
 - (i) child abuse; or
 - (ii) conduct that impedes or undermines a professional standards process; or
 - (iii) the failure without reasonable excuse to perform a function under a professional standards process; or
 - (iv) the failure without reasonable excuse to comply with the laws of the Commonwealth, a State or Territory requiring the reporting of child abuse to the police or other authority;

occurring while a member of the House of Bishops or assistant to the Primate whether before or after the commencement of this canon, and the subject of information which, if established, might call into question the fitness of the Bishop to hold office or to remain in Holy Orders, but excludes any breach of faith, ritual or ceremonial;

exempt conduct means any conduct or omission which would be examinable conduct, had not the Bishop disclosed the material facts of such conduct to the ordaining bishop prior to the Bishop's ordination as a deacon;

former Bishop means a Bishop whose conduct falls within paragraph (b) of the definition of examinable conduct;

professional standards process means a process for determining the fitness for office of clergy or lay persons under any canon of the General Synod or diocesan ordinance or a process under Chapter IX of the Constitution, where the conduct that is the subject of the process relates to child abuse;

relevant diocesan bishop in relation to a former Bishop means the bishop of the diocese in which the former Bishop is licensed or resides.

(2) Where there is examinable conduct in relation to a former Bishop, the examinable conduct extends to any other conduct or omission of the former Bishop that falls within subparagraphs (i) to (iv) of paragraph (b) of the definition of examinable conduct (other than exempt conduct), but occurring before or after any period in which the Bishop was a member of the House of Bishops or an assistant to the Primate, and is the subject of information that, if established, together with the relevant conduct or omission occurring while a member of the House of Bishops or assistant to the Primate, might call into question the fitness of the Bishop to hold office or to remain in Holy Orders (but excluding any breach of faith, ritual or ceremonial).

Application of specified provisions of the Episcopal Standards Canon 2007

3 (1) The following provisions of the Episcopal Standards Canon 2007 are incorporated in this canon as if they were set out in full in this Canon and were limited to examinable conduct as defined in this Canon:

- (a) section 2 other than the definitions of "Bishop" and "examinable conduct"; and with the following amendments to the definition of "relevant Metropolitan":
 - (i) substitute for paragraph (b) "in relation to any other member of the House of Bishops or an assistant to the Primate, the Primate;"
 - (ii) insert paragraph (c) after paragraph (b):
 - "(c) in relation to a former Bishop:
 - (i) the Metropolitan of the Province in which the Bishop is licensed or resides; or
 - (ii) if the Bishop is licensed or resides in an extra-provincial diocese, the Primate."
- (b) Parts 2 to 7 and 9 modified as follows:

- (i) substitute “;” for “.” at the end of paragraph (k) of section 7 and insert after paragraph (k):
 - “(l) to have carriage under this Canon of the referral of a question to the Board from an equivalent body to the ESC under a complying ordinance.”
- (ii) delete paragraph (d) of section 16 and section 51(2);
- (iii) insert after “section 16” in section 19(1) “or pursuant to a corresponding provision of a complying ordinance”;
- (iv) insert subsection (3) after subsection (2) of section 19:
 - “(3) Where there is a referral of a question to the Board from an equivalent body to the ESC under a complying ordinance, if the equivalent body would have, but for this Canon, referred at the same time other complaints against the Bishop to the board constituted under the complying ordinance in respect of conduct that does not fall within examinable conduct as defined in this Canon which might call into question the fitness of the Bishop to hold office or to remain in Holy Orders, the equivalent body may refer to the Board, and the Board may determine, the question arising from the conduct other than the examinable conduct in conjunction with the question arising from the examinable conduct.”
- (v) substitute “;” for “.” at the end of paragraph (k) of section 49 and insert after paragraph (k):
 - “(l) determine that the Bishop be prohibited, either temporarily or permanently, from functioning as a bishop or as a bishop and priest; or
 - (m) determine the Bishop be deposed from the exercise of Holy Orders.”
- (vi) delete “and” at the end of paragraph (d) of section 50 and insert after paragraph (d):
 - “(e) to the ESC;
 - (f) where appropriate, to any relevant complainant;
 - (g) in the case of a former Bishop, to the relevant diocesan bishop; and”
- (vii) insert section 50A after section 50:
 - “50A The relevant Metropolitan and, where applicable, the relevant diocesan bishop, is authorised and must give effect to the determination of the Board.”
- (c) Part 8 modified as follows:
 - (i) delete the definitions of “Review Tribunal”; “the appropriate state professional body” and “the relevant Chancellor” in section 52;
 - (ii) insert the following definition in section 52:
 - “**Review Board** means the Episcopal Standards Review Board constituted for the purposes of this Part.”
 - (iii) delete sections 53, 55, 63 and 66;
 - (iv) delete section 54 and substitute:
 - “54 A Bishop or the ESC, if aggrieved by a reviewable decision, may appeal by notice to the General Secretary.”
 - (v) insert a new section 55:
 - “55(1) The Review Board will be constituted from the members of the panel referred to in section 20 and the members of the panel to be convened for an appeal to the Review Board will be determined by whichever of the President or the Deputy President was not a member of the Board which made the determination that is the subject of the appeal, as soon as possible after the appeal is notified to the President or Deputy President.

(2) For the purpose of an appeal, the Review Board shall consist of the President or Deputy President, who shall be the presiding member, and an equal number not exceeding two from the episcopal members and two from the other members of the panel who were not members of the Board which made the determination that is the subject of the appeal.

(3) Subsections (3) to (5) of section 23, subsection (1) of section 24, sections 25 to 27, 29 and 31 to 33, subsections (2) and (3) of section 36, and sections 41(1), 42, 45 and 46 apply to an appeal to the Review Board, as if the reference to the Board is a reference to the Review Board.”

- (vi) substitute “appeal” for “application to review” in sections 56 to 58 and 65 and for “review” in paragraph (b) of section 61 and in section 64;
- (vii) substitute “notice of appeal” for “application” in paragraph (a) of section 58 and for “application for review” in section 61;
- (viii) delete section 59 and substitute:

“59 If the Review Board on appeal confirms, varies or makes another determination in substitution for a reviewable decision, the Review Board must cause the details of the confirmed, varied or substituted determination to be forwarded to the General Secretary and the persons referred to in section 50 and the General Secretary shall cause relevant details to be forwarded for entry into the national register.”
- (ix) substitute “the Review Board” for “the Review Tribunal”, “a Review Tribunal”, or “the Tribunal” wherever occurring;
- (x) delete the first sentence in section 61 and substitute:

“An appeal against the reviewable decision must be made within 28 days of a copy of the Board’s determination under section 50 being provided to the Bishop and the ESC.”
- (xi) insert “General Secretary” for “Director” in paragraph (a) of section 61 and in section 62;
- (xii) in section 65, insert “and making another determination in substitution for it” at the end of paragraph (a), omit paragraphs (c) and (d), and insert “or varying” after “confirming” in paragraph (e);
- (xiii) delete section 67 and substitute:

“67 The appeal shall be by way of rehearing.”

(2) The Episcopal Standards Board established by Part 6 of the Episcopal Standards Canon 2007 is the Episcopal Standards Board for the purpose of this Canon.

Coming into force by adoption

4 The provisions of this Canon affect the order and good government of this Church within a diocese and do not come into force in a diocese unless and until the diocese adopts this canon by ordinance of the synod of the diocese.

Notes

1. The text of the Episcopal Standards (Child Protection) Canon 2017 incorporating in full the provisions of the Episcopal Standards Canon 2007 as incorporated and modified for the purpose of examinable conduct as defined in the Episcopal Standards (Child Protection) Canon 2017 is set out in the Appendix.

Table of Amendments

[not reproduced here]

EPISCOPAL STANDARDS (CHILD PROTECTION) CANON 2017

Incorporating in full the provisions of the Episcopal Standards Canon 2007 as incorporated and modified for the purpose of examinable conduct as defined in the Episcopal Standards (Child Protection) Canon 2017

The General Synod prescribes as follows:

PART 1

Title

- 1 This Canon is the Episcopal Standards (Child Protection) Canon 2017.

Definitions

- 2 (1) In this Canon, unless the context otherwise requires:
- Administrator** means the person who would, in the absence or incapacity of a Bishop, be the administrator of a diocese;
- assistant to the Primate** means any bishop assistant to the Primate in the Primate's capacity as Primate;
- Bishop** means a bishop who is or was a member of the House of Bishops or an assistant to the Primate;
- bishop** means a person in bishop's orders;
- Board** means the Episcopal Standards Board established under Part 6;
- child** has the same meaning as in the National Register Canon 2007;
- child abuse** has the same meaning as in the National Register Canon 2007;
- Church** means the Anglican Church of Australia;
- Church body** includes the Primate, the General Synod, a diocese, diocesan synod, diocesan council, diocesan trustee or trust corporation or other body responsible for administering the affairs of a diocese, or an institution or agency of this Church or of a diocese;
- Code of Conduct** means a code of conduct approved from time to time under Part 2;
- complying ordinance** means an ordinance of a diocese relating to episcopal standards or professional standards in which examinable conduct or misconduct which may give rise to a question of fitness to be determined by the board constituted under that ordinance is defined as including examinable conduct as defined in this canon and which applies to a Bishop;
- Director** means the Director of the ESC appointed under the Special Tribunal Canon 2007;
- Episcopal Standards Commission** or **ESC** means the Episcopal Standards Commission appointed under the Special Tribunal Canon 2007;
- examinable conduct** means:
- (a) in relation to a Bishop who is a member of the House of Bishops or assistant to the Primate, any conduct or omission, other than exempt conduct, involving:
- (i) child abuse, or
 - (ii) conduct that impedes or undermines a professional standards process; or
 - (iii) the failure without reasonable excuse to perform a function under a professional standards process; or
 - (iv) the failure without reasonable excuse to comply with the laws of the Commonwealth, a State or Territory requiring the reporting of child abuse to the police or other authority;
- wherever or whenever occurring, and the subject of information which, if established, might call into question the fitness of the Bishop to hold office or to remain in Holy Orders, but excludes any breach of faith, ritual or ceremonial;

- (b) in relation to a Bishop who was a member of the House of Bishops or an assistant to the Primate, any conduct or omission involving:
- (i) child abuse; or
 - (ii) conduct that impedes or undermines a professional standards process; or
 - (iii) the failure without reasonable excuse to perform a function under a professional standards process; or
 - (iv) the failure without reasonable excuse to comply with the laws of the Commonwealth, a State or Territory requiring the reporting of child abuse to the police or other authority;

occurring while a member of the House of Bishops or assistant to the Primate whether before or after the commencement of this canon, and the subject of information which, if established, might call into question the fitness of the Bishop to hold office or to remain in Holy Orders, but excludes any breach of faith, ritual or ceremonial;

exempt conduct means any conduct or omission which would be examinable conduct, had not the Bishop disclosed the material facts of such conduct to the ordaining bishop prior to the Bishop's ordination as a deacon;

former Bishop means a Bishop whose conduct falls within paragraph (b) of the definition of examinable conduct;

information means information of whatever nature and from whatever source relating to the alleged misconduct or omission of a Bishop wherever or whenever occurring;

national register means a national register established pursuant to a Canon of General Synod for a purpose which includes the recording of determinations of the Board;

professional standards process means a process for determining the fitness for office of clergy or lay persons under any canon of the General Synod or diocesan ordinance or a process under Chapter IX of the Constitution, where the conduct that is the subject of the process relates to child abuse;

protocol means the protocol approved from time to time by the Standing Committee under Part 3;

relevant diocesan bishop in relation to a former Bishop means the bishop of the diocese in which the former Bishop is licensed or resides.

relevant Metropolitan, means:

- (a) in relation to the bishop of a diocese:
- (i) unless paragraph (iii) or (iv) applies, the Metropolitan of the Province in which the diocese is situated; or
 - (ii) if the diocese is an extra-provincial diocese, the Primate; or
 - (iii) if the bishop is the Metropolitan but not the Primate, the Primate; or
 - (iv) if the bishop is the Primate, the person who, at the relevant time, is the next most senior Metropolitan who is available, seniority being determined by the date of consecration; and
- (b) in relation to any other member of the House of Bishops or an assistant to the Primate, the Primate;
- (c) in relation to a former Bishop:
- (i) the Metropolitan of the Province in which the Bishop is licensed or resides; or
 - (ii) if the Bishop is licensed or resides in an extra provincial diocese, the Primate.

respondent means a Bishop whose alleged conduct or omission is the subject of information;

Standing Committee means the Standing Committee of General Synod;

Tribunal means the Special Tribunal.

- (2) Where there is examinable conduct in relation to a former Bishop, the examinable conduct extends to any other conduct or omission of the former Bishop that falls within subparagraphs (i) to (iv) of paragraph (b) of the definition of examinable conduct (other than exempt conduct), but occurring before or after any period in which the Bishop was a member of the House of Bishops or an assistant to the Primate, and is the subject of information that, if established, together with the relevant conduct or omission occurring while a member of the House of Bishops or assistant to the Primate, might call into question

the fitness of the Bishop to hold office or to remain in Holy Orders (but excluding any breach of faith, ritual or ceremonial).

PART 2 – CODE OF CONDUCT

- 3 The General Synod or the Standing Committee shall from time to time by resolution approve a Code of Conduct for observance by Bishops, which does not make provision for any matter concerning faith, ritual or ceremonial, provided that any changes to the Code of Conduct made by the Standing Committee shall be referred to the next session of General Synod for ratification.
- 4 The Standing Committee through the ESC and by such other means as may be considered appropriate shall take such steps as may be necessary or desirable to promote the knowledge, understanding and observance in this Church of the Code of Conduct. A code of conduct must not make provision for any matter concerning faith, ritual or ceremonial.

PART 3 – THE PROTOCOL

- 5 (1) The Standing Committee shall from time to time consider and approve a protocol for implementation in relation to information.
(2) The protocol must include:
 - (a) procedures for receiving information;
 - (b) provision for informing complainants and victims of alleged conduct the subject of information, and respondents, of rights, remedies and relevant procedures available to them;
 - (c) provision for assisting or supporting, as appropriate, all persons affected by alleged conduct the subject of information;
 - (d) an explanation of the processes for investigating and dealing with information;
 - (e) provisions for dealing fairly with respondents;
 - (f) processes for referral to mediation and conciliation in appropriate circumstances;
 - (g) provisions for information, reports, advice and recommendations to the Primate, the relevant Metropolitan and to the relevant Administrator at each stage of the process of dealing with information;
 - (h) procedures for working, where appropriate, with law enforcement, prosecution or child protection authorities of the States and Territories and of the Commonwealth of Australia.
- 6 The Standing Committee through the ESC and by such other means as it may consider appropriate shall take such steps as may be necessary or desirable to promote throughout the Church a knowledge and understanding of the protocol.

PART 4 – THE EPISCOPAL STANDARDS COMMISSION

- 7 (1) In addition to the powers conferred on it by the Special Tribunal Canon 2007 and subject to the provisions of this Canon the ESC has the following powers and duties:
 - (a) to implement the protocol to the extent that the protocol is not inconsistent with this Canon;
 - (b) to receive information;
 - (c) to act on information in accordance with the provisions of this Canon, and the protocol to the extent that it is not inconsistent with this Canon;
 - (d) to appoint suitable persons to fulfil the several roles required to implement the protocol in each particular case;
 - (e) where appropriate, to arrange for the conciliation or mediation of any complaint the subject of information;
 - (f) to investigate information in a timely and appropriate manner;
 - (g) where appropriate, to recommend to the Standing Committee any changes to the protocol;
 - (h) subject to any limit imposed by the Standing Committee to authorise such expenditure on behalf of the General Synod as may be necessary or appropriate to implement, in a particular case, the protocol and the provisions of this Canon;

- (i) to advise any relevant Church body as to the financial, pastoral or other needs of a person affected by conduct the subject of information and as to any possible or actual legal proceedings against such Church body arising out of the alleged conduct of a bishop;
 - (j) to refer any information in its possession to a member of a law enforcement, prosecution or child protection authority of a State or Territory or of the Commonwealth of Australia to which the information is or may be relevant;
 - (k) to maintain proper records of all information received and of action taken in relation to such information;
 - (l) to have carriage under this Canon of the referral of a question to the Board from an equivalent body to the ESC under a complying ordinance.
- (2) The Director may receive information on behalf of the ESC and shall carry out such functions under this Canon as the ESC may determine.
- 8 (1) In the exercise of its powers and duties under this Canon the provisions of sections 8, 9 and 10 of the Special Tribunal Canon 2007 shall apply to the ESC as if reference therein to the Tribunal were a reference to the Board and reference to a complaint were a reference to information.
- (2) Subject to subsection (3), the ESC may delegate, upon such terms and conditions as the ESC may approve, any of its powers or functions under this Canon to any person.
- (3) The ESC cannot delegate:
- (a) its powers under subsection (2);
 - (b) its powers under section 13; or
 - (c) its powers under section 16.
- (4) A delegation under this section must be made by instrument in writing signed by a member of the ESC.

PART 5 – EXAMINABLE CONDUCT

- 9 Subject to this Canon, where the ESC considers that the subject matter of information constitutes examinable conduct it shall investigate the information.
- 10 The ESC may decide not to investigate the information or may refrain from further investigation of the information if:
- (a) in its opinion, the allegations the subject of the information are vexatious or misconceived, or their subject matter is trivial;
 - (b) the subject matter is under investigation by some other competent person or body or is the subject of legal proceedings;
 - (c) the person making allegations of examinable conduct or a person affected by the conduct the subject of the information has failed, when requested by the ESC, to provide further particulars or to verify the allegations by statutory declaration; or
 - (d) in its opinion there is insufficient reliable evidence to warrant an investigation or further investigation.
- 11 For the purpose of an investigation the ESC or an investigator shall obtain such statutory declarations, written statements, recorded conversations, reports, documents and other material as the ESC or its delegate considers necessary or desirable.
- 12 (1) The ESC may by notice in writing to a respondent require the respondent to provide a detailed report to the ESC within the time specified in the notice in relation to any matter relevant to the investigation.
- (2) It is the obligation of a respondent:
- (a) not to mislead the ESC or a member or delegate of the ESC;
 - (b) not unreasonably to delay or obstruct the ESC or a member or delegate of the ESC in the exercise of powers conferred by this Canon.
- (3) If a respondent declines to answer a question on the ground that the answer might tend to incriminate the person a written record shall be made of the question and of the ground of refusal.

- 13 (1) Subject to section 14A, where at any time after the ESC has commenced or caused to be commenced an investigation of information under this Part it considers that action may be taken under paragraph (b) or (c) of section 16, it may recommend to the Diocesan Council or, in the case of a Bishop who is not a diocesan bishop, to the Primate, that the Bishop be suspended from the duties of office.
- (2) If the Diocesan Council, meeting when the Bishop is not present, or the Primate, as the case may be, concurs in the recommendation, the President of the Board, after considering any submission from the Bishop, may suspend the Bishop from the duties of office.
- (3) The meeting of the Diocesan Council referred to in sub-section (2) shall be chaired by a Diocesan Bishop appointed by the Primate with the concurrence of a majority of the Metropolitans. The Diocesan Bishop so appointed shall not have a vote at the meeting.
- (4) Where an investigation has been commenced against the Primate under this part, the powers and functions of the Primate under sub-section (3) shall be exercised by the person who would exercise the authorities, powers, rights and duties of the Primate if there were a vacancy in the office.
- (5) For the purposes of this section a reference to the Metropolitans excludes a Metropolitan who at the time is the subject of an investigation under this part.
- 14 Before suspending a Bishop from the duties of office the President of the Board shall take into account:
- (a) the seriousness of the conduct alleged in the information;
- (b) the nature of the material to support or negate the allegations;
- (c) whether any person is at risk of harm;
- (d) after consultation with the relevant Diocesan Council or its representative, the effect on the respondent, a relevant Church body and on the Church in the diocese of acting and of not acting under section 13; and
- (e) any other allegation of similar examinable conduct previously made to the ESC or to an equivalent body within the previous ten years;
- and may take into account any other relevant matter.
- 14A This section applies if, at any time after it has commenced or caused to be commenced under this or any other Canon an investigation of a complaint, the ESC forms the opinion that –
- (a) the complaint involves a sexual offence relating to a child by a person who is a Bishop; and
- (b) the complaint is plausible.
- 14B (1) If section 14A applies, the ESC must recommend to the President of the Board that the person be suspended from the duties of office.
- (2) Where the ESC makes a recommendation under sub-section (1), the President of the Tribunal must suspend the person from the duties of office.
- (3) A person suspended under sub-section (2) from the duties of a paid office, or a person to whom section 14A applies who voluntarily stands aside from performing the duties of office, is deemed to be on paid leave and to be absent from the State or Territory in which the duties of office would otherwise be performed.
- 14C (1) A person suspended from the duties of office under section 14B(2) remains suspended until –
- (a) the ESC decides to refrain from further investigation under one or both of –
- (i) paragraphs (a), (b) or (c) of section 19 of the Special Tribunal Canon 2007; or
- (ii) paragraphs (a), (b) or (c) of section 10 of this Canon—
- and there are no other investigations in relation to that person to which section 14A applies; or
- (b) the conclusion of an investigation or legal proceedings referred to in section 19(b) of the Special Tribunal Canon 2007 or section 10(b) of this Canon when there are no other investigations to which 14A applies; or
- (c) the person has been deposed from Holy Orders, prohibited from functioning in an order of ministry, or relinquished the exercise of some or all Holy Orders under the Constitution or a canon of the General Synod; or

- (d) the ESC brings a charge of a sexual offence relating to a child against the person – whichever occurs first.
- 15 (1) A suspension under sections 13 or 14A or a voluntary standing down from office by the Bishop as a result of an investigation by the ESC:
- (a) has effect as an absence of the Bishop from the see or from office as the case may require; and
- (b) continues until it ceases to have effect by reason of:
- (i) the ESC terminating the investigation without taking action under section 16;
- (ii) a determination to that effect by the Board or the Tribunal as the case may be; or
- (iii) the see or the office becoming vacant (whether or not under this Canon); whichever first occurs.
- (2) During any such suspension or voluntary standing down the Bishop is entitled to receive whatever stipend, allowances and other benefits that would otherwise have accrued and which are to be met or reimbursed by the body normally responsible for their payment.
- 16 At any time after the commencement of an investigation under this Part the ESC may:
- (a) if it considers on reasonable grounds that the Bishop may be incapable, report the matter in writing to the relevant Metropolitan, and such report shall be a report for the purposes of section 4 of the Bishop (Incapacity) Canon 1995 as if it were made by three members of the synod of a diocese pursuant to that section; refer to the Board the fitness of the Bishop, whether temporarily or permanently, to hold office or to remain in Holy Orders;
- (b) whether or not the information the subject of the investigation is also the subject of a complaint under the Special Tribunal Canon 2007, institute, amend or withdraw proceedings by way of charge against the Bishop before the Tribunal.
- 17 (1) The fact that the subject matter of a complaint or dispute concerning examinable conduct may be settled or resolved in whole or in part between the parties affected thereby does not prevent the ESC from taking any of the steps referred to in section 16 in respect of the subject matter of the complaint or dispute.
- (2) Any term of settlement or resolution referred to in sub-section (1) which purports to prevent or to limit the institution of such proceedings shall be of no effect.
- (3) A matter shall not be referred to the Board, a reference to the Board shall not continue and proceedings shall not be instituted or maintained in the Special Tribunal where the bishop concerned has relinquished or has been deposed from Holy Orders in accordance with the Holy Orders Relinquishment and Deposition Canon 2004.

PART 6 – EPISCOPAL STANDARDS BOARD

- 18¹ There shall be an Episcopal Standards Board constituted and appointed in accordance with the provisions of this Part.
- 19 (1) Subject to the provisions of this Canon the function of the Board is to inquire into and determine a question referred to it pursuant to section 16 or pursuant to a corresponding provision of a complying ordinance, to make a determination referred to in section 49 and where appropriate to make a recommendation in accordance with the provisions of this Canon.
- (2) Subject to section 17(3) the Board may make a determination and recommendation referred to in sub-section (1) notwithstanding that the bishop whose conduct is the subject of the reference has ceased, after the reference, to be a Bishop.
- (3) Where there is a referral of a question to the Board from an equivalent body to the ESC under a complying ordinance, if the equivalent body would have, but for this Canon, referred at the same time other complaints against the Bishop to the board constituted under the complying ordinance in respect of conduct that does not fall within examinable conduct as defined in this Canon which might call into question the fitness of the Bishop to hold office or to remain in Holy Orders, the equivalent body may refer to the Board, and the Board may

¹ The Episcopal Standards Board established by Part 6 of the Episcopal Standards Canon 2007 is the Episcopal Standards Board for the purpose of this Canon.

- determine, the question arising from the conduct other than the examinable conduct in conjunction with the question arising from the examinable conduct.
- 20 (1) The members of the Board in a particular case shall be appointed from a panel comprising:
- (a) a President and a Deputy President, both of whom shall be persons who are eligible for appointment as lay members of the Appellate Tribunal;
 - (b) five persons in bishop's orders; and
 - (c) five persons who are members of the Church not in bishop's orders.
- (2) A person who is a member of the panel from whom the members of the Tribunal may be appointed is eligible for appointment to the panel.
- 21 The members of the panel shall be appointed by the Standing Committee and shall hold office in accordance with a resolution of the Standing Committee.
- 22 Any vacancy in the membership of the panel shall be filled by or in accordance with a resolution of the Standing Committee.
- 23 (1) The members of the panel to be convened for any reference to the Board shall be determined by the President or, if there is a vacancy in the office of President, by the Deputy President.
- (2) For the purpose of any reference to the Board, the Board shall consist of the President or Deputy President, who shall be the presiding member, and an equal number not exceeding two of the episcopal and other members of the panel.
- (3) Where possible, the Board shall include at least one man and at least one woman.
- (4) Where, in the opinion of the President or, if there is a vacancy in the office of the President, in the opinion of the Deputy President a member of the panel has a personal interest in a matter before the Board the member shall be disqualified from participating in the reference.
- (5) For the purposes of this section a vacancy in the office of President includes a situation in which the President is not able to act because of a personal interest in a matter, illness or absence from Australia.
- 24 (1) The Rules of the Board made under this Part may provide that, in relation to the exercise of specified functions, or in relation to matters of a specified class, the Board may, at the direction of the presiding member, be constituted by a single member sitting alone.
- (2) The Board, if constituted by a single member sitting alone, cannot make a determination under section 49.
- 25 If a member of the Board, other than the presiding member, dies or is for any other reason unable to continue with any matter referred to the Board, the Board constituted of the presiding member and the other member or members may, if the presiding member so determines, continue and complete the reference.
- 26 The Board, separately constituted in accordance with this Part, may sit simultaneously for the purpose of matters referred to it or for conducting separate business of the Board.
- 27 An act or proceeding of the Board is not invalid by reason only of a vacancy in its membership or of the membership of the panel and, notwithstanding the subsequent discovery of a defect in the nomination or appointment of members of the panel or the Board, any such act or proceeding is as valid and effectual as if the member had been duly nominated or appointed.
- 28 There shall be a Secretary to the Board who shall be appointed by or in accordance with a resolution of the Standing Committee, and whose duties shall be defined by the President.
- 29 (1) In any proceedings of the Board where the Board is constituted by two or more members:
- (a) any question of law or procedure will be determined by the presiding member; and
 - (b) any other question will be determined by majority decision of the members, and in the case of an equality of votes the opinion of the presiding member shall prevail.
- (2) Where the Board is constituted by a member sitting alone who is not the President or the Deputy President, any question of law that arises must be referred to the President or Deputy President for decision and any decision made on such a reference is a decision of the Board.

- (3) The Board must act with fairness and according to equity, good conscience and the substantial merits of the case without regard to technicalities or legal forms and is not bound by the rules of evidence but may inform itself on any matter in such manner as it thinks fit.
- (4) Without limiting the meaning and effect of sub-section (3), the Board may receive evidence of a witness in the form of an affidavit, statutory declaration or a signed statement without the need for the personal attendance of the witness, and may also use electronic means such as video link or conference telephone to receive evidence and submissions, but must permit the respondent and his representative (if any) opportunity to adequately cross-examine each witness.
- (5) The Board may inform itself from the record of any court or tribunal and may adopt any findings, and accept as its own, the record of any court or tribunal.
- 30 The Board may, for the purpose of any particular reference and at the cost of the General Synod, appoint such person or persons, including the Director, to assist it in inquiring into (but not determining) that reference as the Board thinks fit.
- 31 The Board must give reasons for any determination, other than by way of directions in the course of an inquiry, unless the determination is made by consent of the respondent.
- 32 (1) The Board has no power to award costs of any proceedings before it.
- (2) A bishop in relation to whom a question is the subject of a reference to the Board may apply to the Standing Committee for the provision of legal assistance.
- (3) The Standing Committee may grant legal assistance to a bishop on such terms and subject to such conditions as it shall determine.
- 33 (1) The President may make Rules of the Board reasonably required by or pursuant to this Canon and in relation to the practice and procedure of the Board.
- (2) Subject to this Canon and the relevant Rules, the practice and procedure of the Board will be as directed by the presiding member of the Board.

PART 7 – REFERENCE OF MATTERS TO THE EPISCOPAL STANDARDS BOARD

- 34 A question shall be referred to the Board by delivering to the Secretary of the Board a written report of the investigation of the ESC signed by a member of the ESC.
- 35 The Board shall not, in the course of inquiring into any question:
- (a) inquire into any matter which is or has been the subject of any formal investigation or enquiry conducted;
- (i) under or pursuant to any provision of the Constitution; or
- (ii) under or pursuant to a Canon of the General Synod or an Ordinance of a diocese relating to the discipline of clergy or Church workers by a board of enquiry, tribunal or other body;
- but may take into account the finding of any such formal investigation or enquiry;
- (b) inquire into, make any findings in relation to or take into account any alleged breach of:
- (i) faith of the Church, including the obligation to hold the faith;
- (ii) ritual of the Church, including the rites according to the use of the Church and the obligation to abide by such use; or
- (iii) ceremonial of the Church, including ceremonial according to the use of the Church and the obligation to abide by such use.
- 36 (1) Upon delivery of the report to the Secretary of the Board, the President or Deputy President as the case may be shall as soon as possible determine the membership of the Board for the purpose of the reference.
- (2) The President or Deputy President as the case may require shall thereupon cause to be convened a sitting for the purpose of giving directions.
- (3) A person or body appearing or represented before the Board shall comply with the Rules of the Board and with any directions given by the Board.

- 37 Within 14 days of the date of the reference of a matter to the Board or within 14 days of the date of the document or material coming to existence, whichever is the later, the ESC shall cause to be delivered to the Secretary of the Board any documents and material relevant to the reference.
- 38 The ESC, as soon as practicable after delivering the report referred to in section 34 to the Secretary of the Board, shall cause a signed copy of the report to be delivered to the respondent.
- 39 The Board may at any time and from time to time give directions:
- (a) as to the inspection by and supply of copies to the respondent or any other person of the documents or material relevant to the reference;
 - (b) as to the conduct of its inquiry into the reference.
- 40 The Board may at any time and from time to time give directions to the ESC as to any further inquiries or investigation it requires to be carried out for the purposes of the reference and the ESC shall to the best of its ability cause such directions to be carried out.
- 41 (1) The Board shall deal with any reference as expeditiously as possible.
- (2) The Board may, if it sees fit, proceed with the determination of a reference notwithstanding that there may be mediation or conciliation proceedings relating to the subject matter of the reference being conducted by or at the direction of the ESC and notwithstanding that there may be criminal or other proceedings being taken against the respondent or some other person.
- 42 (1) The place and time of sitting of the Board comprising two or more members shall be as determined by the presiding member.
- (2) The place and time of sitting of the Board comprising one member shall be as determined by that member.
- 43 (1) Subject to sub-section (2), the Board must give the following persons reasonable notice of the time and place of a sitting of the Board:
- (a) the Director; and
 - (b) the respondent; and
 - (c) such other persons as the Board believes have a proper interest in the matter.
- (2) The Board is not obliged to give notice of a sitting to a person whose whereabouts cannot, after reasonable enquiries, be ascertained.
- 44 In any proceedings before the Board:
- (a) the ESC and any person may be represented by a legal practitioner or, with leave of the Board, by any other person;
 - (b) the ESC or its appointed representative shall do all in its power to assist the Board and shall carry out any directions of the Board;
 - (c) the Board:
 - (i) must give the ESC and the respondent a reasonable opportunity to call or give evidence, to examine or cross-examine witnesses and to make submissions to the Board; and
 - (ii) must give any other person to whom notice of the proceedings was given or who satisfies the Board that he or she has a proper interest in the matter a reasonable opportunity to make submissions to the Board.
- 45 (1) Subject to sub-section (2), a sitting of the Board on a reference before the Board is an open sitting.
- (2) On any such sitting before the Board, the Board has an absolute discretion:
- (a) to direct that no person other than:
 - (i) the respondent and any person representing him or her in the proceedings; and
 - (ii) witnesses or persons making submissions (while giving evidence or making those submissions); and
 - (iii) officers of the Board or persons assisting the Board; and
 - (iv) members of or persons appointed by the ESC;be present in the room while the Board is sitting; or to direct that a particular person (other than a person referred to in paragraph (a)) not be present in the room while the Board is sitting.

- 46 The Board may make a determination in any proceedings in the absence of a person affected by the determination if satisfied that reasonable efforts were made to give that person an opportunity to appear.
- 47 (1) The Board may require a respondent to submit within a specified time to a medical, psychiatric or psychological examination by a person approved by the Board the cost of which shall be met from funds under the control of the General Synod.
- (2) A copy of the report of an examination under subsection (1) shall be provided to the respondent and to the Board.
- 48 In making any determination the Board shall take into account:
- (a) the conduct of the bishop as it finds it to have been;
- (b) in the material before the Board, any other fact or circumstance relevant to the determination of the question before it; and
- (c) any failure of the bishop to comply with a provision of this Canon or with a direction of the Board.
- 49 If, after investigating the question referred to it about a bishop, the Board is satisfied that:
- (a) the bishop should be counselled;
- (b) the bishop's continuation in office should be subject to conditions or restrictions;
- (c) the bishop is unfit, whether temporarily or permanently, to hold office; or
- (d) the bishop is unfit to remain in Holy Orders;
- the Board may determine accordingly and may:
- (e) direct that the bishop be counselled;
- (f) direct that the bishop's holding of office shall be subject to such conditions or restrictions as the Board may specify;
- (g) direct that the bishop cease to carry out the duties and functions of his office from such time and for such period determined by the Board;
- (h) direct that the bishop resign from the office, within such time as is specified by the Board;
- (i) direct that the operation of a determination referred to in paragraphs (f) to (h) shall be suspended for such period and upon such conditions as the Board shall specify;
- (j) direct that the bishop relinquish Holy Orders within such time as is specified by the Board;
- (k) give such other direction as the Board sees fit;
- (l) determine that the Bishop be prohibited, either temporarily or permanently, from functioning as a bishop or as a bishop and priest; or
- (m) determine the Bishop be deposed from the exercise of Holy Orders.
- 50 The Board shall cause a copy of each determination and direction to be provided:
- (a) to the Primate;
- (b) to the relevant Metropolitan;
- (c) to the respondent;
- (d) to the relevant administrator;
- (e) to the ESC;
- (f) where appropriate, to any relevant complainant;
- (g) in the case of a former Bishop, to the relevant diocesan bishop; and shall cause relevant details to be forwarded for entry into the national register.
- 50A The relevant Metropolitan and, where applicable, the relevant diocesan bishop, is authorised and must give effect to the determination of the board.
- 51 (1) The bishop shall comply with a direction of the Board.
- (2) [deleted]
- (3) The ESC may institute proceedings forthwith in the Tribunal in respect of an offence against this section or, if the bishop is no longer a Bishop, shall refer the matter, together with such relevant information concerning the alleged offence as may be in its possession, to the bishop of the diocese in which the bishop is then resident.

PART 8 – APPEAL

- 52 In this Part, unless the context otherwise requires
reviewable decision means a recommendation or determination of the Board other than by way of an interlocutory order;
Review Board means the Episcopal Standards Review Board constituted for the purposes of this Part.
- 53 [deleted]
- 54 A Bishop or the ESC, if aggrieved by a reviewable decision, may appeal by notice to the General Secretary.
- 55 (1) The Review Board will be constituted from the members of the panel referred to in section 20 and the members of the panel to be convened for an appeal to the Review Board will be determined by whichever of the President or the Deputy President was not a member of the Board which made the determination that is the subject of the appeal, as soon as possible after the appeal is notified to the President or Deputy President.
- (2) For the purpose of an appeal, the Review Board shall consist of the President or Deputy President, who shall be the presiding member, and an equal number not exceeding two from the episcopal members and two from the other members of the panel who were not members of the Board which made the determination that is the subject of the appeal.
- (3) Subsections (3) to (5) of section 23, subsection (1) of section 24, sections 25 to 27, 29 and 31 to 33, subsections (2) and (3) of section 36, and sections 41(1), 42, 45 and 46 apply to an appeal to the Review Board, as if the reference to the Board is a reference to the Review Board.
- 56 For a reviewable decision, the provisions of section 51 shall not apply until the time for lodging an appeal has passed, and no application has been lodged.
- 57 The making of an appeal acts as a stay of the reviewable decision pending determination by the Review Board.
- 58 For a reviewable decision, the Board shall not cause the relevant details to be forwarded for entry into the national register under section 50 until:
- (a) the time for lodging an appeal has passed, and no notice of appeal has been lodged; or
- (b) where an appeal has been heard and determined, the determination has been made.
- 59 If the Review Board on appeal confirms, varies or makes another determination in substitution for a reviewable decision, the Review Board must cause the details of the confirmed, varied or substituted determination to be forwarded to the General Section and the persons referred to in section 50 and the General Secretary shall cause relevant details to be forwarded for entry into the national register.
- 60 If a Review Board's determination refers a matter back to the Board, then the Board must:
- (a) determine to take no further action in respect of the matter; or
- (b) deal with the matter in accordance with Part VII of this Canon, in accordance with such directions or recommendations as the Review Board may make in the Review Board's determination; or
- (c) deal with the matter in accordance with Part VII of this Canon applying such of the provisions of Part VII as, in the discretion of the Board and in accordance with the Review Board's determination, the Board sees fit.
- 61 An appeal against the reviewable decision must be made within 28 days of a copy of the Board's determination under section 50 being provided to the Bishop and the ESC. The notice of appeal must:
- (a) be in writing addressed to the General Secretary; and
- (b) set out the grounds for appeal in the application.
- 62 On receipt of an application for review², the General Secretary must immediately seek the appointment of a Review Board.
- 63 [deleted]

² Consistent with other changes made to this Part, the reference to 'an application for review' should be read as 'a notice of appeal'.

- 64 Unless otherwise specified in this Canon, the manner in which the appeal is to be conducted will be determined by the Review Board.
- 65 On an appeal of a reviewable decision, the Review Board may make all or any of the following determinations:
- (a) a determination quashing or setting aside the reviewable decision and making another determination in substitution for it;
 - (b) a determination referring the matter to which the reviewable decision relates to the Board for further consideration, subject to such directions (including the setting of time limits for the further consideration, and for the steps to be taken in the further consideration) as the Review Board determines;
 - (c) [deleted]
 - (d) [deleted]
- a determination confirming or varying the reviewable decision.
- 66 [deleted]
- 67 The appeal shall be by way of a rehearing.

PART 9 – REGULATIONS

- 68 The Standing Committee may from time to time make, amend or repeal Regulations, not inconsistent with the provisions of this Canon, providing for records arising out of or incidental to the operation of this Canon, and for all or any of the purposes whether general or to meet particular cases, which may be convenient for the administration of this Canon or which may be necessary or expedient to carry out the objects and purposes of this Canon.

Coming into force by adoption

- 69³ The provisions of this Canon affect the order and good government of this Church within a diocese and do not come into force in a diocese unless and until the diocese adopts this canon by ordinance of the synod of the diocese.



³ This was section 4 in the Episcopal Standards (Child Protection) Canon 2017 as passed.

Ministry Standards Ordinance 2017

(Reprinted under the Interpretation Ordinance 1985.)

The Ministry Standards Ordinance 2017 as amended by the Ministry Standards Ordinance 2017 Amendment Ordinance 2018, the Ministry Standards Ordinance 2017 Amendment Ordinance 2019, the Ministry Standards Ordinance 2017 Amendment Ordinance 2022, and the Ministry Standards and Safe Ministry Amendment Ordinance 2022.

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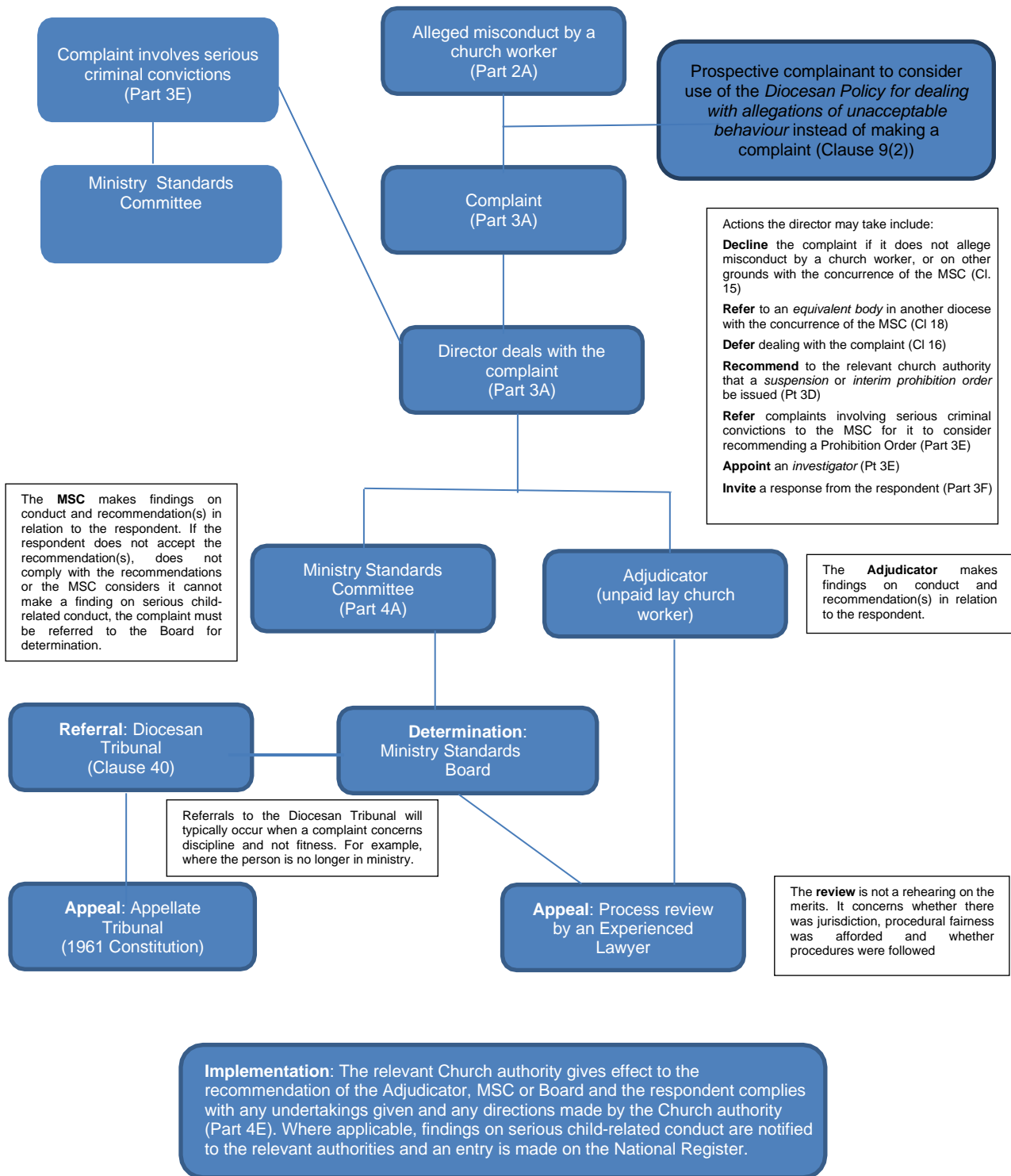
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Diagrammatic Summary of the Complaints Process



Please note: This diagram is indicative only and does not set out all possible actions or steps that may be taken under the Ordinance.

Features of the Complaints Process

Complainants will often have a choice between making a complaint under the *Ministry Standards Ordinance 2017* (“MSO”) and attempting to resolve their complaint through the *Diocesan policy for dealing with allegations of unacceptable behaviour* (“Policy”). The table below provides a summary of the key features of each process. The table is not exhaustive and is merely explanatory in nature. The detail in the MSO and the Policy should always be relied on in preference to the table.

Key Feature	Ministry Standards Ordinance 2017	Diocesan policy for dealing with allegations of unacceptable behaviour
What is the aim of the process?	To: <ul style="list-style-type: none"> • uphold the standards of conduct expected of church workers in the Diocese, • protect the community, • provide a mechanism for resolving complaints that church workers are not fit to hold office and undertake ministry, and • to facilitate the just, expedient and efficient resolution of complaints. 	To resolve allegations of unacceptable behaviour in a way that encourages reconciliation and leads to agreed outcomes that are fair and effective.
<i>Who can complaints be made about?</i>	Church workers (as defined in clause 5).	Church workers (as defined in clause 5).
<i>Who can make a complaint or allegation?</i>	Any person.	Any person.
<i>How does a person make a complaint/initiate the process?</i>	By contacting the Office of the Director of Safe Ministry. (https://safeministry.org.au/contact/)	If the church worker is the Rector, by contacting the Regional Bishop. (https://sydneyanglicans.net/seniorclergy) In all other cases, by contacting the Rector of the church worker.
<i>Are church workers who are the subject of an allegation required to participate in the process?</i>	Yes. A church worker must cooperate with an investigation unless they have a reasonable excuse. If a church worker refuses to participate, the process will continue without them.	No. The process cannot be initiated unless the church worker agrees to participate.
<i>Role of complainant</i>	The complainant is not a party. Complainants cannot determine how the complaint progresses. They have limited access to information about the conduct of the process.	The complainant is a party and is actively involved in determining how the matter progresses, subject to the terms of the Policy.

Key Feature	Ministry Standards Ordinance 2017	Diocesan policy for dealing with allegations of unacceptable behaviour
<i>What types of complaints can be made?</i>	Complaints about conduct which, if established, would call into question the church worker's fitness for ministry. See the definition of 'Misconduct' in clause 6 for more detail.	Any conduct which falls short of the standard of behaviour expected of clergy and church workers. This standard is understood by reference to the definition of 'misconduct' in the MSO and the Faithfulness in Service code of conduct.
<i>Is there any subject matter that cannot be dealt with under the process?</i>	<p>Subject matter that does not call a church worker's fitness into question.</p> <p>Allegations of a breach of faith, ritual or ceremonial.</p> <p>Certain exclusions from the definition of 'misconduct'. (See clause 6(1)).</p> <p>Exempt conduct. (See Part 2B).</p> <p>Conduct that has previously been dealt with under a diocesan complaints process.</p> <p>Conduct that is under investigation by the police, a regulatory body or is the subject to legal proceedings will usually not be considered until those other processes or proceedings have been completed.</p>	<p>The Policy cannot be used for allegations concerning sexual misconduct, misconduct involving children, criminal conduct or professional misconduct.</p> <p>The Regional Bishop may also decide that allegations raise questions of fitness that are more appropriately dealt with under the MSO.</p>
<i>What form of investigation will be undertaken?</i>	If the complaint progress it will usually, but not always, be the subject of a formal investigation by an external investigator.	The Regional Bishop appoints a person to undertake an 'information gathering exercise'. This will usually be the Parish HR Partner or a Regional Archdeacon.
<i>How long does the process take from start to finish?</i>	The process aims to be expedient and efficient, but can be lengthy in practice. This is largely due to the need for a formal investigation and procedural fairness in the process. Some complaints can take in excess of 12 months to reach a final outcome	The process has few formal steps and is intended to be quick. Ultimately the parties will determine the timeliness of the process. The process will usually be terminated if there is no resolution within 3 months.
<i>What are the outcomes from the process?</i>	<p>An assessment is made as to whether the church worker should remain in their office or position or whether they should be subject to conditions or restrictions.</p> <p>In most cases this is determined by either the:</p> <p>(a) Ministry Standards Committee if its recommendations are accepted and complied with by the church worker, or</p> <p>(b) if not, by the Ministry Standards Board or Diocesan Tribunal.</p> <p>If the church worker is an unpaid</p>	<p>Mutually agreed by the parties with the assistance of the Regional Bishop.</p> <p>If agreed outcomes cannot be reached, the complainant will still have the option of making a complaint under the MSO if the subject-matter can be dealt with under the MSO.</p>

Key Feature	Ministry Standards Ordinance 2017	Diocesan policy for dealing with allegations of unacceptable behaviour
	<p>lay person, an Adjudicator will be appointed to make a determination instead. The Adjudicator is usually a barrister or senior lawyer.</p> <p>The outcomes are implemented by the Archbishop or other Church Authority.</p>	
<i>Are the outcomes confidential?</i>	<p>Generally, yes. However the Archbishop and the MSC have power to release information.</p> <p>Parishioners are generally informed about the outcome of a complaint concerning a person on the staff of the parish.</p> <p>In some situations the outcomes will be published more broadly across the Diocese, such as where the person is subject to a prohibition order or another form of restriction on engaging in ministry.</p> <p>Certain allegations and findings may need to be referred to the police or to a government authority.</p>	<p>Generally, yes.</p> <p>Parishioners would only be told if this was agreed as an outcomes of the process.</p> <p>The PSU will be told when an allegation is made about a church worker but no other detail.</p> <p>Certain allegations may need to be referred to the police or to a government authority.</p>

Long Title

An Ordinance to make provision with respect to resolving complaints concerning the fitness of church workers.

The Synod of the Diocese of Sydney ordains as follows.

CHAPTER 1 – PRELIMINARY

1. Name

This Ordinance is the *Ministry Standards Ordinance 2017*.

PART 1A – PURPOSE AND APPLICATION

2. Overriding purpose

- (1) The overriding purposes of this Ordinance are:
- (a) to uphold the standards of conduct expected of church workers in the Diocese;
 - (b) to protect the community, including complainants, respondents and Church bodies;
 - (c) to provide a mechanism whereby complaints that church workers are not fit to hold office or ministry can be resolved; and
 - (d) to facilitate the just, timely and efficient resolution of complaints.
- (2) The Director, the MSC, Adjudicators and the Board must each seek to give effect to these overriding purposes when exercising any power given by this Ordinance and when interpreting any provision of this Ordinance.

3. Application

- (1) This Ordinance applies only in respect of alleged misconduct by church workers:
- (a) resident, licensed or authorised in the Diocese, or engaged by a Church authority; or
 - (b) not resident, licensed or authorised in the Diocese nor engaged by a Church authority but whose misconduct is alleged to have occurred in the Diocese or when the church worker was resident, licensed or authorised in the Diocese or was engaged by a Church authority.
- (2) This Ordinance applies to misconduct wherever and whenever it is alleged to have been engaged in by a church worker, including misconduct that is alleged to have occurred before or after the commencement of this Ordinance.

PART 1B - INTERPRETATION

4. Interpretation

- (1) For the purposes of this Ordinance:
- “Adjudicator”** means a person appointed under subclause 28(2) or 28(3);
- “Appellate Tribunal”** means the Appellate Tribunal constituted by and under Chapter IX of the Constitution;
- “Board”** means the Ministry Standards Board established under Part 5C;
- “ceremonial”** has the same meaning as that expression has in the Constitution;
- “Chancellor”** means the person holding office from time to time as Chancellor of the Diocese;
- “child”** means a person under the age of 18 years;
- “child exploitation material”** means material that describes or depicts a person who is or who appears to be a child –
- (i) engaged in sexual activity; or
 - (ii) in a sexual context; or
 - (iii) as the subject of torture, cruelty or abuse (whether or not in a sexual context) in a way that a reasonable person would regard as being, in all the circumstances, offensive;
- “child-related work”** has the same meaning as in the *Child Protection (Working with Children) Act 2012 (NSW)*;
- “Church”** means the Anglican Church of Australia;
- “Church authority”** means the Archbishop or a person or body having administrative authority of or in a Church body to license, appoint, authorise, dismiss or suspend a church worker;
- “Church body”** means –
- (i) a parish, and
 - (ii) any school, body corporate, organisation or association that exercises ministry within, or on behalf of, this Church in this Diocese –

- (A) which is constituted by ordinance or resolution of the Synod,
- (B) in respect of whose organisation or property the Synod may make ordinances, or
- (C) in relation to which the Synod, the Standing Committee, the Archbishop or a body referred to in paragraphs (i) or (ii) elects or appoints a majority of the members of the governing body;

“**church worker**” has the meaning given in Part 2A;

“**Clergy**” means a person in holy orders;

“**Code of Conduct**” means *Faithfulness in Service* and any other code of conduct approved from time to time by the Synod or which operates in the Diocese pursuant to an ordinance of the Synod;

“**complainant**” means a person who makes a complaint;

“**complaint**” means a complaint made in accordance with Part 3A of this Ordinance;

“**Constitution**” means the Constitution of the Anglican Church of Australia;

“**Diocese**” means the Anglican Church of Australia in the Diocese of Sydney;

“**Diocesan policy for dealing with allegations of unacceptable behaviour**” means the policy of that name adopted by the Synod on 1 October 2015, as amended from time to time;

“**Diocesan Tribunal**” means the Diocesan Tribunal constituted for the Diocese in accordance with Chapter IX of the 1961 Constitution;

“**Director**” means the Director of Safe Ministry appointed under the *Safe Ministry Board Ordinance 2001*;

“**disqualifying offence**” means a criminal offence listed in Schedule 2 of the Child Protection (Working with Children) Act 2012;

“**doctrine**” has the same meaning as in the Constitution;

“**equivalent body**” means a body of another diocese exercising powers, duties or functions equivalent to those of the Director, the MSC the Board as the case may be, or where there is no such body, the bishop of the diocese;

“**experienced lawyer**” means a person who is or has been a judge or justice of an Australian, State or Territorial court or tribunal, or who has been admitted as an Australian legal practitioner for not less than 10 years;

“**faith**” has the same meaning as that expression has in the Constitution;

“**Faithfulness in Service**” means the code for personal behaviour and the practice of pastoral ministry by clergy and church workers adopted by the Synod in October 2004, as amended from time to time pursuant to an ordinance or resolution of the Synod;

“**information**” means information of whatever nature and from whatever source relating to alleged misconduct on the part of a church worker;

“**investigator**” means a person appointed by the Director to investigate a complaint;

“**member of the clergy**” means a person in Holy Orders;

“**Ministry Standards Committee**” or “**MSC**” means the Ministry Standards Committee established under Part 5B;

“**misconduct**” has the meaning given in Part 2A;

“**national register**” means any national register established pursuant to a Canon of General Synod for the purpose of recording determinations of the Board and other equivalent bodies;

“**Office of the Director of Safe Ministry**” means the Office of the Director of Safe Ministry of the Diocese;

“**Panel of experienced lawyers**” means the panel compiled under clause 27A;

“**prohibition order**” means an order prohibiting a church worker from holding a specified position or office in or being employed by a Church body or Church authority or from carrying out any specified functions in relation to any office or position in the diocese or in relation to employment by a Church body, and includes a variation of a prohibition order;

“**respondent**” means a church worker whose alleged conduct is the subject of a complaint;

“**ritual**” has the same meaning as that expression has in the Constitution;

“**Safe Ministry Board**” means the body of that name constituted under the *Safe Ministry Board Ordinance 2001*;

“**safety plan**” means the form of agreement developed by the Office of the Director of Safe Ministry

to regulate a person's participation in the ministry activities of a church of the Diocese;

"serious child-related conduct" has the meaning given in clause 7;

"Standing Committee" means the Standing Committee constituted under the *Standing Committee Ordinance of 1897*;

"suspension order" has the meaning in clause 19;

"under legal incapacity" has the same meaning as in the *Civil Procedure Act 2005 (NSW)*; and

"unpaid lay church worker" means a lay church worker who does not hold a paid role, office or position in the Diocese at the time a complaint is made against them under this Ordinance.

(2) For the purposes of complaints dealt with by an Adjudicator under Part 3H, references to the MSC and the Board in Chapters 1 to 3 of this Ordinance are taken to be references to the Adjudicator unless the context or subject matter otherwise requires.

(3) The Features of the complaint processes, the diagram appearing before the Long Title, and the notes in the footnotes of this Ordinance are for explanatory purposes only and do not form part of this Ordinance. The Diocesan Secretary is authorised to update the Features of the complaint processes, the diagram, and the notes when reprinting this Ordinance under clause 8 of the *Interpretation Ordinance 1985*.

CHAPTER 2 – SCOPE OF THE ORDINANCE

PART 2A – CHURCH WORKERS AND MISCONDUCT

5. Who is a church worker?

This Ordinance applies to fitness for office of church workers. Subject to clause 3, **church worker** means a person who:

- (a) is or has been a member of the clergy; or
- (b) holds or has held a position of leadership within the Diocese and without limiting the generality of the foregoing a position of leadership includes -
 - (i) an office, or
 - (ii) membership of a body incorporated by or under the *Anglican Church of Australia Bodies Corporate Act 1938*, or
 - (iii) membership of a body corporate following election or appointment by the Synod, Standing Committee, the Archbishop or a Church body, or
 - (iv) a warden, or
 - (v) membership of a parish council, or
 - (vi) membership of any other board, council or committee established by the Synod, the Standing Committee, a regional council or a parish council, or
 - (vii) a chief executive officer of an organisation constituted by an ordinance of the Synod or the Standing Committee, meaning the person who is responsible to the governing body of the organisation for the work of the organisation; or
 - (viii) an officer of a kind specified in the *Parish Administration Ordinance 2008*, or
 - (ix) an appointment or authorisation by a rector, warden or parish council or by any delegate or agent of such a person or body of persons,

but excludes a bishop who is subject to the jurisdiction of the Special Tribunal.

6. What conduct is misconduct by a church worker?

- (1) Misconduct by a church worker means conduct which, if established, would call into question:
 - (a) the fitness of the person to hold a role, office or position, or to be or remain in Holy Orders;
 - (b) the fitness of the person, whether temporarily or permanently, to exercise ministry or perform any duty or function of the role, office or position; or
 - (c) whether, in the exercise of ministry or in the performance of any duty or function, the person should be subject to any condition or restriction,

but does not mean –

- (d) any breach of faith, ritual or ceremonial,
 - (e) any act or omission that involves:
 - (i) refusing to appoint, correcting, disciplining, counselling, admonishing, transferring, demoting, suspending, retrenching or dismissing a person if done –
 - (A) in good faith;
 - (B) reasonably; and
 - (C) in the normal and lawful discharge of the duties and functions; or
 - (ii) respectfully disagreeing with or criticising someone's beliefs or opinions or actions, except in the case of conduct which, if established, would constitute serious child-related conduct, or
 - (f) public statements, acts or practices made or done in good faith for a proper purpose that are within the standards and doctrines of the Church in the Diocese, or
 - (g) exempt conduct to which Part 2B applies.
- (2) Misconduct may include but is not limited to the following:

- (a) acts or omissions that would constitute the commission of an offence under the *Offences Ordinance 1962*, as amended from time to time,¹
- (b) **abuse**, which means:
- (i) **bullying** (as defined below);
 - (ii) **child abuse**, which means bullying, emotional abuse, harassment, neglect, physical abuse, sexual abuse or spiritual abuse in relation to a child, and includes possessing, producing or distributing child exploitation material;
 - (iii) **emotional abuse**, which means acts or omissions that have caused, or could cause 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;
 - (iv) **harassment**, which means unwelcome conduct, whether intended or not, in relation to another person where the person feels with good reason in all the circumstances offended, belittled or threatened;
 - (v) **neglect**, which means the failure to provide the basic necessities of life where a child's health and development are placed at risk of harm, 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;
 - (vi) **physical abuse**, which means any intentional or reckless act, use of force or threat to use force causing injury to, or involving unwelcome physical contact with, another person, but does not include lawful discipline by a parent or guardian;
 - (vii) **sexual abuse**, which has the same meaning set out in *Faithfulness in Service*;
 - (viii) **spiritual abuse**, which means the mistreatment of a person by actions or threats when justified by appeal to God, faith or religion;
- (c) **bullying** which means behaviour directed to a person or persons which:
- (i) is repeated;
 - (ii) is unreasonable (being behaviour that a reasonable person, having considered the circumstances, would see as unreasonable, including behaviour that is victimising, humiliating, intimidating or threatening); and
 - (iii) creates a risk to their health and safety.

Bullying can include:

- (i) making derogatory, demeaning or belittling comments or jokes about someone's appearance, lifestyle, background or capability;

¹ *Offences under the Offences Ordinance 1962 include:*

- (i) *unchastity;*
- (ii) *drunkenness;*
- (iii) *habitual and wilful neglect of ministerial duty after written admonition in respect thereof by the Bishop of the Diocese;*
- (iv) *wilful failure to pay just debts;*
- (v) *conduct, whenever occurring –*
 - (a) *which would be disgraceful if committed by a member of the clergy; and*
 - (b) *which at the time the charge is preferred is productive, or if known publicly would be productive, of scandal or evil report;*
- (vi) *sexual abuse;*
- (vii) *child abuse; or*
- (viii) *conviction in New South Wales of an offence which is punishable by penal servitude or imprisonment for 12 months or upwards or the conviction outside New South Wales of an offence which, if committed in New South Wales, would be an offence so punishable; or*
- (ix) *grooming;*
- (x) *inappropriate pastoral conduct involving a child, and*
- (xi) *possession, production or distribution of child exploitation material.*

- (ii) communicating in an abusive manner;
- (iii) spreading rumours or innuendo about someone or undermining in other ways their performance or reputation;
- (iv) dismissing or minimising someone's legitimate concerns or needs;
- (v) inappropriately ignoring, or excluding someone from information or activities;
- (vi) touching someone threateningly or inappropriately;
- (vii) invading someone's personal space or interfering with their personal property;
- (viii) teasing someone, or playing pranks or practical jokes on someone;
- (ix) displaying or distributing written or visual material that degrades or offends;
- (x) cyberbullying which is a form of bullying that involves the use of information and communication technologies.

Bullying does not include lawful conduct of clergy or church workers carried out in a reasonable manner, such as:

- (i) disagreeing with or criticising someone's belief or opinions or actions in an honest and respectful way;
 - (ii) giving information about inappropriate behaviour in an objective way to the person or persons concerned and to any other person with a proper reason for having that information;
 - (iii) setting reasonable performance goals, standards or deadlines;
 - (iv) giving information about unsatisfactory performance in an honest and constructive way;
 - (v) taking legitimate disciplinary action;
- (d) **grooming** which means actions deliberately undertaken with the aim of engaging and influencing an adult or a child for the purpose of sexual activity; in the case of sexual abuse of a child, an offender may groom not only the child, but also those close to the child, including the child's parents or guardians, other family members, clergy and church workers; grooming can include providing gifts or favours to the child or their family. In the case of sexual abuse of an adult, an offender may groom not only the adult, but also those close to them, including their children, clergy and church workers;
- (e) **inappropriate pastoral conduct involving a child** which means engaging in a pattern of conduct involving a child or a group of children that is inconsistent with the standards and guidelines of *Faithfulness in Service*;
- (f) **process failure**, which means any of the following:
- (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;
 - (ii) a failure by a person licensed by the Archbishop, a person in holy orders resident in the Diocese or a person who holds an authority under the *Authorisation of Lay Ministry Ordinance 2015* for the purposes of paid work, without reasonable excuse, to make a report under clause 12 or a failure by that person to cooperate with an investigation of that conduct;
 - (iii) failure without reasonable excuse by a Church authority to deal with or to investigate in a reasonable or timely manner matters involving:
 - (A) abuse; or
 - (B) alleged inappropriate or unreasonable conduct of a church worker who had knowledge of conduct of another church worker constituting sexual abuse or child abuse;
- in circumstances where the Church authority has an obligation by law or under this Ordinance to deal with or investigate such conduct;
- (g) **safe ministry training failure** which means a failure without a reasonable excuse to satisfactorily complete mandatory training approved for the purposes of the *Safe Ministry to Children Ordinance 2020*;
- (h) **sexual misconduct** which has the same meaning as in the *Children's Guardian Act 2019 (NSW)*;
- (i) **victimisation** which means action causing, comprising or involving the following in respect of a person because they, acting in good faith, propose to make, have made or have been involved in, a complaint under this Ordinance –

- (i) injury, damage or loss,
- (ii) intimidation or harassment,
- (iii) discrimination, disadvantage or adverse treatment in relation to employment or appointment to a position,
- (iv) dismissal from, or prejudice in, employment or appointment to a position,
- (v) prejudice in the provision of a service,
- (vi) disciplinary proceedings;
- (j) attempts, by threat, intimidation or inducement to –
 - (i) dissuade a person from making a complaint,
 - (ii) persuade a person to withdraw a complaint, or
 - (iii) persuade a person to consent to the withdrawal of a complaint;
- (k) failure without reasonable excuse by a respondent to cooperate with the investigation of a complaint under the Ordinance;
- (l) failure without reasonable excuse to comply with a condition imposed by a Church authority under this Ordinance;
- (m) failure without reasonable excuse to comply with an undertaking given to or a direction or order given by an Adjudicator, the MSC, Board or a Church authority; or
- (n) conduct that would constitute a breach of section 316 of the *Crimes Act 1900 (NSW)* with respect to the reporting of serious indictable offences.

7. What is serious child-related conduct?

Serious child-related conduct means –

- (a) conduct that is sexual misconduct committed against, with or in the presence of a child, including grooming of a child, or any serious physical assault of a child by a person:
 - (i) when engaged in child-related work in the Diocese; or
 - (ii) who –
 - (A) is in child-related work in the Diocese at the time a complaint concerning their conduct is made, or
 - (B) has performed child-related work in the Diocese at any time in the two years prior to the date that a complaint concerning their conduct is made, and
- (b) conduct or convictions that are reportable under the *Children’s Guardian Act 2019*.

PART 2B – EXEMPT CONDUCT

8. Declaration of exemption following disclosure of past conduct

- (1) If a person makes a full disclosure to the Archbishop in writing that the person has engaged in conduct that may be the subject of a complaint under this Ordinance in the following circumstances:
 - (a) by a person prior to ordination by or on behalf of the Archbishop as a deacon; or
 - (b) by a person who is not ordained prior to being issued with an authority under the *Deaconess, Readers and Other Lay Persons Ordinance 1981* or the *Authorisation of Lay Ministry Ordinance 2015* for the purpose of undertaking paid work; or
 - (c) by a person who has been ordained, otherwise than by or on behalf of the Archbishop prior to being first licensed by the Archbishop where conduct was committed prior to ordination as a deacon;

the Archbishop, with the concurrence of the MSC, may declare that the conduct cannot be the subject of a complaint under this Ordinance.

- (2) The Archbishop must not make a declaration under this Part:
 - (a) in respect of a person who has been convicted of a disqualifying offence listed in Schedule 2 of the *Child Protection (Working with Children) Act 2012*.²; or
 - (b) if the person has been refused a declaration in relation to the same or similar conduct in the

² Note: Disqualifying offences in Schedule 2 of the *Child Protection (Working with Children) Act 2012* include the murder or manslaughter of a child, intentional wounding or committing grievous bodily harm to a child, abandonment of a child, serious sex offences, incest, bestiality and offences related to child pornography/child abuse material. In general, these are sex offences or offences involving children which are punishable by imprisonment of 12 months or more.

previous 5 years.

- (3) The Archbishop must not make a declaration under this Part in respect of the conduct of a person unless the Archbishop and the MSC consider that the person:
- (a) has made appropriate reparation for the conduct; and
 - (b) is fit to be ordained, to be issued with an authority or to be licensed by the Archbishop, as the case may be; and
 - (c) does not pose a risk to the safety of any person taking into account the following matters:
 - (i) the circumstances in which the conduct occurred;
 - (ii) the seriousness of the conduct;
 - (iii) the age of the person at the time of the conduct;
 - (iv) the age of the victim(s) at the time;
 - (v) the difference in ages between the person and the victim(s);
 - (vi) the person's criminal record, if any;
 - (vii) such other matters as are considered relevant.
- (4) If the Archbishop makes a declaration under this Part in respect of the conduct of a person:
- (a) the declaration has effect for the purposes of this Ordinance according to its terms; and
 - (b) no action is to be taken or continued under this Ordinance in respect of a complaint if the Director, with the concurrence of the MSC, determines that the whole of the conduct that is the subject of the complaint is exempt conduct.

CHAPTER 3 – PROCESSING OF COMPLAINTS**PART 3A – MAKING COMPLAINTS****9. Who may make a complaint?**

- (1) Any person, including the Director, may make a complaint of misconduct in relation to a church worker.
- (2) A person who proposes to make a complaint under this Ordinance should consider whether, having regard to the nature of the proposed complaint, it would be preferable to first attempt to resolve any matters in dispute with the church worker through the *Diocesan Policy for dealing with allegations of unacceptable behaviour*.

10. Obligation to report knowledge or reasonable belief of certain matters

A church worker who knows or has reason to believe that another church worker has engaged in conduct which constitutes child abuse, grooming, inappropriate pastoral conduct involving a child or possession, production or distribution of child exploitation material must report to the Director, as soon as practicable, the name or a description of the other church worker and the grounds for believing that the other church worker has engaged in such conduct, unless the church worker knows that the conduct has already been reported to the Director.

11. How to make a complaint

- (1) All complaints must be made to the Director.
- (2) A complaint may be in any form, oral or in writing, whether by electronic means or otherwise.
- (3) Where a complaint is oral, the Director must make a written record of the complaint as soon as practicable after receiving it.
- (4) A complaint must include details of the misconduct complained about.
- (5) The Director must not make a complaint based only on information provided anonymously, except in the case of allegations of conduct which, if established, would constitute serious child related conduct.
- (6) Non-compliance with this clause does not invalidate a complaint unless the Board determines otherwise.

12. Early resolution process

- (1) Prior to taking a course of action under clause 14, the Director may direct a prospective complainant and a prospective respondent, to take reasonable steps to resolve the issues that are, or may be, in dispute between them in such manner as is specified by the Director, which may include but is not limited to accessing the *Diocesan policy for dealing with allegations of unacceptable behaviour*, conciliation, a facilitated discussion or individual counselling..
- (2) In deciding whether to give a direction under subclause (1), the Director is to have regard to the following factors –
 - (a) the subject-matter of the complaint,
 - (b) the likelihood that any matters in conflict could be resolved through that process,
 - (c) any imbalance of power between the parties,
 - (d) the attitude of the parties to the proposed direction, and
 - (e) whether having a support person would assist in the process.
- (3) The Director must not give a direction under subclause (1) if –
 - (a) the subject-matter of the complaint may include serious child related conduct or sexual abuse, or
 - (b) if the direction could otherwise give rise to a material risk to the safety of one or more persons.
- (4) The Director may revoke or amend a direction given under subclause 12(1) by notice in writing to the prospective complainant and prospective respondent.
- (5) The costs of any processes undertaken under this clause are to be met from funds under the control of the Synod if so determined by the Director and subject to the Director approving any such costs

before they are incurred.

12A. Risk Assessment by Director

- (1) If the Director receives a complaint alleging child abuse, the Director must promptly undertake a risk assessment to identify any risks to children.
- (2) The risk assessment must include, but is not limited to, consideration of the following –
 - (a) any immediate and ongoing risks associated with the complaint, including the safety of the complainant and any children,
 - (b) whether preliminary action could and should be taken concerning the respondent including supervision, removal of contact with children or suspension,
 - (c) the available expertise to assess the risk and whether expert advice should be obtained,
 - (d) the need for cultural and linguistic interpreters to be involved in the complaint process,
 - (e) whether it is necessary to report the complaint to an external authority,
 - (f) who should be informed about the complaint, and whether there are restrictions on the information they can be given (for example, due to privacy laws and other confidentiality obligations), and
 - (g) how to implement the decisions made as a result of the risk assessment.
- (3) The Director must review the risk assessment during the complaints process in response to any changes in the risk profile and make modifications where necessary.

13. Withdrawal of complaint

- (1) Subject to subclause (2), a complaint is taken to have been withdrawn if the complaint does not allege serious child-related conduct and:
 - (a) the complainant gives written notice of the withdrawal of the complaint to the Director; or
 - (b) the complainant gives oral notice of the withdrawal of the complaint to the Director, and the Director provides the complainant with written confirmation of the withdrawal.
- (2) If the complaint has already been referred to the MSC at the time the notice of withdrawal is received by the Director, the complaint will only be taken to be withdrawn if the MSC consents to the withdrawal.

PART 3B - HANDLING OF COMPLAINTS BY THE DIRECTOR

14. What can the Director do when dealing with a complaint?

- (1) The Director must use reasonable endeavours to explain the processes set out in this Ordinance to a complainant.
- (2) The Director must deal with the complaint as expeditiously as possible and must take at least one or more of the following courses of action:
 - (a) recommend that the parties engage in conciliation under clause 18A;
 - (b) refer the matter directly to the MSC and, with the concurrence of the MSC, in the case of a respondent's first bullying complaint, request that the respondent participate in appropriate training as soon as practicable under clause 18B, and recommend that the parties engage in conciliation;
 - (c) decline to deal with the complaint under clause 15;
 - (d) refer to the matter directly to the MSC and seek the concurrence of the MSC that the complaint be declined or deferred under clause 16;
 - (e) ask the complainant to verify the complaint by statutory declaration;
 - (f) ask the complainant to provide further details of the conduct that is the subject of the complaint;
 - (g) recommend to the relevant Church authority that the respondent should be suspended from exercising the functions of office or employment by one or more Church bodies or that an interim prohibition order be made against the respondent under Part 3D;
 - (h) if the respondent is an unpaid lay church worker, refer the matter to an Adjudicator under Part 3H;
 - (i) investigate, or appoint a person to investigate the complaint under Part 3F;
 - (j) invite a response from the respondent under Part 3G.
- (3) The Director must consult the relevant Regional Bishop before taking the course of action in either subclause (2)(b), (d), (h), or (i).

PART 3C – DECLINING, DEFERRING OR REFERRING COMPLAINTS

15. When must the Director decline a complaint?

The Director must decline a complaint if the complaint does not allege any misconduct which may be the subject of a complaint under this Ordinance or if the complainant has not, in the opinion of the Director, taken reasonable steps in response to a direction made under clause 12(1).

16. When may the Director decline or defer a complaint with the concurrence of the MSC?

(1) The Director may at any time, with the concurrence of the MSC, decline to deal with a complaint, or defer dealing with a complaint if:

- (a) the complainant has not provided further details or a verifying statutory declaration after being asked to do so and it is reasonable in the circumstances to conclude that the complainant will not do so; or
- (b) the complaint is false, vexatious or misconceived or the subject-matter of the complaint is trivial; or
- (c) there is insufficient reliable evidence to warrant an investigation or further investigation; or
- (d) the conduct that is the subject matter of the complaint can properly be dealt with by other means, unless the conduct is serious child-related conduct;
- (e) the conduct which is the subject of the complaint is under investigation by some other competent person or body or is the subject of legal proceedings, or
- (f) there would be no utility in dealing with the complaint under this Ordinance having regard to:
 - (i) whether the respondent currently holds any position of leadership within the Diocese,
 - (ii) the length of time since the respondent has held any position of leadership within the Diocese,
 - (iii) the age of the respondent,
 - (iv) the health of the respondent, and
 - (v) any other relevant circumstance.

(2) The Director, with the concurrence of the MSC, must decline to deal with a complaint if the misconduct the subject of the complaint is not materially different from conduct already dealt with under:

- (a) this Ordinance, or
- (b) the *Discipline Ordinance 2006*, or
- (c) the *Church Discipline Ordinance 1996*, or
- (d) the *Church Discipline Ordinance 2002*, or
- (e) the *Tribunal Ordinance 1962*, or
- (f) a formal investigation or inquiry with the authority of the Archbishop which was commenced prior to the date of assent to the *Church Discipline Ordinance 2002*, unless,
- (g) in the opinion of the Director, the complaint is supported by apparently credible evidence of fresh facts likely to lead to a different result; or
- (h) the complaint was not made, or was made but then withdrawn, as a result of a process undertaken under clause 12; or
- (i) the complaint has only been dealt with under Part 3E, or;
- (j) the complaint alleges serious child-related conduct and the Director decides to deal with the complaint under this Ordinance in order to make a finding that the respondent has or has not engaged in the alleged serious child-related conduct in connection with:
 - (i) any requirement by law to notify a person or authority that a finding has been made that the respondent engaged in conduct the subject of any such requirement to notify; and
 - (ii) entering on the National Register the details of information required by the provisions of the National Register Canon 2007.

(3) In dealing with a complaint for the purposes of clause 2(h) above, any prior findings of fact made by a body exercising functions under any of the ordinances (or a formal investigation or inquiry with the authority of the Archbishop) listed in subclause (2) are conclusive.

17. Notification of a decision to decline to deal with or defer a complaint

(1) Subject to subclause (2), if the Director declines to deal with or defer a complaint under this Part, the

Director must give the complainant and the respondent written notice of this decision, including reasons for the decision.

(2) The Director may, but is not required to, provide written notice to the respondent under this clause if the Director believes on reasonable grounds that the respondent is not aware of the existence of the complaint.

18. When may a complaint be referred to an equivalent body?

(1) The Director may, with the concurrence of the MSC, if they think it appropriate to do so, refer a complaint, or the investigation of a complaint, to an equivalent body or bodies.

(2) Without limiting the discretion of the MSC under subclause (1), it is appropriate to refer a complaint, or the investigation of a complaint, to an equivalent body or bodies if when the complaint is made the respondent:

- (a) resides in another diocese or holds a licence or from a Church authority in another diocese; and
- (b) neither resides in the Diocese nor holds a licence or permission to officiate or other authority from a Church authority in the Diocese.

(3) When the MSC and an equivalent body or bodies have the power and duty to investigate information concerning the alleged misconduct of the respondent and the respective bodies cannot agree on:

- (a) which body shall carry out the investigation or any parts of such investigation; or
- (b) whether a complaint should be referred to the Board or to an equivalent body which has jurisdiction,

the MSC must refer the disagreement for decision by an independent person agreed upon by the MSC and the equivalent body or bodies who is to reach a decision within a reasonable time.

(4) In all matters affecting the operation of this Ordinance the MSC and the Director must co-operate with and assist an equivalent body and a person acting in the corresponding capacity of the Director in another diocese.

(5) In making a decision under subsection (3) the independent person will not be bound by the views or instruction of the MSC but shall take into account the most convenient course for all concerned and the proper and expeditious conduct of the investigation or referral as the case may be.

18A. Director may recommend conciliation

(1) At any time after a complaint is made, the Director may recommend to the parties that they engage in conciliation if –

- (a) the Director considers that conciliation may assist the parties, and
- (b) the complaint does not allege serious child-related conduct.

(2) In considering whether to make a recommendation under subclause 18A(1), the Director is to consider any power imbalance between the parties.

(3) The Director may recommend a conciliator to the parties and otherwise facilitate the conciliation occurring.

(4) If the parties agree to engage in conciliation on the basis of a recommendation under subclause 18A(1) –

- (a) the Director is not prevented from undertaking any of the other courses of action listed in clause 14 during the period of conciliation,
- (b) the mediation is to be undertaken expeditiously,
- (c) the attendees for any conferences must be agreed upon by all parties in advance of the conciliation, and
- (d) the costs of the conciliator are to be met from funds under the control of the Synod, subject to the Director approving those costs before they are incurred.

18B. Director may request appropriate training

(1) The Director may, with the concurrence of the MSC, request that the respondent participate in appropriate training and recommend that the parties engage in conciliation if –

- (a) the complaint relates primarily to bullying,
- (b) it is the first bullying complaint against the respondent that has been received by the Director, and

- (c) the complaint does not allege serious child-related conduct.
- (2) The respondent is to undertake such training as soon as practicable and provide suitable evidence to the Director that such training has been completed.
- (3) While, in the interests of staff development and reconciliation, this combination of appropriate training and conciliation would ordinarily be considered appropriate in the case of first time complaints, the Director is not prevented from undertaking any of the other courses of action listed in clause 14 during the period of conciliation.
- (4) The costs of the appropriate training and any costs for the conciliator are to be met from funds under the control of Synod, subject to the Director approving those costs before they are incurred.

PART 3D - SUSPENSION AND INTERIM PROHIBITION ORDERS

19. What can the Director recommend?

At any time after a complaint is made the Director may recommend to the relevant Church authority that the respondent is suspended from being a church worker or may recommend that an interim prohibition order be made against the respondent, subject to the following:

- (a) the Director must give the respondent the opportunity to be heard in relation to the proposed recommendation or order; and
- (b) in deciding whether to make the recommendation or order the Director must take the following matters into account:
 - (i) the seriousness of the conduct alleged in the complaint;
 - (ii) the nature of the material to support or negate the complaint;
 - (iii) whether any person is at risk of harm;
 - (iv) the likely effect on the respondent and on the relevant Church body;
 - (v) the likely effect on the complainant or any other person; and
 - (vi) the conduct of the respondent subsequent to the making of the complaint.
- (c) the Director must recommend that the respondent is suspended if, after giving the respondent the opportunity to be heard under paragraph (a), the Director is satisfied that –
 - (i) the complaint or the substance of the complaint involves allegations of serious child-related conduct,
 - (ii) the complaint is not false, vexatious or misconceived, and
 - (iii) there is a risk that the respondent may come into contact with children in the course of their functions as a church worker.

20. What is the effect of the Director recommending a suspension order?

If the Director recommends that the respondent be suspended from being a church worker:

- (a) the relevant Church authority is authorised to do all such things as may be necessary to give effect to the recommendation;
- (b) during any period of suspension by the Church Authority, or during a period when a person voluntarily stands down from a position:
 - (i) the respondent is ineligible for appointment to any position or function covered by the suspension;
 - (ii) the relevant Church authority may fill the vacancy during the term of any suspension; and
 - (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
 - (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;
- (c) the respondent must comply with the terms of recommendation; and

- (d) the suspension ceases to have any effect:
 - (i) if the Director terminates the investigation without referring the matter to the MSC, or
 - (ii) upon any direction to that effect given by the MSC, or
 - (iii) upon the Church authority or the respondent (as the case may be) giving effect to the recommendation(s) of the Adjudicator, MSC or the Board.

21. What is the effect of the Director recommending an interim prohibition order?

- (1) If the Director recommends that an interim prohibition order be made the Archbishop must give prompt consideration to the Director's recommendation and may make an Interim Prohibition Order.
- (2) If the Archbishop makes an Interim Prohibition Order:
 - (a) the respondent and any relevant Church authority must comply with the Interim Prohibition Order;
 - (b) the respondent is ineligible for appointment to any position or function covered by the order;
 - (c) the relevant Church authority may fill the vacancy caused by the order;
 - (d) 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
 - (e) 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 the order.
- (3) An Interim Prohibition Order ceases to have effect:
 - (a) if the Director terminates the investigation without referring the matter to the MSC, or
 - (b) upon any direction to that effect given by the MSC, or
 - (c) upon –
 - (i) the respondent complying with all recommendation(s) (if any) of the MSC accepted by the respondent, subject to the respondent continuing to comply with the recommendation(s) within any period set out in the notice; and
 - (ii) the Church authority giving effect to the recommendation(s) (if any) of the Adjudicator, MSC or the Board.
 - (d) if the Archbishop suspends the respondent under section 61 of the 1961 Constitution.

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,
 - (c) inform the respondent that it is the intention of the Director to refer the complaint to the MSC 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 MSC, including a copy of all the material provided to the respondent and any response from the respondent.

21C. Recommendations of the MSC

If the MSC is satisfied that the respondent has been convicted of a disqualifying offence, the MSC may recommend to the Archbishop that a prohibition order be made against a respondent in terms recommended by the MSC. If the MSC 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.

PART 3F - INVESTIGATION OF COMPLAINTS**22. Conduct of Investigation**

- (1) Subject to Part 3C, the Director may appoint a person to investigate a complaint, and such investigations are to be conducted as promptly as reasonably possible.
- (2) The Director may, by notice in writing, revoke the appointment of an investigator if the investigator fails or refuses to comply with the requirements of this Ordinance or any other reasonable requirements of the Director.

23. Powers of the investigator

- (1) For the purposes of an investigation:
 - (a) the investigator may obtain such statutory declarations, written statements, recorded conversations, reports, documents and other material as the investigator considers necessary or advisable;
 - (b) the investigator may require the person making the complaint to verify the complaint by statutory declaration if this has not already been done;
 - (c) if the investigator interviews a person, the investigator must:
 - (i) record the interview, subject to the interviewee giving their consent, and
 - (ii) allow the person to have another person present with them, being a person who is not a witness to the matters which are the subject of the complaint;
 - (d) the investigator may, by notice in writing, require the respondent –
 - (i) to respond to a question or series of questions within the time specified in the notice in relation to any matter relevant to the investigation, and
 - (ii) to otherwise assist in, or cooperate with the investigation of the complaint in a specified manner.
- (2) A person must answer truthfully any question put by or on behalf of the investigator in exercising the powers conferred by this Ordinance, and must not mislead or obstruct the investigator in the exercise of powers conferred by this Ordinance.³

24. Outcome of the investigation

The investigator is to make and forward to the Director, without unnecessary delay, a report setting out the results of the investigation together with a copy of all records made in the course of the investigation.

PART 3G - NOTIFICATION OF AND RESPONSE TO THE COMPLAINT**25. What notification must the Director provide to the respondent?⁴**

After receiving the investigator's report or if, after receiving a complaint, the Director decides not to appoint a person at that particular time to investigate the complaint, the Director is –

- (a) to notify the substance of the complaint to the respondent, and
- (b) to request the respondent to provide a response to the complaint within a period of not less than 21 days or such longer period specified by the Director, and

³ *Misconduct for the purposes of this Ordinance includes failure without reasonable excuse by a respondent to cooperate with the investigation of a complaint.*

⁴ *Upon notifying the substance of the complaint to the person against whom the complaint is made, the complaint may become a notifiable complaint for the purposes of the National Register Canon 2007. In this case, section 8 of the Canon requires the Director to notify the General Secretary of certain information about the complaint for inclusion on the National Register within 1 month of having access to that information.*

- (c) to inform the respondent generally of the processes under this Ordinance (which may be done by providing a copy of this Ordinance), and
- (d) to advise the respondent of the possible outcomes if the allegations in the complaint are upheld, and
- (e) to caution the respondent not to make any admissions without the benefit of legal advice.

26. What responses may be given by a respondent?

- (1) A respondent may respond by admitting or denying the complaint in whole or in part.
- (2) A response must be in writing signed by the respondent or, in the case of a respondent under legal incapacity, by –
 - (a) a parent or guardian, or
 - (b) a person responsible for the welfare of the respondent under legal incapacity or acting on his or her behalf.
- (3) If the complaint has not been investigated and the respondent denies the complaint, or does not admit the complaint or the substance of the complaint, the Director may appoint a person to investigate the complaint in the manner set out in Part 3F.

PART 3H – SPECIAL PROCEDURE FOR UNPAID LAY CHURCH WORKERS (ADJUDICATORS)

27. Application of this Part

- (1) Subject to subclause (2), this Part applies to complaints made against unpaid lay church workers to the exclusion of Parts 4A to 4D.
- (2) If the Director considers that a complaint against an unpaid lay church worker raises substantially the same circumstances as another complaint that has been or will be referred to the MSC, the Director may instead refer the complaint to the MSC to be dealt with under Chapter 4.

27A. Panel of Adjudicators

The Director is to compile a panel of experienced lawyers with the concurrence of the Chancellor who are to act as Adjudicators under this Part.

28. Action on receipt of an admission or the investigator's report

- (1) On receipt of an admission under clause 26 or the investigator's report, the Director must:
 - (a) request the Chancellor to appoint a person from the Panel of experienced lawyers to be the Adjudicator for a complaint to which this Part applies;
 - (b) notify the Adjudicator of the identity of the respondent; and
 - (c) furnish the Adjudicator with a copy of all material in the Director's possession relevant to the complaint, including a copy of any investigator's report.
- (2) The Chancellor must promptly appoint a member of the Panel of experienced lawyers following a request from the Director under subclause (1)(a).
- (3) If the adjudicator has any actual or perceived conflict of interest in the exercise or performance of their functions under this Ordinance in relation to a complaint, the Adjudicator must disclose this to the Chancellor and the Chancellor is to appoint another member of the Panel of experienced lawyers to be the Adjudicator for the complaint.
- (4) The Director must also:
 - (a) notify the respondent that the complaint has been referred to the Adjudicator; and
 - (b) furnish the respondent with a copy of all material in the Director's possession relevant to the complaint, including a copy of any investigator's report; and
 - (c) invite the respondent to provide any further information or material, and to make written representations to the Adjudicator relating to the complaint within 28 days or such longer period as may be agreed to by the Director.

29. Review of material by the Adjudicator

- (1) The Adjudicator is to review the material provided by the Director and any further information or material provided by the respondent.
- (2) If the complaint or the substance of the complaint has been admitted by the respondent, the Adjudicator may proceed to make recommendations under clause 30.

- (3) If the complaint or the substance of the complaint has not been admitted by the respondent, the Adjudicator –
- (a) must act with fairness and according to equity, good conscience, procedural fairness and the substantial merits of the case without regard to technicalities or legal forms in resolving the complaint,
 - (b) is not bound by the rules of evidence but may inform himself or herself on any matter in such manner as her or she thinks fit,
 - (c) must give written reasons for any findings and recommendations, unless the findings and recommendations are made by consent of the respondent, and
 - (d) must deal with the complaint as expeditiously as possible.
- (4) The standard of proof for the Adjudicator to establish an allegation is that of reasonable satisfaction on the balance of probabilities.⁵

30. Powers and Recommendations by 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.

31. Making findings on serious child-related conduct

If the complaint alleges that the respondent has committed serious child-related conduct, the Adjudicator must make a finding on whether the respondent engaged in any or all of the conduct so alleged, and these findings shall constitute findings for the purpose of –

- (a) any requirement by law to notify a person or authority that a finding has been made that the respondent engaged in conduct which is the subject of any such requirement to notify; and
- (b) entering on the National register the details of information required by the provisions of the *National Register Canon 2007*.

32. Costs of responding to a complaint

The Adjudicator has no power to award costs. The respondent is responsible for meeting their own costs of responding to the complaint.

33. Review

The decisions and recommendations of the Adjudicator are not appellable or subject to review, except that a respondent may make an application for review under Part 4C and for this purpose references to the Board and MSC in Part 4C are taken to be references to the Adjudicator.

⁵ *The standard of proof is to be applied with regard to the principles in Briginshaw v Briginshaw [1938] HCA 34.*

CHAPTER 4 – RESOLVING COMPLAINTS

PART 4A – CONSIDERATION BY THE MSC

34. Referral to the MSC

On receipt of any report from the Investigator in relation to a complaint made against a person who is not an unpaid lay church worker and any response from the respondent, the Director must –

- (a) notify the MSC of the identity of the person against whom the complaint is made, and
- (b) furnish the MSC with a copy of all material in the Director's possession relevant to the complaint, including a copy of any investigator's report,

and must also -

- (c) notify the respondent that the complaint has been referred to the MSC, and
- (d) furnish the respondent with a copy of all material in the Director's possession relevant to the complaint, including a copy of any investigator's report, and
- (e) invite the respondent to provide any further information or material, and to make written representations to the MSC, relating to the complaint, within 28 days or such longer period as may be agreed to by the Director.

35. What can the MSC do when dealing with the complaint?

(1) The MSC is to review the material furnished to it by the Director and any further information or material provided to it by the respondent and may take at least one or more of the following courses of action:

- (a) request the Director to appoint an Investigator to further investigate the whole or any aspect of the complaint; or
- (b) take no further action in relation to the Complaint under clause 36; or
- (c) make findings on the conduct and dismiss the complaint under clause 37; or
- (d) terminate suspension and prohibition orders under clause 38; or
- (e) refer the matter to the Board under clause 39; or
- (f) recommend that the complaint be referred to the Diocesan Tribunal under clause 40; or
- (g) make one or more recommendations under clause 41.

(2) In deciding upon a course of action the MSC is to take the following matters into consideration:

- (a) the nature of the complaint and the seriousness of the conduct the subject of the complaint, in particular, whether that conduct comprises child abuse, grooming, inappropriate pastoral conduct involving a child or possession, production or distribution of child exploitation material;
- (b) whether there is more than one complaint;
- (c) whether the complaint alleges more than one incident, or only a single incident;
- (d) when the conduct is alleged to have occurred;
- (e) the circumstances in which the conduct is alleged to have occurred;
- (f) the ages of the complainant and the person against whom the complaint is made at the time the conduct is alleged to have occurred;
- (g) if the person against whom the complaint is made:
 - (i) is a member of the clergy – whether the person was a member of the clergy at the time the conduct is alleged to have occurred; or
 - (ii) is not a member of the clergy – the position held or function performed by the person at the time the conduct is alleged to have occurred;
- (h) whether the evidence of the complainant is corroborated;
- (i) any views expressed by the complainant as to the desired outcome of the complaint;
- (j) whether the person against whom the complaint is made has made any reparation for the conduct the subject of the complaint and, if so, the nature and extent of the reparation;
- (k) any other misconduct committed by the person against whom the complaint has been made;
- (l) whether any part of the conduct which is the subject of the complaint is exempt conduct;

- (m) the practicability and likely effectiveness of the recommendation; and

such other matters as the MSC considers relevant.

36. No further action

If the MSC considers –

- (a) that the material furnished to it by the Director does not disclose any misconduct which may be the subject of a complaint under this Ordinance, or
- (b) that the complaint is false, vexatious or misconceived, or
- (c) that it is more likely than not that the subject-matter of the complaint did not occur, or
- (d) that the subject-matter of the complaint is trivial,

the MSC is to recommend that no further action be taken with respect to the complaint.⁶

37. Findings on conduct

If the MSC is satisfied on the material before it that the respondent did not engage in any of the misconduct which is the subject of the complaint, it must dismiss the complaint and recommend that no further action be taken with respect to the complaint, other than action which is incidental to dismissal.

38. Termination of suspension and prohibition orders

The MSC may direct that a suspension or prohibition order made by a Church authority pursuant to a recommendation under Part 3D must be terminated by the Church authority.

39. Reference to the Board

- (1) The MSC must refer to the complaint to the Board if:
 - (a) the complaint alleges serious child-related conduct, and the MSC considers that it is unable to make a finding on the material before it that the respondent has or has not engaged in any or all of such misconduct which is the subject of the complaint; or
 - (b) the MSC makes a recommendation under clause 41 and the respondent does not accept the recommendation of the MSC by notice in writing to the Director within 14 days after the date of the notice of the recommendation or such longer period as the Director may determine under clause 42(3)(b); or
 - (c) the respondent fails to substantially comply with a recommendation made under clause 40 to the satisfaction of the MSC, including within or throughout any period that the notice issued under clause 42(1) states that the action required by the recommendation is to be undertaken.
- (2) The MSC must refer the complaint to the Board by delivering to the secretary of the Board a written report of its assessment and opinion on the complaint signed by a member of the MSC and:
 - (a) within 14 days of the date of the reference of the complaint to the Board or within 14 days of the date of the document or material coming into existence, whichever is the later, the MSC must cause to be delivered to the secretary of the Board any documents and material relevant to the reference; and
 - (b) the MSC, as soon as practicable after delivering the report referred to in paragraph (a) to the secretary of the Board, shall, if they have not already been delivered to the respondent, cause to be delivered to the respondent:
 - (i) a copy of the report and opinion; and
 - (ii) a notice that the respondent may send any submissions in advance to the Board if he or she wishes to do so.

40. Recommendation that a complaint be dealt with by the Diocesan Tribunal

- (1) The MSC may also recommend that the Archbishop appoint a person to promote a charge against the respondent before the Diocesan Tribunal, or that the complaint be referred to a body in another diocese with equivalent jurisdiction, if:
 - (a) the person is subject to the jurisdiction of the Tribunal;⁷

⁶ *If the MSC considers that the complaint is false, vexatious or misconceived or that it is more likely than not that the subject-matter of the complaint did not occur, any information about the complaint which has been included on the National Register may be removed from the Register under section 10(1) of the National Register Canon 2007 on the basis that it relates to a notifiable complaint which has been exhausted.*

⁷ **Note:** Section 54(2) of the Anglican Church of Australia Constitution Act 1961 provides that the Diocesan Tribunal has jurisdiction to hear and determine charges of breaches of faith, ritual, ceremonial or discipline and of such offences as may be specified by canon, ordinance or rule in respect of –

- (b) the MSC is of the opinion that there is a reasonable likelihood that the complaint, if sustained, will result in the Tribunal making a recommendation for the respondent's deposition from orders, prohibition from functioning or removal from office; and
- (c) the MSC is of the opinion that there is a reasonable likelihood that the complaint will be sustained before the relevant Tribunal.

(2) If the MSC makes a recommendation to the Archbishop under this clause, the Archbishop must comply with the recommendation. The complaint is then to be dealt with in accordance with the Diocesan Tribunal Ordinance 2017 and no further action is to be taken in respect to the complaint under this Ordinance.

41. What recommendations can the MSC make?

- (1) The MSC may make one or more of the following recommendations in relation to the respondent:
 - (a) that the respondent make an apology of a kind specified by the MSC;
 - (b) that the respondent make reparation as specified by the MSC for the conduct the subject of the complaint;
 - (c) that the respondent undertake training, or retraining, of a nature specified by the MSC;
 - (d) that the respondent receive counselling of a nature specified by the MSC;
 - (e) that the respondent undertake to the Director, in such terms as are specified by the MSC, any one or more of the following:
 - (i) that they will resign from any specified position or office in the Diocese or any specified employment by a Church body or Church authority; or
 - (ii) that they will not, either indefinitely or for a period of time, accept nomination for or appointment to any specified position or office in the Diocese or any specified employment by a Church body or Church authority; or
 - (iii) that they will not, either indefinitely or for a period of time, exercise any specified function or will meet any specified condition or restriction, in relation to any office or position in the Diocese, or in relation to employment by any Church body or Church authority;
 - (f) that the respondent resign from office or employment, request relinquishment of holy orders or request voluntary deposition from holy orders, with such admissions and other conditions as the MSC considers appropriate in all the circumstances;
 - (g) that the respondent consent to the relevant Church authority issuing a prohibition order;
 - (h) that the respondent enter into a safety plan with the relevant Church authority;
 - (i) that the respondent be excluded from entry or access to specified Church premises or activities;
 - (j) that no further action be taken with respect to the complaint;
 - (k) that the respondent consent to the release of material or the making of an announcement in any form and manner specified by the MSC to explain the outcome of the complaint.

(2) Any decision of the MSC to make or not to make the recommendation in subclause (1)(k) does not in any way limit the discretion of the MSC, the Archbishop or the relevant Church authority (as the case may be) to release material under clauses 104(2) or 106.

42. Notice of the recommendations

- (1) The MSC must give notice of its recommendation(s) to the complainant, the respondent, the Director, the Archbishop and the relevant church authority as soon as practicable after being made.
- (2) If the MSC makes a recommendation under paragraph 41(e),(f) or (g), the MSC must include a statement of the reasons for the recommendation(s).

- a person licensed by the Archbishop, or
- any other person in holy orders resident in the diocese.

 Section 54(2A) of the 1961 Constitution provides that the Diocesan Tribunal also has jurisdiction to hear a charge relating to an offence of unchastity, an offence involving sexual misconduct or an offence relating to a conviction for a criminal offence that is punishable by imprisonment for 12 months or more in respect of a member of the clergy if –

- the act of the member of the clergy which gave rise to the charge occurred in the Diocese, or
- the member of the clergy was licensed by the Archbishop or was resident in the Diocese within 2 years before the charge was laid, or
- the member of the clergy is in prison as a convicted person at the time the charge was laid, but within 2 years before imprisonment was licensed by the Archbishop or was ordinarily resident in the Diocese.

(3) In respect of any other recommendation(s) made by the MSC (except a recommendation that no further action be taken with respect to the complaint), the notice must include a statement that:

- (a) if the respondent does not accept the MSC's recommendation(s) within 14 days after the date of the notice and subsequently comply with the recommendation to the satisfaction of the Director, the complaint will be referred to the Board, and
- (b) the respondent may request the Director to allow a longer period for the recommendation to be accepted by the respondent.

(4) If any information about the complaint has been included on the National Register, the notice must indicate whether acceptance of and compliance with the MSC's recommendation(s) will result in the information being removed from or retained on the National Register.

43. Response to the recommendation

(1) If the respondent, by notice in writing to the Director:

- (a) accepts the recommendation(s) of the MSC within 14 days after the date of the notice of the recommendation(s) or within such longer period as the Director determines under subclause 42(3)(b), and
- (b) complies with any recommendation to the satisfaction of the Director, and continues to do so within or throughout any period that the notice issued under subclause 42(1) states that the action required by the recommendation is to be undertaken,

no further action is to be taken against the respondent under this Ordinance in relation to the complaint, except as provided by this clause.

(2) If the complaint alleges serious child-related conduct and the person against whom the complaint is made:

- (a) admits the complaint or the substance of the complaint; or
- (b) accepts the recommendation or recommendations of the MSC;

and the MSC is satisfied that the respondent has engaged in any or all of the conduct which is the subject of the complaint, the MSC must make a finding that the respondent engaged in that conduct.

PART 4B – DETERMINATION OF COMPLAINTS BY THE BOARD

44. Application of this Part

This Part applies to complaints that are referred to the Board by the MSC under clause 39.

45. Convening of the Board

(1) Upon a complaint being referred to the Board, the President or Deputy President as the case may be shall as soon as possible determine the membership of the Board for the purpose of the reference.

(2) The President or Deputy President as the case may require must convene the Board for the purpose of giving directions.

46. Powers of the Board

(1) Upon the referral of a complaint to the Board, the Board may take at least one or more of the following courses of action:

- (a) make findings on serious child-related conduct under clause 47;
- (b) dismiss the matter or take no further action under clause 48;
- (c) make a recommendation under clause 49.

47. Making findings on serious child-related conduct

(1) If the complaint alleges that the respondent has committed serious child-related conduct, the Board must make a finding on whether the respondent engaged in any or all of the conduct so alleged, and these findings shall constitute findings for the purpose of –

- (a) any requirement by law to notify a person or authority that a finding has been made that the respondent engaged in conduct which is the subject of any such requirement to notify; and
- (b) entering on the National register the details of information required by the provisions of the *National Register Canon 2007*.

48. Power to dismiss or take no further action

(1) If the Board is not satisfied that the church worker committed any misconduct, or is satisfied that the complaint is false, vexatious or misconceived, the Board may determine accordingly and must dismiss the complaint.

(2) If the Board is satisfied that the church worker did commit misconduct but is not satisfied as to any of the matters in clause 49(1), the Board may determine accordingly and must take no further action in relation to the complaint. The Board may nonetheless recommend under clause 49 that the respondent be counselled.

49. Recommendations and Orders by the Board

(1) If the Board is satisfied that the church worker:

- (a) is not fit to hold a role office or position, or to be or remain in Holy Orders; or
- (b) is not fit, whether temporarily or permanently, to exercise ministry or perform any duty or function of the role office 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 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:

- (d) that the church worker be counselled;
- (e) that the church worker be suspended from office or employment or from performing the function as the case may be for such period determined by the Board;
- (f) that the licence or authority of the church worker be revoked;
- (g) that the church worker's contract of employment (if any) be terminated;
- (h) that the church worker cease to hold any office then held;
- (i) that the church worker's holding of office or employment or performance of the function, as the case may be, be made subject to such conditions or restrictions as the Board may specify;
- (j) that the church worker be directed to do or to refrain from doing a specified act;
- (k) that a charge be promoted against the respondent before the Diocesan Tribunal;
- (l) that the operation of a determination shall be suspended for such period and upon such conditions as the Board shall specify;
- (m) that the church worker should be deposed from Holy Orders; and
- (n) that a prohibition order be made in terms specified by the Board.

50. Provision of copies of determination and recommendation

(1) The Board must cause a copy of the determination and recommendations, together with reasons, to be provided to –

- (a) the relevant Church authority;
- (b) the complainant;
- (c) the respondent;
- (d) the MSC; and
- (e) the Director or

(2) The Director must cause to be entered in the national register all details of information required by the provisions of the *National Register Canon 2007*.

51. Power to defer final recommendation

(1) The Board may defer making any final recommendation on a complaint and may for that purpose adjourn any hearing from time to time for a period or periods not exceeding in aggregate, 12 months, on terms that the church worker undertake for a specified period and in a form approved by the Board to do one or more of the following acts or omissions:

- (a) stand down from the office or employment or from performing specified duties of office or employment;
- (b) undertake counselling from a person approved by the Board;
- (c) submit to periodic medical examination by a person approved by the Board;

- (d) undertake a specified program of medical treatment or rehabilitation whether as an outpatient or inpatient;
- (e) provide medical or other evidence requested by the Board to assist it in deciding on any final recommendation; or
- (f) perform or refrain from performing some other specified act.

(2) If at the time of deferring a final recommendation in accordance with this clause the Board is satisfied that the church worker is at that time either unfit to hold office or to exercise ministry or to perform any duty or function of the office or employment, any undertaking given by the church worker must include an undertaking under clause 51(1)(a) in such form as the circumstances may require and as the Board may approve.

(3) If within a period specified by the Board the church worker declines to give an undertaking in accordance with clause 51(1), the Board must proceed to make a determination and recommendation.

(4) The Board may take into account the failure of the church worker to comply with his or her undertaking under clause 51(1) in deciding on any final recommendation on a complaint.

52. Effect of Prohibition Orders

A person who is subject to a prohibition order is, despite the provisions of any other ordinance, ineligible for election or appointment to any position or office to which the order applies, and any such office or position that the person is or was elected or appointed to becomes vacant.

PART 4C – REVIEW OF BOARD DETERMINATIONS

53. Application for review

(1) If the respondent is aggrieved by a decision of the Board, the respondent may apply to the Director for a review of the decision.

(2) If the MSC is aggrieved by a decision of the Board, the MSC may apply to the Director for a review of the decision.

(3) The application must be made within 21 days after the applicant is provided with a copy of the Board's report under clause 50 or such longer period as the Director may by notice in writing to the aggrieved person determine.

(4) The application must be in writing and set out the grounds for the review.

54. Grounds for review

The grounds on which an application for a review of a decision of the Board may be made are any one or more of the following –

- (a) that a breach of the rules of procedural fairness occurred in relation to making the decision which materially affected the decision,
- (b) that procedures required to be observed by this Ordinance in relation to the making of the decision were not observed and the non-observance materially affected the decision,
- (c) that the Board did not have jurisdiction to make the decision,
- (d) that the decision was so devoid of any plausible justification that no reasonable Board could have made it.

55. Stay of proceedings

An application for a review of a decision of the Board acts as a stay of the decision pending the determination of the review.

56. Appointment of Reviewer

(1) As soon as practicable after receiving an application for review, the Director must notify the Chancellor.

(2) The Chancellor is to appoint an experienced lawyer to undertake the review and notify the Director of the appointment.

(3) Upon the appointment of an experienced lawyer, the Director is to obtain an estimate of the fee to be charged by the experienced lawyer in making a determination under this Part.

(4) On receipt of the estimate, the Director is to notify the applicant for the review of the amount of the estimate and is to request the applicant to pay half of the estimated fee to the Director or a person nominated by the Director.

(5) If the applicant does not pay half of the estimated fee within 21 days after receipt of the Director's request, the application for the review lapses.

57. Conduct of review

(1) A review by an experienced lawyer of the determination of the Board is to be conducted in the manner determined by the experienced lawyer, subject to the process allowing the experienced lawyer to make a determination on the review within a reasonable period after the date that the Director receives payment from the applicant for half of the estimated fee.

(2) A review is not to be a re-hearing of the merits, or a new hearing.

(3) The experienced lawyer may make such order as to costs of the review as he or she thinks fit.

58. Determination on review

The experienced lawyer who reviews a determination of the Board may do any one or more of the following –

- (a) quash or set aside the determination,
- (b) refer the determination to the Board for further consideration in accordance with such terms and conditions as the experienced lawyer directs,
- (c) declare the rights of the applicant for the review in relation to any matter to which the determination of the Board relates,
- (d) direct the applicant or the Board to do, or to refrain from doing, anything that the experienced lawyer considers necessary to achieve justice between the parties.

PART 4D – PROCEDURAL MATTERS FOR THE MSC AND THE BOARD

59. Conduct of proceedings

Subject to the provisions of this Ordinance each of the MSC and the Board—

- (a) must act with fairness and according to equity, good conscience, procedural fairness and the substantial merits of the case without regard to technicalities or legal forms; and
- (b) is not bound by the rules of evidence but may inform itself on any matter in such manner as it thinks fit; and
- (c) must deal with each matter as expeditiously as possible.

60. Failure to appear

(1) The MSC may make findings or recommendations in any proceedings in the absence of additional material from the respondent if satisfied that reasonable efforts were made to give the respondent an opportunity to provide that material.

(2) The Board may make a determination in any proceedings in the absence of a person affected by the determination if satisfied that reasonable efforts were made to give that person an opportunity to appear.

61. Powers and duties

(1) Subject to this Ordinance, the Board:

- (a) may regulate the proceedings of its meetings as it sees fit;
- (b) may inform itself from the record of or transcript of proceedings in any court or tribunal and may adopt any findings in, and accept as its own, the record of or transcript of proceedings of any court or tribunal;
- (c) may conduct its business and any proceedings by video link, conference telephone or by any electronic means of communication; and
- (d) must give written reasons for any determination and recommendation, other than by way of directions in the course of an application, unless the determination is made by consent of the respondent and the MSC.

(2) The Board must give the MSC and the respondent a reasonable opportunity to adduce evidence, to examine and cross-examine witnesses and to make submissions to the Board.

62. Legal representation

The MSC may and the respondent may each appoint a legal representative to assist in the process.

63. Directions

The Board may at any time give directions:

- (a) as to the inspection by and supply of copies to the respondent or any other person of the documents or material relevant to the reference; and
- (b) as to the conduct of its inquiry into the reference or review;

and for that purpose the Board may be constituted by the presiding member or by a member appointed for the purpose by the presiding member.

64. Appointment of a person to assist

The Board may, for the purpose of any particular reference, appoint such person or persons to assist it in inquiring into (but not determining) a reference as the Board thinks fit.

65. Directions to Director or the MSC

The Board may at any time, and from time to time, give directions to the Director or the MSC as to any further inquiries or investigation it requires to be carried out for the purposes of the reference and the Director or the MSC, as the case may be, must to the best of its ability cause such directions to be carried out.

66. Written evidence

Without limiting the meaning and effect of clause 61, The Board may receive a statutory declaration or a signed statement without the need for the personal attendance of the maker of the statutory declaration or statement and may also in its discretion use electronic means such as video link or conference telephone to receive evidence and submissions.

67. Decisions of other bodies

- (1) In any proceedings before it, where the MSC or the Board is satisfied that the respondent:
 - (a) has been convicted by a court within Australia of an offence involving misconduct;
 - (b) has been found guilty (without conviction) by a court within Australia of an offence involving misconduct;
 - (c) has admitted in proceedings before a court, tribunal or commission of inquiry within Australia having engaged in conduct involving misconduct;
 - (d) has been found by a court, tribunal or commission of inquiry within Australia to have engaged in conduct involving misconduct; or
 - (e) has been disqualified by a court, tribunal or commission of inquiry within Australia from professional practice on account of conduct involving misconduct;then:
 - (f) a certificate, reasons for judgment or other record from the court, tribunal or commission (as the case may be) shall be conclusive evidence that the respondent engaged in the misconduct concerned; and
 - (g) neither the respondent nor any other party shall be at liberty to call or give evidence or make submissions for the purpose of calling into question the conviction or finding of guilt of the respondent or denying that the respondent engaged in the misconduct concerned.

68. Standard of proof

The standard of proof to establish an allegation is that of reasonable satisfaction on the balance of probabilities.⁸

69. Members of Board not to meet with parties

No member of the MSC or the Board shall individually meet with in relation to the complaint either the complainant or the respondent or anyone acting on their behalf while the matter is in progress.

70. Disqualification where conflict of interest

- (1) A member of the MSC or the Board must promptly disclose to the other members any actual conflict of interest they have as a member and any circumstances which might reasonably be perceived as a conflict of interest, including the reason(s) why such a conflict of interest might exist.
- (2) Where a member of the MSC or the Board has an actual or perceived conflict of interest in a matter, the member shall be disqualified from participating in the matter.

⁸ *The standard of proof is to be applied with regard to the principles in Briginshaw v Briginshaw [1938] HCA 34.*

(3) The opinion of a majority of the other members of the MSC or Board, as the case may be, shall be conclusive as to whether the member has an actual or perceived conflict of interest in a matter.

71. Medical examination

(1) The MSC or the Board may require the respondent to submit within a specified time to a medical, psychiatric or psychological examination by a person approved by the MSC or the Board (as the case may be) the cost of which shall be met from funds under the control of the Synod.

(2) A copy of the report of an examination under subclause (1) shall be provided to the respondent, the Director, the MSC and the Board.

72. Duties of the respondent

(1) The respondent must, subject to subclause (2), truthfully answer any question put by or on behalf of the Board in the exercise of powers conferred by this Ordinance.

(2) If the respondent declines to answer a question on the ground that the answer might tend to incriminate the respondent, a written record shall be made of the question and of the ground of refusal.

(3) The respondent must not:

- (a) mislead the Board or a member of the Board; or
- (b) unreasonably delay or obstruct the Board in the exercise of powers conferred by this Ordinance.

73. Limitation on promotion of a charge in the Diocesan Tribunal

If the MSC or the Board is satisfied that there is no reasonable likelihood that the Diocesan Tribunal would find the respondent guilty of any offence, the MSC or the Board shall not recommend that a charge be promoted against the respondent in the Diocesan Tribunal.

74. Costs

(1) Neither the MSC nor the Board has the power to award costs of any complaint or matter before it.

(2) A respondent who is not an unpaid lay church worker may apply to the Standing Committee for reimbursement of their reasonable costs of obtaining advice and assistance from a legal practitioner for the purposes of a process under this Ordinance.

(3) The Standing Committee may grant legal assistance to a church worker on such terms and subject to such conditions as it shall determine.

(4) For the purposes of subclause (3), the Standing Committee may approve a scale of costs on the recommendation of the Director.

75. Making of rules

(1) The President of the Board may make or approve rules of the Board reasonably required in relation to the practice and procedure.

(2) The rules of the Board made under this clause may provide that, in relation to the exercise of specified functions, or in relation to matters of a specified class, other than the determination of an application including the making of a recommendation, the Board may, at the direction of the presiding member, be constituted by a single member sitting alone.

76. Practice and procedure

Subject to this Ordinance and the relevant rules, the practice and procedure of the Board will be as directed by the presiding member of the Board.

77. Determination of questions

(1) In any proceedings of the Board:

- (a) any question of law or procedure shall be determined by the presiding member; and
- (b) any other question will be determined by majority decision of the members, and in the case of an equality of votes the opinion of the presiding member shall prevail.

(2) Where the Board is constituted by a member sitting alone who is not the President or the Deputy President, any question of law that arises must be referred to the President or Deputy President for decision and any decision made on such a reference is a decision of the Board, as the case may be.

78. Public Hearings

(1) Subject to subclauses (2) and (3), any hearing of the Board must be held in public.

- (2) The Board may direct:
- (a) that the whole or part of a proceeding be held in private; or
 - (b) that only persons or classes of persons specified by it may be present during the whole or any part of a proceeding.
- (3) The Board may only make a direction under the preceding subclause if satisfied that the direction is necessary on or more of the following grounds:
- (a) to comply with applicable legislation of the State or a Territory or the Commonwealth;
 - (b) to prevent a real and substantial risk to the proper administration of justice that cannot be prevented by other reasonably available means;
 - (c) to protect the safety of any person;
 - (d) to avoid causing undue distress or embarrassment to a complainant (other than the Director) or a witness (other than the respondent) in a proceeding that relates in whole or part to a complaint;
 - (e) to avoid the disclosure of confidential information; and
 - (f) for any other reason in the interests of justice.

79. Suppression of names

- (1) The Board may order that the name of, or other information that could lead to the identification of the respondent, or a person who appears, or is reasonably likely to appear, before the Board is not to be published or broadcast, except in such circumstances as the Board may authorise.
- (2) An order of the Board under this clause does not apply to the publication of a report authorised or required under this Ordinance.

79A. Non-publication orders

- (1) The Board may, on the application of a party or the Director, order that a party by himself or herself or through his or her agents and associates not publish verbally, in writing or by electronic means:
- (a) any matter relevant to a fact or circumstance likely to be considered when the Director or Board is dealing with the complaint; or
 - (b) any aspersion on the character of a person who may be a material witness to such fact or circumstance.
- (2) Such an order may be made *ex parte*, but may be discharged on the application of the person against whom it is made on at least five days' notice to the person on whose application it was made.

PART 4E – CHURCH AUTHORITIES AND COMPLIANCE

80. Church authority to give effect

- (1) Subject to subclause (2), the Church authority to whom a recommendation under this Ordinance is made must and is empowered to do any acts to give effect to a recommendation of the Director, an Adjudicator, MSC or the Board.
- (2) The Church authority referred to in subclause (1) may vary, modify or temporarily suspend the implementation of a recommendation consistent with any facts found by the body making the recommendation provided that the body making the recommendation agrees that the substance of the recommendation is preserved.

81. Compliance by church worker

A church worker must:

- (a) comply with any undertaking given to an Adjudicator, MSC or the Board or the relevant Church authority; and
- (b) comply with a direction made by the relevant Church authority to give effect to a recommendation of the Adjudicator, MSC or the Board, as the case may be, or any permitted variation or modification that recommendation.

CHAPTER 5 - PERSONS OR BODIES PERFORMING FUNCTIONS UNDER THIS ORDINANCE

PART 5A – THE DIRECTOR

82.

82A.

83. Functions of the Director

- (1) The Director's functions include:
- (a) to receive complaints;
 - (b) to make a complaint against a church worker;
 - (c) to appoint investigators to investigate complaints in a timely and appropriate manner;
 - (d) to be the executive officer of the MSC;
 - (e) to attend meetings of the MSC except for any part of a meeting which deals with the conditions of employment, remuneration or performance of the Director;
 - (f) to provide advice about the code of conduct and procedures under this Ordinance;
 - (g) to provide or arrange care for or treatment of the complainant and respondent;
 - (h) to keep complainants and respondents informed about the progress of the complaint under the Ordinance;
 - (i) to provide input into education and vocational training programs for church workers;
 - (j) to appoint a Panel of experienced lawyers with the approval of the Chancellor;
 - (k) to keep proper records of complaints, decisions, meetings, employment screening details, police checks and people affected by any allegation of misconduct;
 - (l) to consult and co-operate with other persons and bodies in the Church with responsibility for professional standards;
 - (m) to support complainants in making a report to police or child protection authorities;
 - (n) to report to the MSC on any recommended changes to processes, structures and education programs that would reduce the risk of misconduct; and
 - (o) such specific functions and duties, consistent with this Ordinance, as may be determined from time to time by the MSC.
- (2) The Director must act in all things as expeditiously as possible.

84. Relationship between the Director and the Archbishop

- (1) The Director may inform the Archbishop of –
- (a) any information known to the Director, or any reasonable belief held by the Director, that a church worker has engaged in conduct which may be the subject of a complaint, and
 - (b) any response made by a church worker to an allegation that is, or could be, the subject of a complaint.
- (2) The Director may provide the Archbishop with such further information as the Archbishop may reasonably require for the proper discharge of the Archbishop's duties and responsibilities or as the Director deems necessary for that purpose.
- (3) The Archbishop may provide the Director with such information as the Director may reasonably require, for the proper discharge of the Director's duties and responsibilities or as the Archbishop deems necessary for that purpose.

85. The Director's entitlement to information held by certain persons

A Church authority, Church body or relevant person that appointed a church worker to an office or position must provide the Director with such information as the Director may reasonably require.

86. The Safe Ministry Board to report annually to the Standing Committee

Before 1 August each year, the Safe Ministry Board is to make a report to the Standing Committee as to the actions taken under this Ordinance during the period of 12 months ending on the preceding 30 June.

PART 5B – THE MINISTRY STANDARDS COMMITTEE**87. Establishment of the MSC**

There shall be a Ministry Standards Committee for the diocese constituted in accordance with the provisions of this Part.

88. Functions of the MSC

The MSC has the following functions:

- (a) to act on a complaint in accordance with this Ordinance and, where appropriate, to obtain independent legal advice for that purpose;
- (b) to recommend to the Standing Committee any changes to Church processes, structures and education programs, where appropriate, that would reduce the risk of misconduct;
- (c) to authorise such expenditure as may be necessary or appropriate to implement, in a particular case, the provisions of this Ordinance subject to any limit imposed by the Standing Committee;
- (d) to advise relevant Church bodies as to the financial, pastoral or other needs of a person affected by misconduct which is the subject of a complaint and to advise relevant Church bodies in connection with any legal proceedings, anticipated or existing, against such Church bodies arising out of that alleged misconduct;
- (e) to refer any information in its possession to a law enforcement, prosecution or child protection authority of a State or Territory or of the Commonwealth of Australia for which the information is or may be relevant;
- (f) to maintain proper records of all information and complaints received and of action taken in relation to each of them; and
- (g) to exercise such other powers and functions as are conferred on it by this or any other Ordinance.

89. Membership of the MSC

- (1) The members of the MSC shall be appointed by the Archbishop-in-Council.
- (2) The members of the MSC shall hold office on such terms and conditions as may be determined from time to time by the Archbishop-in-Council.
- (3) The MSC must have at least three members including the chair.
- (4) The persons appointed as members of the MSC are to include –
 - (a) an experienced lawyer, and
 - (b) a person who has been a member of the clergy for not less than 10 years, and
 - (c) a person who is certified by the Safe Ministry Board as having other qualifications or experience appropriate to the discharge of the office of a member of the MSC, such as child protection, social work or psychiatry.
- (5) The MSC must so far as is reasonably practicable:
 - (a) include at least one person who is not a member of the Church;
 - (b) have at least one man and one woman.
- (6) The chair of the MSC must be appointed by the Archbishop.
- (7) A member of the MSC must not act unless the member has agreed in writing to abide by this Ordinance.

90. Term of office

Subject to clause 89, a member of the MSC holds office until the first meeting of the Standing Committee which next follows the first day of the first ordinary session of the next Synod provided that the member continues to hold office until his or her successor is appointed.

91. Casual vacancies

- (1) The office of a member of the MSC is vacated if –
 - (a) the member –
 - (i) dies, or
 - (ii) resigns by notice in writing to the Diocesan Secretary, or
 - (iii) becomes mentally incapacitated, or

- (iv) becomes an insolvent under administration, or
- (v) ceases to reside permanently in the Diocese, or
- (b) the Archbishop-in-Council revokes the appointment.

(2) The Archbishop-in-Council may fill a casual vacancy in the office of a member of the MSC.

92. Conduct of business

- (1) The MSC may meet from time to time as determined by the chair or a majority of its members and may conduct its business by telephone or electronic communication.
- (2) The chair must convene a meeting of the MSC at the request of the Director.
- (3) The procedures of the MSC shall be determined by the MSC.
- (4) A majority of the members shall constitute a quorum.
- (5) A decision taken other than at a meeting of the MSC, if supported by a majority of members of the MSC, constitutes a decision of the MSC.
- (6) The MSC must act in all things as expeditiously as possible.

93. Validity of proceedings

An act or proceeding of the MSC is not invalid by reason only of a vacancy in its membership and, notwithstanding the subsequent discovery of a defect in the nomination or appointment of a member, any such act or proceeding is as valid and effectual as if the member had been duly nominated or appointed.

94. Delegation of functions

- (1) Subject to subclause (2), the MSC may delegate, upon such terms and conditions as the MSC may approve, any of its functions under this Ordinance to any person.
- (2) The MSC cannot delegate:
 - (a) its functions under subclause (1); or
 - (b) its functions under Part 4A.
- (3) A delegation under this clause must be made by an instrument in writing signed by a member of the MSC pursuant to a resolution of the MSC.

PART 5C – THE MINISTRY STANDARDS BOARD

95. Establishment of the Board

There shall be a Ministry Standards Board comprising three persons constituted and appointed in accordance with the provisions of this Part.

96. Functions of the Board

The function of the Board is to enquire into and determine complaints referred to it by the MSC under this Ordinance.

97. Panel

- (1) The members of the Board in a particular case shall be appointed from a panel comprising:
 - (a) a President and a Deputy President, both of whom shall be experienced lawyers;
 - (b) three members of the clergy of at least seven years' standing; and
 - (c) three laypersons who may or may not be members of the Church and at least two of whom are persons who are considered by the Archbishop-in-Council as having professional experience, training or skills in a field that is relevant to addressing the needs of persons who are subjected to misconduct.
- (2) As far as reasonably practicable the members of the panel should comprise an equal number of men and women.

98. Appointment of the Panel

- (1) The members of the panel shall be appointed by the Archbishop-in-Council and shall hold office on such terms and conditions as may be determined from time to time by the Archbishop-in-Council.
- (2) Any vacancy in the membership of the panel shall be filled by the Archbishop-in-Council.

99. Appointment of the Board

- (1) The members of the panel to be convened for a complaint referred to the Board shall be determined by the President or, if there is a vacancy in the office of President or if the President is unable to act, by the Deputy President.
- (2) For the purpose of any reference to the Board, the Board shall consist of the President or Deputy President, who shall be the presiding member, and one clerical and one lay member of the panel.
- (3) The Board must, so far as reasonably practicable, have at least one man and at least one woman.
- (4) A member of the Board must not act in a matter unless the member has agreed in writing to abide by this Ordinance.

100. Vacancies on the Board

- (1) If a member of the Board, other than the presiding member, dies or is for any other reason unable to continue with any matter referred to the Board –
 - (a) the Board constituted of the presiding member and the other member may, if the presiding member so determines, continue and complete the reference; or
 - (b) if the presiding member so determines, a substitute member may be appointed to fill the vacancy.
- (2) If the presiding member dies or is for any reason unable to continue with any matter referred to the Board, the Deputy President becomes the presiding member for that matter.

101. Secretary

There shall be a secretary to the Board who shall be appointed by or in accordance with a resolution of the Archbishop-in-Council, and whose duties shall be defined by the President.

102. Quorum

The quorum for a meeting of the Board shall be all the members of the Board except where the Board by its presiding member makes directions under clause 63 of this Ordinance.

103. Validity of proceedings

An act or proceeding of the Board is not invalid by reason only of a vacancy in its membership or of the membership of the panel and, notwithstanding the subsequent discovery of a defect in the nomination or appointment of members of the panel or the Board, any such act or proceeding is as valid and effectual as if the member had been duly nominated or appointed.

CHAPTER 6 - MISCELLANEOUS

PART 6A – CONFIDENTIALITY AND PUBLICATION

104. Duty of confidentiality

(1) Subject to the provisions of this Ordinance, the Director, an Adjudicator, a member of the MSC, a member of the Board and a person employed or engaged on work related to the affairs of the MSC, must not divulge information that comes to his or her knowledge by virtue of that office or position except:

- (a) in the course of carrying out the duties of that office or position;
- (b) as may be authorised by or under this Ordinance;
- (c) as may be authorised or required by or under the *National Register Canon 2007* or any canon prescribed by General Synod in substitution for that canon;
- (d) in any proceedings before a Diocesan Tribunal, a Provincial Tribunal, the Special Tribunal or the Appellate Tribunal;
- (e) to the Safe Ministry Board (including any agent acting on its behalf) for the purpose of that body fulfilling its functions;
- (f) as may be required by law; or
- (g) to any insurer or insurance broker of a Church body where the information may give rise to or be relevant to a claim for indemnity by the Church body is against the insurer or is relevant to obtaining or continuing insurance cover.

(2) The MSC may release to any person, including a Church authority, such material as it may determine with respect to any information or complaint.

105. Release of information by MSC

(1) The MSC must disclose to an equivalent body information in its possession concerning the alleged misconduct of a church worker:

- (a) which is information relevant to, or arising during the course of, an investigation being undertaken by the MSC where the MSC knows that the church worker is residing in the diocese of the equivalent body; or
- (b) which is information concerning misconduct alleged to have occurred in the diocese of the equivalent body;

and must co-operate with any equivalent body.

(2) The MSC may disclose to a person or body of another church or Christian denomination exercising powers, duties or functions similar to those of the MSC, details of information in its possession concerning the alleged misconduct of a church worker and the MSC must co-operate with such person or body to whom the information is disclosed.

106. Church authority may release information

(1) The Archbishop or the relevant Church authority may, following consultation with the Director, release to any person such material as the Church authority may determine with respect to any information, complaint or finding, including notifying the complainant of the outcome of the complaint and making a public announcement in the relevant church.

(2) In deciding whether to release material under subclause (1), the Archbishop or the relevant Church authority is to have regard to the following factors –

- (a) the impact of the release of the information on any person,
- (b) the benefit of the release of the information for any person, and
- (c) whether there is a legitimate need for the release of the information, such as to ensure or increase public safety, quell rumour, ensure transparency and accountability or explain the processes and outcomes under the Ordinance.

107. Duty of respondents in the release of information

A respondent must cooperate with and facilitate any instructions from the MSC, the Archbishop or the relevant Church authority concerning the release of any material under clauses 104(2) and 106 to the extent that it is within the respondent's power and authority to do so.

108. MSC reports

- (1) Without disclosing the identity of any complainant or the details of any complaint, the MSC must report annually to the Synod on the operation of this Ordinance and its activities for that calendar year.
- (2) Notwithstanding subclause (1), the report of the MSC pursuant to that subclause may identify a church worker who has been exonerated from an allegation which is the subject of the complaint or who has been the subject of a determination or recommendation by the Board favourable to the church worker.
- (3) The MSC may, in respect of every complaint with which it is dealing under this Ordinance, report either orally or in writing to the Archbishop for the proper discharge of the MSC's duties and responsibilities or as the MSC deems necessary for that purpose.

PART 6B – INDEMNITY

109. Obligation to indemnify

The Standing Committee must and is hereby authorised out of funds under the control of the Synod to indemnify –

- (a) the Director and any delegate of the Director;
- (b) each member of the MSC;
- (c) any delegate of the MSC;
- (d) an Adjudicator;
- (e) each member of the Board;
- (f) the secretary of the Board;
- (g) any person appointed by the Board pursuant to this Ordinance; and
- (h) the Archbishop;

in respect of any act or omission respectively by them in good faith and in the exercise or purported exercise of powers or functions, or in the discharge or purported discharge of duties, under this Ordinance in relation to a church worker.

PART 6C – REGULATIONS

110. Regulation making power

The Archbishop-in-Council may from time to time make, amend or repeal regulations not inconsistent with the provisions of this Ordinance providing for records arising out of or incidental to the operation of this Ordinance and for all or any of the purposes, whether general or to meet particular cases, which may be convenient for the administration of this Ordinance or which may be necessary or expedient to carry out the overriding purposes of this Ordinance.

PART 6D – OTHER

111. Rights of employers

Nothing in this Ordinance affects any right of an employer to terminate the employment of an employee.

112. Findings of certain other bodies may be treated as conclusive

Any findings made by an equivalent body or a court, tribunal or commission of inquiry, that have not been overturned on appeal, may be treated as conclusive by a person performing functions under this Ordinance.

113. Service of documents

- (1) A document required to be served under this Ordinance on a person may be served –
 - (a) personally, or
 - (b) by posting a copy of the document by pre-paid post to the person at the person's proper address.

- (2) The proper address of a person is the address for service of the person but, if the person has no address for service, the person's last known residential address.
- (3) Service of a document that is posted by pre-paid post is taken to be effected 7 days after posting.
- (4) In this clause, service of a document includes the giving of a notice.

114. Delegation of the Chancellor's functions

The Chancellor may delegate any of his or her functions under this Ordinance to a Deputy Chancellor.

115. Commencement

Except for this clause, this Ordinance commences on the date determined by the Archbishop on the advice of the Chancellor.

Notes

In accordance with Clause 113, the Archbishop determined the commencement date of the original form of this Ordinance to be 1 November 2017 on the advice of the Chancellor.

Table of Amendments

[not reproduced here]

National Register Canon 2007

Canon 15, 2007 as amended by
Canon 13, 2010
Canon 9, 2014
Canon 10, 2017

The General Synod prescribes as follows:

Short title

1. This Canon may be cited as the "National Register Canon 2007".

Definitions

2. The dictionary in the Third Schedule defines particular words and expressions used in this Canon.

Object

3. The object of this Canon is to assist in providing for the physical, emotional and spiritual welfare and safety, and the protection from the risk of abuse, of all people having dealings with clergy and church workers by establishing a National Professional Standards Register to which authorised persons may have access and make disclosures of the Information therein.

Establishment of the National Register

4. There shall be a National Professional Standards Register of clergy and lay persons established and maintained in accordance with the provisions of this Canon.

Information about clergy

- 5.¹ (1) The National Register shall be a register of all clergy:
 - (a) against whom a notifiable complaint or a notifiable charge has been made unless it is exhausted; or
 - (b) in respect of whom there has been a relinquishment of, or consent to deposition from, Holy Orders arising out of sexual misconduct or child abuse;
 - (c) who have made an adverse admission or are the subject of an adverse finding; or
 - (d)² in respect of whom there has been an adverse check or an adverse criminal history check or an adverse Safe Ministry Check; or
 - (e) who have not been ordained as a priest or as a bishop, or issued with a licence or appointed by a Church authority, because of an adverse risk assessment.
- (2) The register of clergy shall contain the following matters:
 - (a) Information relating to clergy; and
 - (b) in relation to each member of the clergy included in the register, a notation of the date on which the register was last altered.

Information about lay persons

- 6.³ (1) Subject to this Canon the National Register shall be a register of all lay persons:
 - (a) against whom a notifiable complaint or a notifiable charge has been made unless it is exhausted; or

¹ Amended by Canon 13, 2010.

² Amended by Canon 10, 2017.

³ Amended by Canon 13, 2010.

- (b) who have made an adverse admission or are the subject of an adverse finding; or
 - (c)⁴ in respect of whom there has been an adverse check or an adverse criminal history check or an adverse Safe Ministry Check; or
 - (d) who have not been ordained as a deacon, or issued with a licence or appointed by a Church authority, because of an adverse risk assessment.
- (2) The register of lay persons shall contain the following matters:
- (a) Information relating to lay persons; and
 - (b) in relation to each lay person included in the register, a notation of the date on which the register was last altered.

Maintenance of the National Register

7. (1) Subject to this Canon, the National Register shall be maintained by the General Secretary in such form as the Standing Committee shall approve so as to ensure the security of the information therein.
- (2) The General Secretary shall issue forms necessary for the operation of the National Register and publish these forms on the website of the General Synod.

Provision of Information for inclusion in the National Register

- 8.⁵ (1) A Director of Professional Standards shall enter information in the National Register relating to any member of the clergy or lay person to which he or she has access in carrying out his or her responsibilities, in accordance with a protocol approved by the General Synod, or the Standing Committee by a two-thirds majority, as soon as practicable, and no later than one month after he or she has access to the information.
- (2) A Director of Professional Standards shall advise the General Secretary if information of which he or she is aware has not been entered in accordance with subsection (1) as soon as practicable after the expiration of the period specified in subsection (1).
- (3) The General Secretary shall:
- (a) after receipt of advice under subsection (2), promptly enter a caution in the National Register in relation to the member of the clergy or lay person, the subject of that information; and
 - (b) no later than one month after the entry of that caution in the National Register, notify the member of the clergy or lay person concerned, by letter sent to his or her last known postal or electronic address, of:
 - (i) the entry of the caution; and
 - (ii) the right of that person to request in writing of the General Secretary the removal of the caution in accordance with subsection (5).
- (4) A Director of Professional Standards who has given the General Secretary advice in accordance with subsection (2) shall as soon as practicable after giving such advice notify that information to the General Secretary.
- (5) The General Secretary shall promptly after the earlier of:
- (a) notification by a Director of Professional Standards under subsection (4); and
 - (b) the expiration of two months from receipt of a request in writing from the member of the clergy or lay person the subject of the caution requesting its removal,
- remove the caution from the National Register.

⁴ Amended by Canon 10, 2017.

⁵ Amended by Canon 13, 2010; amended by Canon 10, 2017.

Exclusion from operation of the canon

- 8A.⁶ (1) The General Synod, or the Standing Committee, may establish exclusion criteria, and shall publish any such criteria on the General Synod website.
- (2) If exclusion criteria are established they must include:
- (a) a system of screening for sexual misconduct in relation to adults and child abuse;
 - (b) a code of conduct; and
 - (c) a system for making and dealing with complaints of sexual misconduct in relation to adults and child abuse.
- (3) The General Synod, or Standing Committee by a two-thirds majority, on application by a province or diocese may exclude from the operation of this Canon for such period as it determines:
- (a) a Church body other than a parish; and
 - (b) a category of church workers;
- if it is satisfied that the Church body or the category of church workers meets the exclusion criteria.
- (4) The exclusion of a Church body from the operation of this Canon shall not apply to any clergy employed by or exercising ministry within the Church body unless otherwise specified in the exclusion.
- (5) The General Synod, or the Standing Committee by a two-thirds majority, may in respect of an exclusion referred to in subsection (3) revoke the exclusion if it is satisfied that the Church body or the category of church workers no longer meets the exclusion criteria.
- (6) The General Secretary shall publish on the website of the General Synod a list of all Church bodies and categories of church workers excluded from the operation of this Canon and the date on which the exclusion took effect and if applicable the period during which the exclusion had effect.

Notification of Information in the National Register

- 9.⁷ (1) Subject to subsection (5), the General Secretary shall, as soon as practicable, and no later than one month, after the entry of Information in the National Register relating to a member of the clergy or a lay person (other than a changed entry relating to item 4 of each of the First and Second Schedules), notify the member of the clergy or lay person concerned of the entry of that Information by letter sent to his or her last known postal or electronic address where that address is known.
- (2)⁸ Where a Director of Professional Standards receives a police request or a withdrawal of the police request and is reasonably satisfied of its authenticity, the Director of Professional Standards shall forthwith:
- (a) enter a notation of the police request in the National Register, or remove that notation, as the case may be; and
 - (b) make a police request record or a withdrawal of the police request record, as the case may be, and provide that record to the General Secretary.
- (3)⁹ Where the General Secretary receives a police request or a withdrawal of the police request and is reasonably satisfied of its authenticity, the General Secretary shall forthwith:

⁶ Added by Canon 13, 2010.

⁷ Amended by Canon 9, 2014.

⁸ Inserted by Canon 9, 2014.

⁹ Inserted by Canon 9, 2014.

- (a) enter a notation of the police request in the National Register, or remove that notation, as the case may be; and
 - (b) make a police request record or a withdrawal of the police request record, as the case may be.
- (4)¹⁰ The General Secretary shall keep any such police request record or withdrawal of the police request record, as the case may be.
- (5)¹¹ Where the General Secretary receives a police request, or a police request record from a Director of Professional Standards, the General Secretary shall not notify the member of the clergy or lay person of the entry of Information in the National Register relating to that person until the sooner of the expiration of six months after the receipt of the police request or the receipt of a withdrawal of the police request, or a withdrawal of the police request record from a Director of Professional Standards, as the case may be.

Removal of Information in the National Register

- 10.¹² (1) A Director of Professional Standards shall notify the General Secretary as soon as practicable after becoming aware that a notifiable complaint or a notifiable charge against a member of clergy or a lay person has been exhausted.
- (2) Where notification is received from the applicable Director of Professional Standards that a notifiable complaint or notifiable charge against a member of the clergy or a lay person has been exhausted, the General Secretary shall, as soon as practicable and no later than one month after receipt of the notification, remove Information in the National Register relating to that notifiable complaint or notifiable charge and notify:
- (a) the member of the clergy or lay person concerned of the removal of that Information by written notification sent to his or her last known postal or electronic address; and
 - (b) each authorised person who has had access to that Information, other than the person or persons in subsections 11(d) and (e), of the removal of that Information, by written notification.
- (3) Each authorised person referred to in subsection (2)(b), shall, as soon as practicable and no later than one month after the receipt of the notification referred to in that subsection, forward a copy of that notification to each Church authority to whom the authorised person has disclosed the Information.
- (4) Where notification is received from the applicable Director of Professional Standards that a member of the clergy or a lay person relating to whom there is Information in the National Register has died, the General Secretary shall, as soon as practicable and no later than one month after receipt of the notification, remove Information in the National Register relating to that member of the clergy or lay person.

Access to and disclosure of Information in the National Register

11. Access to and disclosure of Information in the National Register shall, subject to sections 12 and 13, be limited to the following authorised persons:
- (a) a diocesan bishop or delegate;
 - (b) the Bishop to the Defence Force or delegate;
 - (c) a Director of Professional Standards;
 - (d) the General Secretary;
 - (e) any person within the General Synod Office whose duties include assisting the General Secretary in maintaining the National Register; and

¹⁰ Inserted by Canon 9, 2014.

¹¹ Inserted by Canon 9, 2014.

¹² Amended by Canon 13, 2010.

- (f) such other persons as may be determined by the Standing Committee by a two-thirds majority;

who agree to abide by the protocols under this Canon approved by the General Synod, or the Standing Committee by a two-thirds majority.

Entitlement to ascertain the existence and obtain a copy of any Information in the National Register

- 12.¹³ The General Secretary, on application by a person to ascertain whether there is any Information, and if so to obtain a copy of the Information, in the National Register relating to that person, shall, other than in respect of Information which is the subject of a police request, notify the person whether there is any such Information, and if so provide a copy of that Information to that person, in accordance with a protocol approved by the General Synod, or the Standing Committee by a two-thirds majority.

Entitlement to ascertain details of access to Information in the National Register

13. The General Secretary, on application by a person to ascertain whether there has been access to any Information in the National Register relating to that person by an authorised person, shall notify the person whether there has been any such access, and if so provide details of that access to that person, in accordance with a protocol approved by the General Synod, or the Standing Committee by a two-thirds majority.

Amendment of Information in the National Register

14. (1) The General Secretary, on application by a person to amend the Information in the National Register relating to that person, shall:
- (a) amend the Information in the National Register relating to that person, or
 - (b) include a statement of the person in the National Register,
- subject to any limitation on the length of any amendment or statement determined by the Standing Committee, in accordance with a protocol approved by the General Synod, or the Standing Committee by a two-thirds majority.
- (2) The General Secretary shall, as soon as practicable and no later than one month after making the amendment or including the statement referred to in subsection (1), notify by written notification each authorised person who has had access to that Information, other than the person or persons in subsections 11(d) and (e), of the making of that amendment or the inclusion of that statement.
- (3) Each authorised person referred to in subsection (2) shall, as soon as practicable and no later than one month after the receipt of the notification referred to in subsection (2), forward a copy of that notification to each Church authority to whom the authorised person has disclosed the Information.

Annual report and audit

15. (1) The General Secretary shall, as soon as practicable after the end of each calendar year, provide a report as to the operation of the National Register to the Standing Committee for that year containing such information as the Standing Committee may determine.
- (2) The Standing Committee shall:
- (a) determine the scope of an audit of the operation of the National Register to verify compliance with this Canon and the protocols under this Canon; and

¹³ Amended by Canon 9 2014.

- (b)¹⁴ appoint an independent person to undertake an audit of the operation of the National Register for each calendar year and provide a report to the Standing Committee as soon as practicable after the end of that year.
- (3)¹⁵ Each diocese shall provide access to such of its records and provide such information as requested by the independent person undertaking the audit as is reasonably necessary to enable the audit to be undertaken.
- (4)¹⁶ The General Secretary shall, as soon as practicable after the report of the audit has been provided to the Standing Committee, publish the report on the General Synod website.

Protocols

- 16. The Standing Committee by a two-thirds majority may revise any protocol or make any additional protocol under this Canon where it is necessary or convenient to carry out or give effect to this Canon.

Report to the General Synod

- 17. The Standing Committee shall prepare a report on the operation of this Canon for each ordinary session of the General Synod which shall include:
 - (a) any protocol under this Canon which the Standing Committee has approved or revised, and
 - (b) any other decision under this Canon which the Standing Committee has made, since the last ordinary session of the General Synod.

Coming into force of particular provisions

- 18. (1) Paragraphs (a), (b), (c) and (f) of section 11 of this Canon shall not come into force until 1 March 2008.
- (2) The provisions of this Canon relating to the Episcopal Standards Board shall not come into force in a diocese unless and until the diocese adopts the Episcopal Standards Canon 2007 by ordinance of the synod of the diocese.

Repeal of the National Register Canon 2004

- 19. The National Register Canon 2004 is hereby repealed.

THE FIRST SCHEDULE - INFORMATION ABOUT CLERGY

- 1. Full name.
- 2. Date of birth.
- 3. Gender.
- 4. Last known postal and electronic address, and telephone numbers.
- 5. Date of ordination as a deacon and name of the diocese in which ordained.
- 6. Date of ordination as a priest and name of the diocese in which ordained.
- 7. Date of consecration as a bishop and name of the diocese in which consecrated.

¹⁴ Amended by Canon 10, 2017.

¹⁵ Added by Canon 10, 2017.

¹⁶ Added by Canon 10, 2017.

8. Particulars of any current licence, and any past licence if available, including the diocese for which the licence is or was held.
9. Particulars of any current appointment, and any past appointment if available, including the Church authority by which the appointment was made, and the diocese in which the appointment is or was held.
10. Date of a notifiable complaint, and date or period and category of the alleged sexual misconduct or child abuse.
11. Date and reason the Investigator refrained from investigating a notifiable complaint.
12. Date of recommendation by the Investigator to the Church authority of a suspension from duties, office or an appointment by a Church body, or of a prohibition order, arising out of a notifiable complaint.
13. Date of reference of a notifiable complaint to a Determiner.
14. Date and particulars of a determination or recommendation of a Determiner relating to a notifiable complaint.
15. Date and particulars of any disciplinary action taken arising out of a notifiable complaint.
16. Date and particulars of any relinquishment of Holy Orders arising out of sexual misconduct or child abuse.
17. Date and particulars of any consent deposition from Holy Orders arising out of sexual misconduct or child abuse.
- 18.¹⁷ Date, applicable jurisdiction and particulars of any adverse check.
19. Date, applicable jurisdiction and particulars of any adverse criminal history check.
20. Date, applicable diocese and particulars of any adverse Safe Ministry Check.
21. Name of the bishop or bishops and date of any decision by the bishop not to ordain the person as a priest or to issue a licence to the person or any refusal by the bishops to consecrate the person as a bishop because of an adverse risk assessment.
22. Name of the Church authority and date of any refusal by the Church authority to appoint the person because of an adverse risk assessment.
- 23.¹⁸ Date, applicable jurisdiction and particulars of a notifiable charge.
- 24.¹⁹ Date, applicable jurisdiction and particulars of an adverse admission.
- 25.²⁰ Date, applicable jurisdiction and particulars of an adverse finding.

THE SECOND SCHEDULE - INFORMATION ABOUT LAY PERSONS

1. Full name.
2. Date of birth.
3. Gender.

¹⁷ Amended by Canon 10, 2017.

¹⁸ Added by Canon 13, 2010.

¹⁹ Added by Canon 13, 2010.

²⁰ Added by Canon 13, 2010.

4. Last known postal and electronic address, and telephone numbers.
5. Particulars of any current licence, and any past licence if available, including the diocese for which the licence is or was held.
6. Particulars of any current appointment, and any past appointment if available, including the Church authority by which the appointment was made, and the diocese in which the appointment is or was held.
7. Date of a notifiable complaint, and date or period and category of the alleged sexual misconduct or child abuse.
8. Date and reason the Investigator refrained from investigating a notifiable complaint.
9. Date of recommendation by the Investigator to the Church authority of a suspension from duties, office or an appointment by a Church body, or of a prohibition order, arising out of a notifiable complaint.
10. Date of reference of a notifiable complaint to a Determiner.
11. Date and particulars of a determination or recommendation of a Determiner arising out of a notifiable complaint.
12. Date and particulars of any disciplinary action taken arising out of a notifiable complaint.
- 13.²¹ Date, applicable jurisdiction and particulars of any adverse check.
14. Date, applicable jurisdiction and particulars of any adverse criminal history check.
15. Date, applicable diocese and particulars of any adverse Safe Ministry Check.
16. Name of the bishop and the date of any decision by the bishop not to ordain the person as a deacon or to issue a licence to the person because of an adverse risk assessment.
17. Name of the Church authority and date of any refusal by the Church authority to appoint the person because of an adverse risk assessment.
- 18.²² Date, applicable jurisdiction and particulars of a notifiable charge.
- 19.²³ Date, applicable jurisdiction and particulars of an adverse admission.
- 20.²⁴ Date, applicable jurisdiction and particulars of an adverse finding.

THE THIRD SCHEDULE – DICTIONARY

In this Canon, and protocols approved under this Canon, unless the context otherwise requires:

adverse admission²⁵ means an admission by a person of conduct occurring within or outside of Australia:

- (a) in proceedings before a court or tribunal within or outside of Australia;
- (b) to a Church authority; or
- (c) to a Director of Professional Standards;

which is made or recorded in writing and which a Director of Professional Standards certifies constitutes sexual misconduct or child abuse by that person;

²¹ Amended by Canon 10, 2017.

²² Added by Canon 13, 2010.

²³ Added by Canon 13, 2010.

²⁴ Added by Canon 13, 2010.

²⁵ Added by Canon 13, 2010.

adverse check²⁶ means the cancellation, revocation, suspension of, and refusal to issue, a working with children check, or a working with vulnerable people check on account of known or suspected child abuse or sexual misconduct;

adverse criminal history check means a criminal history check of a person provided under legislation of the Commonwealth, a State or Territory, or another country disclosing the commission of a criminal offence by that person which a Director of Professional Standards certifies arises out of sexual misconduct or child abuse by that person;

adverse finding²⁷ means:

- (a) the conviction of a person of a criminal offence;
- (b) the finding that a person is guilty of a criminal offence without proceeding to a conviction; or
- (c) a finding against a person;

by a court or tribunal within or outside of Australia, which a Director of Professional Standards certifies constitutes sexual misconduct or child abuse by that person;

adverse risk assessment means an assessment that a person is unsuitable for ordination or the issue of a licence or an appointment:

- (a) made by or on behalf of a Church authority on the grounds of; or
- (b) certified by a Director of Professional Standards to arise out of; the risk of sexual misconduct or child abuse by that person;

adverse Safe Ministry Check means a Safe Ministry Check of a person disclosing sexual misconduct or child abuse or the risk of sexual misconduct or child abuse by that person;

Appellate Tribunal means the Appellate Tribunal established in accordance with the provisions of Chapter IX of the Constitution;

appointment includes employment;

authorised person means a person referred to in section 11;

bullying²⁸ means behaviour directed to a person which:

- (a) is repeated;
- (b) is unreasonable (being behaviour that a reasonable person, having considered the circumstances, would see as unreasonable, including behaviour that is victimising, humiliating, intimidating or threatening); and
- (c) creates a risk to the person's health and safety;

caution²⁹ means a notice that Information of which a Director of Professional Standards is aware and to which he or she has access in carrying out his or her responsibilities has not been entered in the National Register within the time specified in section 8(1);

child means anyone under the age of 18;

child abuse³⁰ means:

- (a) the following conduct in relation to a child:
 - (i) bullying³¹; or
 - (ii) emotional abuse; or

²⁶ Added by Canon 10, 2017.

²⁷ Added by Canon 13, 2010.

²⁸ Added by Canon 13, 2010; amended by Canon 10, 2017.

²⁹ Added by Canon 13, 2010.

³⁰ Renumbered by Canon 9, 2014.

³¹ Amended by Canon 13, 2010.

- (iii) neglect; or
 - (iv) physical abuse; or
 - (v) sexual assault, sexual exploitation, sexual harassment or sexually inappropriate behaviour³²; or
 - (vi) spiritual abuse; or
 - (vii)³³ grooming; or
 - (viii)³⁴ a child offence; or
 - (ix)³⁵ failure without reasonable excuse to report child abuse;
- (b) the possession, production or distribution of child exploitation material;

child exploitation material³⁶ means material that describes or depicts a person who is or who appears to be a child:

- (a) engaged in sexual activity; or
- (b) in a sexual context; or
- (c) as the subject of torture, cruelty or abuse (whether or not in a sexual context) in a way that a reasonable person would regard as being, in all the circumstances, offensive. Child exploitation material can include any film, printed matter, electronic data, computer image or any other depiction;

child offence³⁷ means conduct that amounts to a criminal offence against the laws of the Commonwealth, a State or Territory, or another country which is equivalent to a criminal offence of the Commonwealth or a State or Territory involving the failure to disclose a criminal offence committed against a child to the police;

Church authority means a diocesan bishop or a person or body having authority to ordain, license, elect, appoint, dismiss or suspend a member of the clergy or a lay person;

Church body³⁸ means any body corporate, organisation or association that exercises ministry within, or on behalf of, or in the name of, the Church, and is controlled by a diocese or province or the General Synod;

church worker means a lay person:

- (a) who is or was licensed or authorised by the bishop of a diocese; or
- (b) who is or was employed by a Church body³⁹; or
- (c)⁴⁰ who, for payment or not, holds or has held a position or performs a function with the actual or apparent authority of a Church authority or Church body, including an office, position or function:
 - (i) of leadership in a parish, diocese or General Synod body; and
 - (ii) as a member of the General Synod or a diocesan synod; and
 - (iii)⁴¹ as a member of a body controlled by a diocese or province or the General Synod; and
 - (iv) as a churchwarden, member of any parish council or member of any committee constituted by or by the authority of the General Synod, a diocesan synod or a parish council;

clergy means a person who is or has been a bishop, priest or deacon in this Church, but does not include a deceased person;

³² Amended by Canon 13, 2010; amended by Canon 10, 2017.

³³ Added by Canon 10, 2017.

³⁴ Added by Canon 10, 2017.

³⁵ Added by Canon 10, 2017.

³⁶ Inserted by Canon 9, 2014.

³⁷ Amended by Canon 10, 2017.

³⁸ Amended by Canon 13, 2010; amended by Canon 10, 2017.

³⁹ Amended by Canon 13, 2010.

⁴⁰ Amended by Canon 13, 2010.

⁴¹ Amended by Canon 10, 2017.

Controlled by a diocese or province or the General Synod⁴² means that the majority of the members of the body with management responsibility is elected or appointed:

- (a) in the case of a diocese, under an ordinance of the diocese, or under the constitution of the Church body by one or more of the bishop, the diocesan synod and the diocesan council;
- (b) in the case of a province, under an ordinance of the province, or under the constitution of the Church body by one or more of the metropolitan, the provincial synod and the provincial council;
- (c) in the case of the General Synod, under a canon of the General Synod, or under the constitution of the Church body by one or more of the Primate, the General Synod and the Standing Committee;

court or tribunal⁴³ means, in relation to an adverse finding or an adverse admission, a court or tribunal which has jurisdiction:

- (a) to make the adverse finding, or
- (b) to make an adverse finding in relation to the conduct which is subject to the adverse admission;

Defence Force Representative means the Bishop to the Defence Force or delegate or the Director of Professional Standards of the Defence Force or their successors in office;

Determiner means:

- (a) the person or body in a diocese having power to make findings or recommendations relating to the conduct of clergy or church workers; or
- (b) the Special Tribunal; or
- (c) the Episcopal Standards Board; or
- (d) the Appellate Tribunal; or
- (e) any other person or body determining an appeal from a person or body having power to make findings or recommendations relating to the conduct of clergy or church workers;

diocesan bishop means the bishop of a diocese, or in the absence of the bishop the commissary appointed by the bishop, or in the time of a vacancy in the see the administrator of the diocese or their successors in office;

Diocesan Representative means the diocesan bishop or delegate or the Director of Professional Standards of the diocese;

Director of the Episcopal Standards Commission means:

- (a) the Director of the Episcopal Standards Commission appointed under the Special Tribunal Canon 2007; or
- (b) a person acting in that office;

Director of Professional Standards means:

- (a) the Director of Professional Standards of a diocese or the Defence Force or his or her successor in office; or
- (b) the person who carries out the functions of a Director of Professional Standards in a diocese or the Defence Force or his or her successor in office; or
- (c) the person who works in conjunction with the Investigator; or
- (d) the Director of the Episcopal Standards Commission or his or her successor in office; or
- (e) a person acting in such an office;

emotional abuse means acts or omissions in relation to a child where the child has suffered, or is likely to suffer, significant harm to his or her wellbeing or development;

⁴² Added by Canon 10, 2017.

⁴³ Added by Canon 13, 2010.

Episcopal Standards Board means the Episcopal Standards Board constituted under the Episcopal Standards Canon 2007;

Episcopal Standards Commission means the Episcopal Standards Commission constituted under the Special Tribunal Canon 2007;

Exempt Information⁴⁴ means Information relating to a notifiable complaint or a notifiable charge, where the notifiable complaint or the notifiable charge has been exhausted;

exhausted⁴⁵ means a notifiable complaint or a notifiable charge which:

- (a) has been withdrawn; or
- (b) has been determined to be false, vexatious or misconceived; or
- (c) is one where a Determiner finds that it is more likely than not that the subject matter of the complaint did not occur; or
- (d) is one where a court or tribunal finds that it is more likely than not that the subject matter of the charge did not occur;

Failure without reasonable excuse to report child abuse⁴⁶ means the 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;

General Secretary means:

- (a) the General Secretary of the General Synod or his or her successor in office; or
- (b) a person acting in that office;

grooming⁴⁷ means conduct deliberately undertaken with the aim of engaging and influencing a person for the purpose of sexual activity;

independent person⁴⁸ means a person who

- (a) is not a member of the clergy; or church worker; and
- (b) has experience in undertaking audits of a similar nature to an audit of the operation of the National Register;

Information⁴⁹ means the matters other than Exempt Information, whether occurring before or after this Canon came into force:

- (a) relating to clergy specified in section 5(1):
 - (i) which are referred to in the First Schedule; and
 - (ii) which, as to any additional matters, are determined by the Standing Committee; or
- (b) relating to lay persons specified in section 6(1):
 - (i) which are referred to in the Second Schedule; and
 - (ii) which, as to any additional matters, are determined by the Standing Committee;

Investigator means the person or body in a diocese having power to investigate or cause to be investigated the conduct of clergy or lay persons or the Episcopal Standards Commission;

lay person means a person who has not been ordained, but does not include a deceased person;

licence includes an authority or permission to officiate;

⁴⁴ Amended by Canon 13, 2010.

⁴⁵ Amended by Canon 13, 2010.

⁴⁶ Added by Canon 10, 2017.

⁴⁷ Added by Canon 10, 2017.

⁴⁸ Added by Canon 10, 2017.

⁴⁹ Amended by Canon 13, 2010.

National Register means the National Professional Standards Register referred to in section 4;

neglect means the neglect of a child where the child has suffered, or is likely to suffer, significant harm to his or her wellbeing or development;

notifiable charge⁵⁰ means the charge of a person of:

- (a) the commission of a criminal offence; or
- (b) the engagement in professional misconduct; occurring within or outside of Australia, which a Director of Professional Standards certifies arises out of alleged sexual misconduct or child abuse by that person;

notifiable complaint means a complaint in accordance with the relevant canon, ordinance, rule or protocol received by a Director of Professional Standards of sexual misconduct or child abuse by a member of the clergy or a lay person, whenever and wherever occurring:

- (a) which has been communicated to the member of the clergy or lay person; or
- (b) which the Director of Professional Standards has certified has been sent to the last known postal or electronic address of the member of the clergy or lay person or
- (c)⁵¹ which is the subject of a police request;

physical abuse means the physical assault of a child other than lawful discipline by a parent or guardian;

police request⁵² means:

- (a) a request made orally or in writing by an officer of a police service that a member of the clergy or lay person not be notified of Information relating to that person; or
- (b) a further request or further requests up to a maximum of three further requests, each made before the expiry of the request or immediately preceding further request orally or in writing by an officer of a police service that a member of the clergy or lay person not be notified of the Information referred to in paragraph (a); or
- (c) a further request made before the expiry of a third further request referred to in paragraph (b) or any further requests after that, but made before the expiry of the immediately preceding further request, orally or in writing by an officer of a police service that a member of the clergy or lay person not be notified of the Information referred to in paragraph (a), but only when the General Secretary is satisfied that, for special or exceptional reasons, the further requests should have effect under subsection 9(5).

police request record⁵³ means a written record containing the name of the officer of the police service making a police request and his or her police service, the date of the making of the police request, the medium by which the police request is made, and the Information the subject of the police request;

police service⁵⁴ means the Australian Federal Police or the police service of a State or Territory of Australia;

professional standards role means a role undertaken as part of the professional standards policies and procedures and includes the role of a contact person, support person, Investigator and Determiner;

prohibition order means an order prohibiting a member of the clergy or a church worker from holding a specified position or office in or being appointed by a Church body or Church authority or from carrying out any specified functions in relation to any office or position in the diocese or in relation to any appointment by a Church body;

⁵⁰ Added by Canon 13, 2010.

⁵¹ Added by Canon 9 2014.

⁵² Added by Canon 9 2014.

⁵³ Added by Canon 9 2014.

⁵⁴ Added by Canon 9 2014.

Safe Ministry Check means the questionnaire for the selection of ordination candidates, for the screening of clergy, and for the screening of church workers who have contact with children in his or her ministry, in use in a diocese or the Defence Force;

sexual assault⁵⁵ means any intentional or reckless act, use of force or threat to use force involving some form of sexual activity against a person;

- (a) without their consent: or
- (b) with their consent in circumstances where consent is not a defence to such conduct under the applicable laws:
 - (i) of the Commonwealth, a State or Territory; or
 - (ii) another country where those law are of a substantially similar nature to a law of the Commonwealth, a State or Territory which provides that consent is not a defence to such conduct;

sexual exploitation⁵⁶ means any form of sexual contact or invitation to sexual contact with a person, with whom there is a professional or pastoral or supervisory relationship, regardless of who initiated the contact, but does not include such contact or invitation within a marriage;

sexual harassment⁵⁷ means:

- (a) an unwelcome sexual advance, or an unwelcome request for sexual favours, by a person to another person, or
- (b) other unwelcome conduct of a sexual nature by a person in relation to another person,

whether intended or not, in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated that the other person would be offended, humiliated or intimidated;

sexually inappropriate behaviour⁵⁸ means conduct of a sexual nature, other than sexual assault, sexual exploitation or sexual harassment, or grooming, which is inconsistent with the standards of sexual conduct applicable to clergy or church workers;

sexual misconduct⁵⁹ means the following conduct in relation to an adult:

- (a) sexual assault; or
- (b) sexual exploitation; or
- (c) sexual harassment; or
- (d) sexually inappropriate behaviour; or
- (e) grooming;

Special Tribunal means the Special Tribunal established in accordance with the provisions of Chapter IX of the Constitution;

spiritual abuse means the mistreatment of a child by actions or threats when justified by appeal to God, faith or religion where the child has suffered, or is likely to suffer, significant harm to his or her wellbeing or development;

Standing Committee means the Standing Committee of General Synod;

withdrawal of the police request⁶⁰ means a notification made orally or in writing by an officer of the police service concerned that it withdraws the police request relating to a member of the clergy or lay person;

⁵⁵ Added by Canon 10, 2017.

⁵⁶ Added by Canon 13, 2010; amended by Canon 10, 2017.

⁵⁷ Added by Canon 10, 2017.

⁵⁸ Added by Canon 10, 2017.

⁵⁹ Amended by Canon 13, 2010; amended by Canon 10, 2017.

⁶⁰ Added by Canon 9 2014.

withdrawal of the police request record⁶¹ means a written record containing the name of the officer of the police service making a withdrawal of the police request and his or her police service, the date of the making of the withdrawal of the police request, the medium by which the withdrawal of the police request is made, and the Information the subject of the withdrawal of the police request.

withdrawn in relation to a notifiable complaint includes the circumstance in which a Director of Professional Standards certifies that the person making the complaint has failed without reasonable excuse to comply with the relevant canon, ordinance, rule or protocol under which the complaint has been made;

working with children check⁶² means an authority to work with children issued under the laws of the Commonwealth or a State or Territory;

working with vulnerable people check⁶³ means registration to work with vulnerable people under the laws of the Commonwealth or a State or Territory.

PROTOCOL FOR PROVISION OF INFORMATION FOR INCLUSION IN THE NATIONAL REGISTER⁶⁴

Title

1. The Protocol may be cited as the "Protocol for provision of Information for inclusion in the National Register 2007".

Definitions

2. The words and expressions used in this Protocol have the same meaning as in the National Register Canon 2007.

Entry of Information by the Director of Professional Standards⁶⁵

3. A Director of Professional Standards who is required to enter information in the National Register relating to any member of the clergy or lay person shall do so by entering information electronically on the National Register and satisfying themselves that the Information is accurate.

Accuracy and completeness of Information⁶⁶

4. The Director of Professional Standards, whenever satisfied that Information on the National Register is inaccurate or incomplete, shall amend the Information to ensure its accuracy and completeness.
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⁶¹ Added by Canon 9 2014.

⁶² Amended by Canon 10, 2017.

⁶³ Added by Canon 10, 2017.

⁶⁴ Amended - Clauses 3A, 5 and 6 deleted by Standing Committee Resolution SC2013/1/22.

⁶⁵ Heading and Clause 3 amended at the Seventeenth Session of General Synod 6 September 2017.

⁶⁶ Heading and Clause 4 amended at the Seventeenth Session of General Synod 6 September 2017.

PROTOCOL FOR ACCESS TO AND DISCLOSURE OF INFORMATION IN THE NATIONAL REGISTER

Part 1 General

Title

1. The Protocol may be cited as the "Protocol for access to and disclosure of Information in the National Register 2007".

Part 2 Access by authorised persons

Acknowledgment and agreement of authorised persons

2. The General Secretary must not allow an authorised person other than himself or herself to have any access to Information in the National Register unless he or she has received a signed document in the form of the acknowledgement and agreement at the end of this Schedule from the authorised person. The General Secretary must sign this form of acknowledgement and agreement before undertaking any responsibility under this Canon. The acknowledgment and agreement will remain in force unless withdrawn or the signatory ceases to be an authorised person.

Register of authorised persons

3. The General Secretary must maintain a register of the name, contact details, and the period of access to the National Register, of each authorised person.

Record of reason for access

4. Each time an authorised person has access to Information in the National Register relating to a member of the clergy or lay person (other than the General Secretary, or any person within the General Synod Office whose duties include assisting the General Secretary in maintaining the National Register), he or she must declare to the General Secretary the reason for the access, and the Church authority to which the Information will be disclosed.

Log of access by authorised persons

5. The General Secretary must maintain a log of each access recording the name of the authorised person and the member of the clergy or lay person, the details on the declaration relating to the access, and the date of access.

Access by and disclosure to third parties under compulsion of law

6. Subject to this Protocol, an authorised person may only give access to, and disclose, Information in the National Register relating to a member of the clergy or lay person to a person if compelled by law to do so.

Non- disclosure of information where there is a police request

- 6A.⁶⁷ An authorised person who has access to Information in the National Register in respect of which there is a notation of a police request must not disclose the existence or substance of the Information to the person to whom the Information relates.

Part 3 Access and disclosure by a Diocesan Representative

Ordination, the issue of a licence or appointment to a position within the diocese

7. Where a Church authority proposes to ordain, or issue a licence to, or to appoint to a position within the diocese, a member of the clergy or lay person, the Diocesan Representative, where

⁶⁷ Inserted by the Sixteenth Session of General Synod 1 July 2014.

required to by the procedures of the Church authority, is authorised to have access to any Information in the National Register relating to the member of the clergy or lay person and disclose whether there is any such, and if so what, Information to the Church authority.

Application for ordination, the issue of a licence or appointment to a position within the diocese

8. Where a member of the clergy or lay person applies for ordination, or the issue of a licence, or appointment to a position within the diocese, the Diocesan Representative, where required to by the procedures of the Church authority, is authorised to have access to any Information in the National Register relating to the member of the clergy or lay person and disclose whether there is any such, and if so what, Information to the Church authority.

Invitation to apply for ordination, the issue of a licence or appointment to a position within the diocese

9. Where a Church authority invites a member of the clergy or lay person to apply for ordination, or the issue of a licence, or appointment to a position within the diocese, and the member of the clergy or lay person expresses interest in making an application, the Diocesan Representative, where required to by the procedures of the Church authority, is authorised to have access to any Information in the National Register relating to the member of the clergy or lay person and disclose whether there is any such, and if so what, Information to the Church authority.

Part 4 Access and disclosure by the Defence Force Representative

10. The Defence Force Representative, where required to by the Primate or the Bishop to the Defence Force, is authorised to have access to and disclose any Information in the National Register relating to a member of the clergy or lay person in the same circumstances as a Diocesan Representative.

Error! Bookmark not defined.Part 5 Access and disclosure by a Director of Professional Standards

Abuse and allegations of abuse

11. Where a Director of Professional Standards receives information relating to sexual misconduct or child abuse or alleged sexual misconduct or child abuse by a member of the clergy or a lay person, he or she is authorised to have access to any Information in the National Register relating to the member of the clergy or lay person. The Director of Professional Standards is authorised to disclose whether there is any such, and if so what, Information to an Investigator, Determiner or other applicable Church authority.

Appointment of persons to professional standards roles

12. Where a Church authority proposes to appoint a member of the clergy or lay person to or in a professional standards role, and the member of the clergy or lay person has expressed interest in accepting the appointment, the Director of Professional Standards, where required by the relevant procedures for the appointment of persons to professional standards roles, is authorised to have access to any Information in the National Register relating to the member of the clergy or lay person. The Director of Professional Standards is authorised to disclose whether there is any such, and if so what, Information to the person expressing interest in the appointment, and the Church authority.

Election of bishop

- 13.⁶⁸ Where a member of the clergy accepts nomination, or expresses interest in accepting nomination, for appointment as a bishop, or has been so nominated and consents to a search of the National Register for Information relating to the nominee, the Director of Professional Standards, where required to by the procedures of the diocese for the election of a bishop, is authorised to have access to any Information in the National Register relating to the member of the clergy. The

⁶⁸ Amended by Standing Committee, April 2010 (SC2010/1/54).

Director of Professional Standards is authorised to disclose whether there is any such, and if so what, Information to each member of the clergy accepting nomination or expressing interest in accepting nomination, and the Church authority or nomination committee.

Election of persons by a Church authority

14. Where a Church authority holds an election for which members of the clergy or lay persons are candidates, the Director of Professional Standards, where required to by the procedures of the diocese for the conduct of elections, is authorised to have access to any Information in the National Register relating to the candidates. The Director of Professional Standards is authorised to disclose whether there is any such, and if so what, Information to the candidates, and the Church authority.

Consecration of bishop

15. Where a person in priest's orders is to be consecrated bishop:
- (a) the Director of Professional Standards of the diocese for or in respect of which the consecration is to take place; or
 - (b) the Director of Episcopal Standards in any other case; is authorised to have access to any Information in the National Register relating to the person. The Director of Professional Standards is authorised to disclose whether there is any such, and if so what, Information to the person to be consecrated and the Metropolitan, Primate or other bishop as the case requires.

Disclosure to third parties where there is consent

16. A Director of Professional Standards is authorised to have access to any Information in the National Register relating to a member of the clergy or lay person and disclose in writing whether there is any such, and if so what, Information to a third party, where he or she has received the consent in writing of the member of the clergy or lay person. The Director of Professional Standards must take reasonable steps to check the postal or electronic address of the third party before sending a letter containing the disclosure to the third party at that address.

Disclosure to third parties where necessary to protect persons from the risk of abuse

17. A Director of Professional Standards is authorised to have access to any Information in the National Register relating to a member of the clergy or lay person and disclose that Information to a third party, where he or she reasonably believes that disclosure is necessary to protect the third party or any other person from the risk of abuse by the member of the clergy or lay person.

Part 6 Access and disclosure by the General Secretary

Election of the Primate

18. When an election is held for the Primate, each of the General Secretary and the Director of Episcopal Standards, where required to by the Primate Canon 1985, is authorised to have access to any Information in the National Register relating to the candidates and disclose whether there is any such, and if so what, Information to the candidates, and the Board of Electors.

Election and appointment of persons by the General Synod

19. Where the General Synod holds an election for which members of the clergy or lay persons are candidates, or proposes to appoint a member of the clergy or lay person to a position and the member of the clergy or lay person expresses interest in the appointment, the General Secretary, where required to by the procedures of the General Synod for the conduct of elections and making appointments, is authorized to have access to any Information in the National Register relating to the candidates or the member of the clergy or lay person and disclose whether there is any such, and if so what, Information to the candidates or persons expressing interest in the appointment, and the General Synod.

Election, appointment and nomination of persons by the Standing Committee⁶⁹

20.⁷⁰ Where the Standing Committee holds an election for which members of the clergy or lay persons are candidates, or proposes to appoint or nominate a member of the clergy or lay person to a position or for election by the General Synod under rule 7(c)(1) and (2) of the Standing Orders and the member of the clergy or lay person expresses interest in the appointment or nomination, the General Secretary, where required to by the procedures of the Standing Committee for the conduct of elections and making appointments, is authorised to have access to any Information in the National Register relating to the candidates or the member of the clergy or lay person and disclose whether there is any such, and if so what, Information to the candidates or persons expressing interest in the appointment, and the Standing Committee.

Advice by the Standing Committee to the Primate regarding the appointment of members of a Reference Commission

20A.⁷¹ Where the Primate seeks the advice of the Standing Committee regarding the appointment of a member of a Reference Commission under s 14 of the Strategic Issues, Commissions, Task Forces and Networks Canon 1998, and a person expresses interest in the appointment, the General Secretary, where required to by the procedures of the Standing Committee for giving advice regarding such an appointment, is authorised to have access to any Information in the National Register relating to the person and disclose whether there is any such, and if so what, Information to the person, and the Standing Committee.

Preparation of material for and submissions to the Royal Commission into Institutional Responses to Child Sexual Abuse⁷²

20B.⁷³ The General Secretary is authorised to have access to Information relating to child abuse and to disclose it in de-identified form to the Royal Commission Working Group and to any lawyer or other person retained on behalf of the General Synod for any purpose in connection with providing advice to the Primate, Dioceses and Anglican organisations with the preparation of material for and submissions to the Royal Commission into Institutional Responses to Child Sexual Abuse.

Information for a Determiner

20C.⁷⁴ Where a request is received from or on behalf of a Determiner as to whether there is any Information in the National Register relating to a member of the clergy or lay person, the General Secretary is authorised to have access to the National Register and disclose whether there is any such, and if so what, Information therein to the Determiner.

20D.⁷⁵ When the General Secretary receives an application for information about a church worker from a prescribed person, whether directly or through a diocesan authority or otherwise, within the meaning of the Disclosure of Information Canon 2017, the General Secretary is authorised to have access to any Information in the National Register relating to the church worker and disclose whether there is any such, and if so what, Information relating to the church worker to the prescribed person.

Certificate as to Information in the National Register

21. The General Secretary will provide to a member of the clergy or lay person, at his or her request, a certificate stating whether there is any, and if so what, Information in the National Register relating to the member of the clergy or lay person.

⁶⁹ Amended by Standing Committee, May 2017 (SC2017/02/47).

⁷⁰ Amended by Standing Committee, May 2017 (SC2017/02/47).

⁷¹ Inserted by Standing Committee, October 2009 (SC2009/3/036).

Amended by Standing Committee, November 2016 (SC2016/2/35).

⁷² Inserted by Standing Committee, November 2016 (SC2016/2/30).

⁷³ Inserted by Standing Committee, April 2013 (SC2013/1/22).

⁷⁴ Inserted by Standing Committee, November 2016 (SC2016/2/30).

⁷⁵ Inserted by the Seventeenth Session of General Synod 6 September 2017.

Part 6A Access and Disclosure by the Primate

Appointment of the General Secretary

21A.⁷⁶ Where the Standing Committee proposes to appoint the General Secretary (whether in a permanent or acting capacity), and a person expresses interest in the appointment, the Primate, where required to by the procedures of the Standing Committee for making such an appointment, is authorized to have access to any Information in the National Register relating to the person and disclose whether there is any such, and if so what, Information to the person, and the Standing Committee.

Part 7 Access by staff of the General Synod Office

22.⁷⁷ Any person within the General Synod Office whose duties include assisting the General Secretary in maintaining the National Register is authorised to have access to any Information in the National Register for the purposes of:

- (a) providing assistance to another authorised person and carrying out any maintenance or enhancement of the National Register; and
- (b) disclosing to a person duly authorised by the Bishop of a diocese to conduct an audit or other formal review of compliance by personnel of that diocese with duties under the National Register Canon 2007 and the protocols made thereunder subject to the person so authorised signing a confidentiality agreement in a form approved by the General Secretary.

Acknowledgment and agreement

I (insert name), the (insert position and diocese if applicable) acknowledge that I have read the protocols approved under the National Register Canon 2007:

- (a) Protocol for provision of Information for inclusion in the National Register 2007;
- (b) Protocol for access to and disclosure of Information in the National Register 2007;
- (c) Protocol to ascertain the details of any Information and access to that Information in the National Register 2007;
- (d) Protocol for amendment of Information in the National Register 2007.

I agree to abide by these protocols, and not to disclose my password to any other person.

(Date)

(Signature).

PROTOCOL TO ASCERTAIN DETAILS OF ANY INFORMATION AND ACCESS TO THAT INFORMATION IN THE NATIONAL REGISTER

Title

1. The Protocol may be cited as the "Protocol to ascertain details of any Information and access to that Information in the National Register 2007".

⁷⁶ Inserted by Standing Committee, October 2009 (SC2009/3/036).

⁷⁷ Amended by Standing Committee, November 2014 (SC2014/3/27).

Application to ascertain details of any Information and access to that Information in the National Register

2. A person applying:
- (a) to ascertain the existence and obtain a copy of any Information relating to himself or herself; or
 - (b) to obtain details of any access to any Information relating to himself or herself by an authorized person;
- shall complete the form issued by the General Secretary in which is specified the postal or electronic address to which they General Secretary is to send the reply, and send the completed form to the General Secretary.

Notification of the details of any Information and access to that Information in the National Register

3. As soon as practical after receiving the application referred to in clause 2, the General Secretary shall, after being reasonably satisfied that the application is being made by the person specified therein, notify the person by written notification sent to his or her nominated postal or electronic address whether:
- (a) there is any Information in the National Register, and if so provide a copy of that Information; or
 - (b) any authorised person has had access to any Information in the National Register relating to the person, and if so details of each declaration made by each authorised person under clause 4 of the Protocol for access to and disclosure of Information in the National Register 2007.

PROTOCOL FOR AMENDMENT OF INFORMATION IN THE NATIONAL REGISTER

Title

1. The Protocol may be cited as the "Protocol for amendment of Information in the National Register 2007".

Application for amendment of Information in the National Register

2. A person making an application for the amendment of the Information in the National Register relating to himself or herself shall complete the form issued by the General Secretary, in which is specified:
- (a) the Information which is sought to be amended, and
 - (b) the ground on which the amendment is sought, and
 - (c) any evidence in support of the amendment, and
 - (d) the corrected or additional Information that would be entered in the National Register, and the deleted Information that would be removed from the National Register, if the amendment were made, and
- send the completed form to the General Secretary.

Provision of the application to the Director of Professional Standards

3. As soon as practical after receiving the application referred to in clause 2, the General Secretary shall provide a copy of the application to the Director of Professional Standards who notified the General Secretary of the Information for inclusion in the National Register.

Review of the application by the Director of Professional Standards

4. As soon as practical, and no later than one month, after receiving a copy of the application referred to in clause 3 unless an extension of time is granted by the General Secretary, the Director of Professional Standards shall review the application and notify the General Secretary as to whether he or she agrees, disagrees or has insufficient information to be able to agree or disagree, with the proposed amendment.

Amendment of Information or inclusion of statement in the National Register

5. As soon as practical after receiving the notification of the Director of Professional Standards referred to in clause 4, the General Secretary, subject to the exclusion of irrelevant or scandalous matter, shall:
 - (a) where the Director of Professional Standards agrees with the proposed amendment, make the amendment;
 - (b) where the Director of Professional Standards disagrees with the proposed amendment, include a statement containing the proposed amendment in the National Register with a notation that the Director of Professional Standards, who notified the General Secretary of the Information for inclusion in the National Register, disagrees with the proposed amendment;
 - (c) where the Director of Professional Standards has insufficient information to be able to agree or disagree with the proposed amendment, include a statement containing the proposed amendment in the National Register with a notation that the Director of Professional Standards, who notified the General Secretary of the Information for inclusion in the National Register, has insufficient information to be able to agree or disagree with the proposed amendment, and notify the person making the application of its outcome.



Offences Ordinance 1962

(Reprinted under the *Interpretation Ordinance 1985*.)

The Offences Ordinance 1962 as amended by the General Synod - Offences Amendment Canon 1981 Adopting Ordinance 1982, the General Synod - Special Procedure Canon 1992 Adopting Ordinance 1993, the Offences Ordinance 1962 Amendment Ordinance 1994, the General Synod - Offences Canon Amendment Canon 1998 Adopting Ordinance 1998, the Discipline Ordinance 2006, the General Synod – Offences Canon Amendment Canon 2007 Adopting Ordinance 2009, the Discipline Amendment Ordinance 2014 and the General Synod – Offences Amendment Canon 2017 Adopting Ordinance 2017.

Table of Provisions

Clause	
1	Declaration of Opinion
2	Adoption of Canon
3	Specified offences
4	Repeal
5	Citation
Schedule	

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Long Title

An Ordinance to adopt a certain canon of the Anglican Church of Australia entitled the “Offences Canon 1962” and for other purposes.

Preamble

Whereas a certain Canon was passed by the General Synod of the Anglican Church of Australia entitled the “*Offences Canon 1962*”.

And Whereas it is expedient that the said Canon should be adopted by the Church in this Diocese.

The Synod of the Diocese of Sydney declares ordains and rules as follows.

Declaration of Opinion

1. That in accordance with the provisions of the Constitution of the Anglican Church of Australia this Synod is of the opinion that the provisions of the said Canon affect or are deemed to affect the order and good government of the Church in this Diocese.

Adoption of Canon

2. That the provisions of the said Canon excepting so much thereof as relates to the original jurisdiction of the provincial tribunal shall be and is hereby adopted and shall so far as the same are applicable be applied to the management of the Church in this Diocese in like manner as if the said ordinance had been ordained and ruled by the Synod of this Diocese.

2A. The text of the said Canon incorporating amendments adopted by the Church in this Diocese is set out in the Schedule.

Specified offences

3. (1) The following are specified as offences for which a charge may be heard and determined by the Diocesan Tribunal (in addition to those specified by canon) –

- (a) Sexual abuse.
- (b) ...
- (c) Conviction in New South Wales of an offence which is punishable by penal servitude or imprisonment for 12 months or upwards or a conviction outside New South Wales of an offence which, if committed in New South Wales, would be an offence so punishable.
- (d) Grooming.
- (e) Inappropriate pastoral conduct involving a child.
- (f) Possession, production or distribution of child exploitation material.

Notes:

Section 54(2) of the 1961 Constitution provides that a charge in respect of a breach of faith ritual or ceremonial may be made against a person licensed by the Archbishop or any other person in holy orders resident in the Diocese.

(2) For the purposes of subclause (1), “church authority”, “Diocesan Tribunal”, “sexual abuse”, “grooming”, “inappropriate pastoral conduct involving a child” and “child exploitation material” have the same meanings as in the Ministry Standards Ordinance 2017.

Notes

4. (1) Notes in this Ordinance are for explanatory purposes only and do not form part of the Ordinance.

(2) The Diocesan Secretary is authorised to update the notes when reprinting this Ordinance under clause 8 of the Interpretation Ordinance 1985.

Citation

5. This Ordinance may be cited as the “Offences Ordinance 1962”.

Schedule

A Canon to specify Offences under sections 54, 55, and 56 of the Constitution.

The General Synod prescribes as follows –

1. A Diocesan Tribunal and a Provincial Tribunal in its original jurisdiction in addition to their respective powers under section 54(2) and section 55(3) of the Constitution may hear and determine charges made in respect of the following offences alleged to have been committed by a person who, at the time the charge is preferred, is licensed by the bishop of the diocese or is in holy orders resident in the diocese –

1. Unchastity.
2. Drunkenness.
3. Habitual and wilful neglect of ministerial duty after written admonition in respect thereof by the Bishop of the Diocese.
4. Wilful failure to pay just debts.
5. Conduct, whenever occurring,
 - (a) which would be disgraceful if committed by a member of the clergy, and
 - (b) which at the time the charge is preferred is productive, or if known publicly would be productive, of scandal or evil report.
6. Any other offence prescribed by an Ordinance of the Synod of the Diocese.
7. Child abuse.
8. 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.

2. The Special Tribunal in addition to its powers under section 56(6) of the Constitution may hear and determine charges against any person referred to in paragraphs (a) and (b) of section 56(6) of the Constitution made in respect of the following offences –

1. Unchastity.
2. Drunkenness.
3. Wilful failure to pay just debts.
4. Conduct, whenever occurring,
 - (a) which would be disgraceful if committed by a member of the clergy, and
 - (b) which at the time the charge is preferred is productive, or if known publicly would be productive, of scandal or evil report.
5. Wilful violation of the Constitution or of the Canons made thereunder or of the Ordinances of the Provincial Synod or of this Diocesan Synod.
6. Any conduct involving wilful and habitual disregard of his consecration vows.
7. Child abuse.

8. 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.
9. Failure to comply with a direction of the Episcopal Standards Board established under the Episcopal Standards Canon 2007 or the Episcopal Standards (Child Protection) Canon 2017 or any other Board established under an ordinance of a provincial synod or diocesan synod for dealing with the fitness of a bishop to hold office or to be or remain in Holy Orders.

2A. The Special Tribunal may hear and determine charges against any person referred to in paragraph (c) of section 56(6) of the Constitution made in respect of the following offences committed while a member of the House of Bishops or assistant to the Primate:

1. Wilful violation of the constitution or of the canons made thereunder or of the ordinances of provincial synod or of the bishop's diocesan synod relating to child abuse.
2. Child abuse.
3. 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.
4. Conduct relating to child abuse (whenever the child abuse occurred),
 - (a) which would be disgraceful if committed by a member of the clergy, and
 - (b) which at the time the charge is preferred is productive, or if known publicly would be productive, of scandal or evil report.

2B. In this canon, unless the context otherwise requires, child abuse has the same meaning as in the National Register Canon 2007.

3. This Canon may be cited as the "Offences Canon 1962-1981".

4. The offences added to this canon by the Offences Amendment Canon 2017 apply to conduct committed after the date the Offences Amendment Canon 2017 was passed by the General Synod.

Notes

1. The offences added to the Schedule by the *Offences Amendment Canon 2017* (Ordinance No. 35, 2017) apply to conduct committed after the date that Canon was passed by the General Synod, namely 5 September 2017.
2. By subclause 3(3) of Ordinance No. 35, 2017 the amendments in subclause 3(2) of that Ordinance are taken not to have been made in respect of complaints made under the *Discipline Ordinance 2006* prior to the commencement of the *Ministry Standards Ordinance 2017*.
3. By subclause 3(4) of Ordinance No. 35, 2017, and despite the amendments in subclause 3(2) of that Ordinance, a charge for the offence of child abuse under clause 3(1)(b) of the form of the *Offences Ordinance 1962* immediately before the commencement of this Ordinance may be heard and determined by the Diocesan Tribunal but only –
 - (a) in respect of complaints made under the *Discipline Ordinance 2006* prior to the commencement of the *Ministry Standards Ordinance 2017*, or
 - (b) where the conduct alleged to constitute child abuse was committed before 5 September 2017.

Table of Amendments

[not reproduced here]



Special Tribunal Canon 2007

Canon 13, 2007 as amended by
Canon 11, 2010
Canon 14, 2010
Canon 03, 2014
Canon 08, 2014
Canon 11, 2017
Canon 12, 2017

A canon to provide for the investigation of matters which may become the subject of a charge before the Special Tribunal and to provide for the appointment and procedure of the Special Tribunal.

The General Synod prescribes as follows:

PART 1 - PRELIMINARY

1. This Canon may be cited as the "Special Tribunal Canon 2007".
2. In this Canon, unless the context otherwise requires:

"**Bishop**" means a bishop referred to in section 56(6) of the Constitution; and

"**bishop**" means a person in bishop's orders.

"**Church**" means the Anglican Church of Australia;

"**Church body**" includes the Primate, the General Synod, a diocese, diocesan synod, diocesan council, diocesan trustee or trust corporation or other body responsible for administering the affairs of a diocese, or an institution or agency of this Church or of a diocese;

"**Commonwealth**" means the Commonwealth of Australia;

"**complaint**" means a complaint against a Bishop alleging a breach of faith, ritual, ceremonial or discipline or alleging an offence as may be specified by Canon;

"**Director**" means the Director of the Episcopal Standards Commission appointed under Part 3;

"**Episcopal Standards Commission**" or "**ESC**" means the Episcopal Standards Commission established under Part 2;

"**incapable**" means incapable for the purposes of the Bishop (Incapacity) Canon 1995;

"**National Register**" means a National Register established pursuant to a Canon of General Synod for a purpose which includes the recording of determinations of the Tribunal;

"**priest**" means a person who is in priest's orders who is not a bishop;

"**protocol**" means the protocol approved under Part 3 of the Episcopal Standards Canon 2004;

"**relevant Metropolitan**", means:

- (a) in relation to the bishop of a diocese:
 - (i) unless paragraph (iii) or (iv) applies, the Metropolitan of the Province in which the diocese is situated; or
 - (ii) if the diocese is an extra-provincial diocese, the Primate; or
 - (iii) if the bishop is the Metropolitan but not the Primate, the Primate; or

- (iv) if the bishop is the Primate, the person who, at the relevant time, is the next most senior Metropolitan who is available, seniority being determined by the date of consecration; and
- (b) in relation to any other Bishop, the Primate;

"**respondent**" means a bishop whose alleged conduct or omission is the subject of a complaint;

"**Subsection 43(2) Exclusion**"¹ means an ordinance made by the synod of a diocese under subsection 43(2) which:

- (a) declares that paragraph (a) of subsection 43(1) shall have no effect in respect of the Bishop of that diocese; and
- (b) has not been revoked by that synod.

"**Tribunal**" means the Special Tribunal.

- 2A.²
- (1) The ESC has no powers or duties under this canon, apart from the duty imposed by subsection (2), in relation to a diocese or the Bishop thereof while there is a Subsection 43(2) Exclusion in effect in relation to that diocese.
 - (2) If the ESC receives a complaint in relation to the Bishop of a diocese while there is a Subsection 43(2) Exclusion in effect in relation to that diocese, the ESC must refer the complainant and the complaint:
 - (a) where the diocese is part of a province and the complaint is not in respect of the Metropolitan of that province, to the Metropolitan of that province;
 - (b) where the diocese is part of a province and the complaint is in respect of the Metropolitan of that province, to the Metropolitan of another province, and
 - (c) where the diocese is not part of a province and the complaint is in respect of the Bishop of that diocese, to a Metropolitan.

PART 2 – EPISCOPAL STANDARDS COMMISSION

- 3. There shall be an Episcopal Standards Commission.
- 4.
 - (1) The ESC shall have at least three members.
 - (2) The membership of the ESC shall be constituted so as collectively to provide:
 - (a) experience in law;
 - (b)³ a person in bishops' orders who is not a Bishop; and
 - (c) experience and appropriate professional qualifications in child protection, social work or counselling.
 - (3) The ESC so far as is reasonably practicable shall have an equal number of men and women.
- 5.⁴
 - (1) The members of the ESC shall be appointed by the Standing Committee.
 - (2) The members of the ESC shall hold office for a term of not more than 5 years (which may be renewed) and on such other terms and conditions as may be determined by the Standing Committee from time to time.
 - (3) Notwithstanding the provisions of this Canon (other than section 5A) or of any other canon, the members of the ESC holding office immediately before the Special Tribunal Canon 2007 Amendment Canon 2010 comes into force, will cease to hold office at the conclusion of the second meeting of the Standing Committee following the 15th General Synod.

¹ Added by Canon 11, 2010.

² Added by Canon 11, 2010.

³ Amended by Canon 14, 2010.

⁴ Amended by Canon 14, 2010.

- (4) If a member of the ESC is unable to undertake their role by reason of incapacity or conflict of interest, the Standing Committee may appoint an additional member to the ESC in accordance with this Canon for such period as the Standing Committee may determine.

5A.⁵ A member of the ESC shall cease to hold office upon:

- (a) death of the member;
- (b) resignation of the member;
- (c) declaration by a competent court or tribunal that the member is incapable of managing his or her affairs;
- (d) the member ceasing to reside permanently in Australia;
- (e) conviction or finding of guilt of the member in any court of any offence punishable by imprisonment;
- (f) the member becoming a Bishop;
- (g)⁶ the member reaching the age of 75 years; or
- (h) the passing of a resolution –
 - (i) by the Standing Committee by a two-thirds majority of those members present and voting, or
 - (ii) by the General Synod voting as a whole passed by a two-thirds majority of those members present and voting
 to remove the member from office.

6. (1) The convenor of the ESC shall be appointed by the Standing Committee.
- (2) The ESC may meet from time to time as determined by the convenor or a majority of its members and may conduct its business by telephone or electronic communication.
- (3) Subject to this Canon the procedures of the ESC shall be as determined by the ESC.
- (4) A majority of the members shall constitute a quorum.
- (5) A decision taken other than at a meeting of the ESC, if supported by a majority of members of the ESC, constitutes a decision of the ESC.
- (6) The ESC shall act in all things as expeditiously as possible.
7. An act or proceeding of the ESC is not invalid by reason only of a vacancy in its membership and, notwithstanding the subsequent discovery of a defect in the nomination or appointment of a member, any such act or proceeding is as valid and effectual as if the member had been duly nominated or appointed.
8. Subject to the provisions of this Canon, the Director, a member of the ESC and a person employed or engaged on work related to the affairs of the ESC must not divulge information that comes to his or her knowledge by virtue of that office or position except:
- (a) in the course of carrying out the duties of that office or position;
 - (b) as may be authorised by or under this or another Canon;
 - (c) in any proceedings before the Special Tribunal;
 - (d) as may be required by law; or
 - (e) to any insurer or insurance broker of a Church body where the information may give rise to or be relevant to a claim for indemnity by the Church body against the insurer or is relevant to obtaining or continuing insurance cover.

⁵ Inserted by Canon 14, 2010.

⁶ Amended by Canon 11, 2017.

9. Subject to section 51, the ESC may release to the public such material as it may determine with respect to any complaint.
10. (1) Without disclosing the identity of any complainant or the respondent, the ESC shall report annually to the Standing Committee on its activities for that calendar year.
- (2) Notwithstanding subsection (1), the report of the ESC pursuant to that subsection may identify a respondent who has been exonerated from an allegation the subject of a complaint or who has been the subject of a determination or recommendation by the Tribunal.
- (3) Subject to sub-section (4) the ESC shall, in respect of every matter with which it is dealing, report either orally or in writing to the Primate with such frequency and as fully as the Primate may reasonably require.
- (4) If the matter relates to the conduct of the Primate, such reports shall be made to and at the direction of the senior Metropolitan at the time in Australia who is not the Primate.
11. (1) Subject to sub-section (2), the ESC may delegate, upon such terms and conditions as the ESC may approve, any of its powers or functions under this Canon to any person.
- (2) The ESC cannot delegate:
- (a) its powers under subsection (1);
- (b) its powers under section 12(1)(g); or
- (c) its powers under section 22.
- (3) A delegation under this section must be made by instrument in writing signed by a member of the ESC.
12. (1) Subject to the provisions of this Canon the ESC has the following powers and duties:
- (a) to receive complaints;
- (b) to investigate the subject matter of complaint in a timely and appropriate manner;
- (c) where appropriate to arrange for the conciliation and mediation of any complaint;
- (d) where the complaint relates to an alleged offence against the law of a State or Territory of the Commonwealth or against a law of the Commonwealth, to refer any information in its possession to a member of the appropriate law enforcement, prosecution or child protection authority and to co-operate as far as possible with any such authority;
- (e) to maintain proper records of all complaints received and of action taken in relation to such complaints;
- (f) subject to any limit imposed by the Standing Committee to authorise such expenditure on behalf of the General Synod as may be necessary to implement, in a particular case, the provisions of this Canon;
- (g) to promote a charge against a Bishop before the Tribunal.
- (2) In exercising its powers under this Canon the ESC may, where it considers it to be appropriate, adopt the provisions of the protocol.
13. (1) The ESC shall only take action in respect of a complaint alleging an offence mentioned in the First Schedule where the complaint relates to conduct or an omission alleged to have occurred not more than twelve calendar months prior to the date on which the complaint is received by the ESC.
- (2) For the purposes of this section a complaint will be deemed to have been received by the ESC when received at the office of the General Secretary of the General Synod or, if posted by certified or registered mail to the Director or to the General Secretary of the General Synod, forty-eight hours after the posting of the complaint.

PART 3 – DIRECTOR OF EPISCOPAL STANDARDS COMMISSION

14. (1) There shall be a Director of the Episcopal Standards Commission.
- (2) The Director shall be appointed by and shall hold office in accordance with a resolution of the Standing Committee.
15. The Director shall have the following functions:
 - (a) to be the executive officer of the ESC;
 - (b) to attend meetings of the ESC unless the ESC in respect of a particular meeting or part of a meeting shall otherwise determine;
 - (c) such other functions and duties as may be prescribed by this or any other Canon or as may be determined by the Standing Committee or the ESC.
16. The Director may act in a corresponding capacity for a diocese either generally or for a particular case or matter.

PART 4 – COMPLAINTS

17. A person may make a complaint against a Bishop by writing signed by the person making the complaint.
18. Subject to this Canon, when the ESC receives a complaint it shall investigate the allegations contained in the complaint.
19. The ESC may refrain from further investigation of the allegations if:
 - (a) in its opinion, the allegations are vexatious or misconceived, or their subject matter is trivial;
 - (b) the subject matter is under investigation by some other competent person or body or is the subject of legal proceedings;
 - (c) the person making the complaint has failed, when requested by the ESC, to provide further particulars or to verify the allegations by statutory declaration; or
 - (d) in its opinion there is insufficient reliable evidence to warrant an investigation or further investigation.
20. For the purpose of an investigation the ESC or an investigator shall endeavour to obtain such statutory declarations, written statements, recorded conversations, reports, documents and other material as the ESC or its delegate considers necessary or desirable.
21. (1) The ESC must by notice in writing allow the respondent to provide a detailed report to the ESC within the time specified in the notice in relation to any matter relevant to the investigation, and must provide a summary of the complaint including the substance of the allegations and the name of the complainant.
- (2) If a respondent declines to answer a question on the ground that the answer might tend to incriminate the person a written record shall be made of the question and of the ground of refusal.
22. At any time after the commencement of an investigation into a complaint against a Bishop under this Part the ESC may:
 - (a) if it considers on reasonable grounds that the Bishop may be incapable, report the matter in writing to the relevant Metropolitan, and such report shall be a report for the purposes of section 4 of the Bishops (Incapacity) Canon 1995 as if it were made by three members of the synod of a diocese pursuant to that section;
 - (b) subject to section 43, institute proceedings by way of charge against a bishop before the Tribunal; or
 - (c) in the event that the bishop whose conduct is under investigation ceases to be a Bishop, refer the matter, together with such information as it shall have received, to the bishop of the diocese in which the former Bishop then resides.

23. (1) The fact that the subject matter of a complaint may be settled or resolved in whole or in part between the parties affected thereby does not prevent the ESC from taking any of the steps referred to in section 22 in respect of the subject matter of the complaint.
- (2) Any term of settlement or resolution referred to in sub-section (1) which purports to prevent or to limit the institution of proceedings by way of charge against a bishop shall be of no effect.
- (3) Proceedings shall not be instituted or maintained in the Tribunal where the bishop concerned has relinquished or has been deposed from Holy Orders in accordance with the Holy Orders, Relinquishment and Deposition Canon 2004.
24. If:
- (a) following the receipt of a complaint, the ESC, under section 19, refrains from further investigation of the allegations contained in the complaint;
- (b) the ESC does not arrange for the conciliation and mediation of the complaint, or
- (c) following an investigation, under this Part, of the allegations contained in a complaint, the ESC does not bring a charge, under section 43, against the bishop in respect of whom the complaint is made, or
- the ESC must, without delay, provide the person who made the complaint with full and complete reasons, in writing, for its decision.

PART 5 – THE SPECIAL TRIBUNAL

25. (1) The members of the Tribunal shall be appointed from a panel comprising:
- (a) A senior presidential member and another presidential member each of whom is qualified to be a lay member of the Appellate Tribunal;
- (b) three Bishops; and
- (c) three priests of at least seven years' standing;
- elected by General Synod in accordance with any Rule of General Synod for the conduct of elections.
- (2) In the event that a presidential member is nominated for election as the senior presidential member or that an election is otherwise required for the two presidential members, an election for both presidential members shall be held at the same time and the person with the highest number of votes shall be the senior presidential member and the person with the next highest number of votes shall be the other presidential member.
26. (1) Subject to sub-section (2), a member of the panel shall cease to hold office upon:
- (a) death;
- (b) resignation;
- (c)⁷ declaration by any competent court or tribunal that the member is incapable of managing his or her affairs;
- (d) ceasing to reside permanently in Australia;
- (e) conviction or finding of guilt in any court of any offence punishable by imprisonment;
- (f) in the case of a Bishop, ceasing to be a Bishop or on becoming the Primate;
- (g) in the case of a priest, on becoming a bishop; and
- (h)⁸ in any event at the commencement of the ordinary session of General Synod which shall take place next after the member attains the age of 75 years.

⁷ Amended by Canon 14, 2010.

⁸ Amended by Canon 11, 2017.

- (2) A member of the panel who is a member of the Tribunal for particular proceedings of the Tribunal shall continue to hold office until the completion of the proceedings notwithstanding that the member may cease to be a Bishop or may otherwise cease to be a member of the panel by virtue of age.
27. Any Bishop who vacates office upon ceasing to be a Bishop, having accepted appointment to a different office of Bishop, shall, upon installation as Bishop in the different office, be automatically re-appointed to the panel or the Tribunal as the case may be.
28. If any vacancy in the membership of the panel occurs while the General Synod is not in session and it becomes necessary or desirable for the vacancy to be filled before the next ordinary session of the General Synod, the Primate shall cause the General Secretary to notify the members of the General Synod that such vacancy is to be filled, to invite the submission of names of candidates for nomination, and to notify them of the date fixed by the Primate, being a date not less than six weeks after posting such notification, by which names should be submitted. If no more names are received than the number of vacant positions to be filled, the General Secretary shall declare the persons named to be elected to the panel. Otherwise, the General Secretary shall conduct a postal ballot of the members of General Synod to determine the person or persons to be elected, such ballot to be conducted in accordance with the rules for the time being in force for the conduct of ballots with such modifications as are necessary, and the General Secretary shall declare the person or persons who are successful in such ballot to be the person or persons elected by the General Synod to the panel. Upon the Secretary declaring a person to be elected to the panel, the person or persons shall become a member or members of the panel.
29. Any vacancy not filled pursuant to section 27 or section 28 shall be filled at the next ordinary session of the General Synod by the election by the General Synod of a person qualified to fill the vacancy.
30. The members of the panel to be convened for any sitting of the Tribunal shall be appointed by the senior presidential member or, if he or she is unwilling or unable to act, or if there is a vacancy in the office of senior presidential member, by the other presidential member.
31. (1) The Rules of the Tribunal made under this Part may provide that, in relation to the exercise of specified functions, or in relation to matters of a specified class, the Tribunal may, at the direction of the President, be constituted by a single member sitting alone.
- (2) The Tribunal constituted by a single member sitting alone cannot determine a charge or make a recommendation as to sentence.
32. The Tribunal, separately constituted in accordance with this Part, may sit simultaneously for the purpose of matters referred to it or for conducting separate business of the Tribunal.
33. An act or proceeding of the Tribunal is not invalid by reason only of a vacancy in its membership or the membership of the panel and, notwithstanding the subsequent discovery of a defect in the nomination or appointment of a member of the panel or the Tribunal, any such act or proceeding is as valid and effectual as if the member had been duly nominated or appointed.
34. The Registrar of the Tribunal shall be the General Secretary of the General Synod.
35. (1) The place and time of sitting of the Tribunal shall be as determined by the President of the Tribunal.
- (2) In any proceedings of the Tribunal where the Tribunal is constituted by two or more members:
- (a) any question of law or procedure will be determined by the President; and
- (b) any other question will be determined by majority decision of the members, and in the case of an equality of votes the opinion of the President shall prevail.
- (3) Where the Tribunal is constituted by a member sitting alone who is not the President, any question of law that arises must be referred to the President for decision and any decision made on such a reference is a decision of the Tribunal.

- (4) The Tribunal must act with fairness and according to equity, good conscience and the substantial merits of the case without regard to technicalities or legal forms and is not bound by the rules of evidence but may inform itself on any matter in such manner as it thinks fit.
 - (5) Without limiting the meaning and effect of sub-section (4), the Tribunal may receive evidence of a witness in the form of an affidavit, statutory declaration or a signed statement without the need for the personal attendance of the witness, and may also use electronic means such as video link or conference telephone to receive evidence and submissions, but must permit the respondent and his representative (if any) opportunity to adequately cross-examine each witness
 - (6) The Tribunal may inform itself from the record of any court or tribunal and may adopt any findings, and accept as its own, the record of any court or tribunal.
36. The Tribunal must give reasons for any determination, other than by way of directions in the course of a proceeding, unless the determination is made by consent of the respondent.
37. At any hearing before the Tribunal or before a member of it the ESC and the bishop may be represented by a legal practitioner or, with leave of the Tribunal, by any other person.
38. A decision of the Tribunal is the decision of a majority of the Tribunal.
39. At any time during the course of a hearing the Tribunal may, if it sees fit, obtain the opinion of the Board of Assessors of the Appellate Tribunal.
40. The Tribunal may make an order by consent of the parties before it.
41. (1) The Tribunal has no power to award costs of any proceedings before it.
- (2) A bishop who is the subject of a charge before the Tribunal may apply to the Standing Committee for the provision of legal assistance.
- (3) The Standing Committee may grant legal assistance to the bishop on such terms and subject to such conditions as it shall determine.
42. (1) The presidential members of the panel may make rules of the Tribunal in relation to the practice and procedure of the Tribunal.
- (2) Subject to this Canon and the relevant rules, the practice and procedure of the Tribunal will be as directed by the President of the Tribunal.

PART 6 – PROMOTION OF A CHARGE BEFORE THE SPECIAL TRIBUNAL

43. (1) A charge against a bishop in the Tribunal may be brought:
- (a) by the ESC;
 - (b) by another Bishop; or
 - (c) in respect of a Bishop holding office or a licence in a diocese, in accordance with the provisions of an ordinance of the synod of that diocese.
- (2) The synod of a diocese may by ordinance declare that paragraph (a) of subsection (1) shall have no effect in respect of the Bishop of that diocese, in which case paragraph (a) of subsection (1) will not apply to that Bishop.
- (3) A declaration under subsection (2) –
- (a) shall not affect any proceedings in respect of a charge brought before such ordinance takes effect; and
 - (b) does not limit in any other respect the powers of the ESC contained in this or any other Canon in force in a diocese.

- (4) In respect of a charge brought pursuant to paragraph (c) of subsection (1) against the Bishop of a diocese in respect of whom there is in force a declaration under subsection (2), the General Synod shall not be responsible for the costs of bringing such a charge.
- (5) In respect of a charge brought pursuant to –
- (a) paragraph (b) of subsection (1), or
 - (b) paragraph (c) of subsection (1) where there is no declaration under subsection (2) in force in respect of that Bishop,

the Special Tribunal or the Appellate Tribunal as the case may be may direct the General Synod to indemnify the person or body who or which brought the charge in respect of the costs of bringing the charge, and the General Synod will indemnify such person or body accordingly.

44. (1) A charge against a Bishop must:
- (a) be in writing;
 - (b) specify the alleged offence and provide particulars of the alleged offence;
 - (c) be signed by a member of the body or the person bringing the charge; and
 - (d) be lodged with the Registrar.
- (2) A signed copy of the charge shall be served on the Bishop personally or by leaving it at or posting it to the office of the Bishop's Registry in an envelope addressed to the bishop and marked "**Private and Confidential**".
- (3) A charge, once instituted, may be amended or withdrawn by the person or body which instituted it.
- (4) Amendment or withdrawal of a charge does not prevent another person or body from bringing or proceeding with a charge in terms the same as or similar to a charge before it was amended or withdrawn.

PART 7 – PROCEEDINGS BEFORE THE SPECIAL TRIBUNAL

45. (1) Upon lodgement of a charge with the Registrar, the presidential member referred to in section 30 shall as soon as possible appoint the members of the Tribunal for the purpose of hearing the charge.
- (2) The President of the Tribunal shall thereupon cause to be convened a directions hearing presided over by a member of the Tribunal.
- (3) The person or body bringing the charge and the bishop shall comply with the rules of the Tribunal and with any directions given by a member of the Tribunal at a directions hearing.
46. (1) The Tribunal shall deal with any charge as expeditiously as possible.
- (2) The Tribunal may, if it sees fit, proceed with the hearing of a charge notwithstanding that there may be mediation or conciliation proceedings relating to the subject matter of the charge being conducted by the ESC and notwithstanding that there may be criminal or other proceedings being taken against the bishop.
- (3) Subject to section 23(3) the Tribunal may make a recommendation notwithstanding that the bishop the subject of the charge has ceased, after lodgement of the charge with the Registrar, to be a Bishop.
47. (1) Subject to sub-section (2), the Tribunal must give the following persons reasonable notice of the time and place of a sitting of the Tribunal:
- (a) the person or body bringing the charge; and
 - (b) the respondent; and
 - (c) such other persons as the Tribunal believes have a proper interest in the matter.

- (2) The Tribunal is not obliged to give notice of a sitting to a person whose whereabouts cannot, after reasonable enquiries, be ascertained.
48. (1) Subject to sub-section (2), a sitting of the Tribunal on a reference before the Tribunal is an open sitting.
- (2) On any such sitting before the Tribunal, the Tribunal has an absolute discretion to direct that persons other than -:
- (a) the respondent and any person representing the respondent in the proceedings; and
 - (b) witnesses or persons making submissions (while giving evidence or making those submissions); and
 - (c) officers of the Tribunal or persons assisting the Tribunal; or
 - (d) the person or members of the body bringing the charge or their representatives;
- not be present in the room while the Tribunal is sitting.
49. The Tribunal may make a determination in any proceedings in the absence of a person affected by the determination if satisfied that reasonable efforts were made to give that person an opportunity to appear.
50. In making any determination the Tribunal shall take into account:
- (a) the conduct of the bishop as it finds it to have been; and
 - (b) in the material before the Tribunal, any other fact or circumstance relevant to the determination of the question before it.
51. (1) At any time after the first directions hearing the Tribunal or, if so authorised by the Tribunal, the person or body bringing the charge, may make public a statement concerning the nature of the charge and the bishop against whom the charge is brought.
- (2) Upon the determination of any charge by the Tribunal and the recommendation of any sentence by the Tribunal, the Tribunal, or if so authorised by the Tribunal, the person or body bringing the charge, may make public a statement of the decision and, where appropriate, concerning the nature of the charge proved and the sentence imposed by the Tribunal, together with such reasons or a summary thereof as the Tribunal shall direct or approve.
- 52.⁹ In a case where entry is required under the *National Register Canon 2007*, a recommendation of the Tribunal, or the date and particulars of the recommendation, shall be entered on the National Register together with a record of any action taken consequent upon the recommendation.
53. Any appeal to the Appellate Tribunal from the Tribunal, other than in respect of a breach of faith, ritual or ceremonial, shall be by leave of the Appellate Tribunal.

PART 8 – DEPOSITION FROM ORDERS

54. (1) The deposition of a bishop from Holy Orders by the Primate pursuant to the recommendation of the Tribunal shall be effected by the execution by the Primate of an Instrument of Deposition in or to the effect of the form in the Second Schedule.
- (2) The Primate must forthwith:
- (a) register the Instrument in the Registry of the Primate;
 - (b) deliver a copy of the Instrument to the bishop of the diocese or dioceses in which the former Bishop who is the subject of the Instrument was ordained priest and bishop;
 - (c) if the former Bishop was a diocesan bishop, deliver a copy of the Instrument to the registrar of the diocese concerned; and
 - (d) cause relevant details to be forwarded for entry into the National Register.

⁹ Amended by Canon 8, 2014.

PART 9 – TRANSITIONAL

55. The persons named hereunder shall hold the respective offices until their successors are appointed or elected in accordance with the provisions of this Canon:

Episcopal Standards Commission

Convenor: Mr Geoffrey Spring

Members: Ms Margaret Fuller, OAM; The Right Rev'd Ronald Stone.

Director of the Episcopal Standards Commission:

Ms Rena Sofroniou

Special Tribunal Panel

Senior Presidential Member: Sir Robert Woods, CBE.

Presidential Member: The Hon Justice Debra Mullins

Diocesan Bishops: The Most Rev'd Jeffrey Driver

The Most Rev'd Philip Freier

The Right Rev'd John Harrower

Priests: The Rev'd Canon Dr Colleen O'Reilly

The Ven. Dr Chris R Jones

The Very Rev'd Andrew J Sempell

FIRST SCHEDULE

(Section 13(1))

1 Any breach of faith, ritual or ceremonial;

2 Drunkenness;

3 Wilful failure to pay just debts.

4^{10 11}

¹⁰ Amended by Canon 3, 2014.

¹¹ Deleted by Canon 12, 2017.

SECOND SCHEDULE

TO

I, PRIMATE/ARCHBISHOP of
do hereby depose you from Holy Orders (particulars of which are set out below) in accordance with the
recommendation of the Special Tribunal of the Anglican Church of Australia dated the
day of

PARTICULARS OF HOLY ORDERS

FULL NAME AND
ADDRESS

	ORDAINING BISHOP(S)	PLACE	DATE
ORDINATION AS DEACON
ORDINATION AS PRIEST
CONSECRATION AS BISHOP

DATED:

SEALED





Faithfulness in Service

**A national code
for personal behaviour and
the practice of pastoral
ministry by clergy and church
workers**

**Adopted by the Synod of
the Anglican Church of
Australia in the Diocese of
Sydney**

2022

FAITHFULNESS IN SERVICE

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<i>First Edition 2005</i>	<i>Code as adopted by the Synod of the Anglican Church of Australia in the Diocese of Sydney in October 2004</i>
<i>Second Edition 2006</i>	<i>Incorporating amendments adopted by the Standing Committee of the Synod of the Diocese of Sydney to September 2006</i>
<i>Third Edition 2007</i>	<i>Incorporating amendments adopted by the Synod of the Diocese of Sydney to October 2007</i>
<i>Fourth Edition 2012</i>	<i>Incorporating amendments adopted by the Synod of the Diocese of Sydney to October 2012</i>
<i>Fifth Edition 2014</i>	<i>Incorporating amendments adopted by the Synod of the Diocese of Sydney to October 2014</i>
<i>Sixth Edition 2017</i>	<i>Incorporating amendments adopted by the Synod of the Diocese of Sydney to October 2017</i>
<i>Seventh Edition 2022</i>	<i>Incorporating amendments adopted by the Synod of the Diocese of Sydney to October 2022</i>

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FOREWORD



Jesus called the Twelve and said, "anyone who wants to be first must be the very last, and the servant of all." "If anyone causes one of these little ones-those who believe in me-to stumble, it would be better for them if a large millstone were hung around their neck and they were thrown into the sea. Mark 9:35,42

Don't let anyone look down on you because you are young, but set an example for the believers in speech, in conduct, in love, in faith and in purity... Watch your life and doctrine closely. Persevere in them, because if you do, you will save both yourself and your hearers. 1 Tim 4:12,16

The Scriptures make clear that Christian ministry is both a privilege and a solemn responsibility. Jesus teaches his disciples that if they wish to be 'great', they must imitate him, and make themselves servants of all. Jesus is explicit in highlighting the particular responsibility of those who serve in his name to treat the most vulnerable with especial care, and that the penalties for failing to do so will be most severe. The apostles echo the teaching of Jesus throughout the New Testament - Christian leaders are to set an example to the faithful and pursue lives of godly conduct - in word and deed, in relationship with others, and in self-control.

Faithfulness in Service is the National Code of Conduct of the Anglican church of Australia and has been adopted by the Synod of the Diocese of Sydney. It provides clear guidance as to the particular expectations and practices to which ministry leaders are to conform not only in ministry settings, but in personal conduct. I encourage all those who have ministry responsibilities in the Sydney diocese, whether in parishes, schools or organisations, to make themselves familiar with its contents and to periodically review its five sections so that we create a strong and consistent culture of godly conduct and safe ministry.

I am deeply grateful to every person who serves in the life and ministry of our diocese, whether ordained or lay, part time or full time. I pray for each of you in the words of the apostle to the Thessalonian church: May our Lord Jesus Christ himself and God our Father, who loved us and by his grace gave us eternal encouragement and good hope, encourage your hearts and strengthen you in every good deed and word. 2 Thessalonians 2:16-17

In Christ

Kanishka Raffel

Archbishop of Sydney

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1 ABOUT THIS CODE

Faithfulness in service

When Jesus spoke to his disciples he said they were not to be like the rulers of the day who exercised authority over others. They were to be servants of others, even as Jesus did not come to be served, but to serve.

When Peter wrote to the Christians scattered throughout Asia Minor, he reminded them of their identity in Christ as God's chosen people, sanctified by the Spirit for obedience to Jesus Christ. The call to be holy is reflected in both the Old and New Testaments as the appropriate response to God's grace. Christians live according to the knowledge that they have been created by God and redeemed by Christ.

When Paul wrote to the Philippian Christians he rejoiced in their fellowship and prayed that their love might grow in knowledge and discernment so that they might see what was significant for their Christian vocation and be enabled to live pure and blameless lives for the day of Jesus Christ. In the light of that growing knowledge of God's love they are to live in humility and faithfulness in the power of the Holy Spirit. They live out that love in their contact with others, especially those to whom they minister in Christ's name.

The Church is the fellowship that nurtures and sustains Christians as they seek to follow Christ faithfully and participate in God's mission. Its leaders especially are to be examples of Christian faith and obedience as they exercise their vocation, in dependence on the Holy Spirit.

The personal behaviour and practices of pastoral ministry required of clergy (bishops, priests and deacons) of the Anglican Church of Australia are specified in the Holy Scriptures as well as in its Constitution, canons, ordinances, the Book of Common Prayer and the Ordinal. Although not bound by the promises made by clergy, church workers (lay persons who are employed or hold a position or perform a function within the Anglican Church of Australia) are expected to conform to the same behaviour and practices as clergy – except in areas that apply only to clergy.

Purpose

This Code is intended to identify the personal behaviour and practices of pastoral ministry that will enable clergy and church workers to serve faithfully those among whom they minister. If the behaviour and practices it outlines are followed, our communities will be safer places for everyone, where integrity is honoured, accountability is practised and forgiveness encourages healing and does not conceal misconduct.

Implementation

This Code was adopted by the General Synod of the Anglican Church of Australia in 2004 as the national code for personal behaviour and the practice of pastoral ministry by clergy and church workers.

It is important that this Code be understood by clergy and church workers. Each diocese will need to ensure that its clergy and church workers are trained in the Code and its application to personal behaviour and pastoral ministry. Clergy and church workers undertaking pastoral ministry will need to apply the standards and guidelines of this Code in their specific circumstances.

Format and presentation

Each section of this Code consists of three parts:

- a *preamble* which introduces the section;
- *standards* which state the Church's expectations for personal behaviour and the practice of pastoral ministry;
- *guidelines* which explain and illustrate best practice and highlight practical ways to achieve it.

Throughout the Code, all key terms appear in **bold text** the first time they appear in a section and their definitions are contained in the section headed 'Key Terms'. Some additional educational material and advice is included in Section 5, Children.

2 KEY TERMS

abuse in relation to an adult means the following conduct:

- bullying;
- emotional abuse;
- harassment;
- physical abuse;
- sexual abuse; or
- spiritual abuse.

bullying means behaviour directed to a person or persons which:

- is repeated;
- is unreasonable (being behaviour that a reasonable person, having considered the circumstances, would see as unreasonable, including behaviour that is victimising, humiliating, intimidating or threatening); and
- creates a risk to their health and

safety. Bullying can include:

- making derogatory, demeaning or belittling comments or jokes about someone's appearance, lifestyle, background or capability;
- communicating in an abusive manner;
- spreading rumours or innuendo about someone or undermining in other ways their performance or reputation;
- dismissing or minimising someone's legitimate concerns or needs;
- inappropriate ignoring, or excluding someone from information or activities;
- touching someone threateningly or inappropriately;
- invading someone's personal space or interfering with their personal property;
- teasing someone, or playing pranks or practical jokes on someone;
- displaying or distributing written or visual material that degrades or offends.

Bullying does not include lawful conduct of clergy or church workers carried out in a reasonable manner, such as:

- disagreeing with or criticising someone's belief or opinions or actions in an honest and respectful way;
- giving information about inappropriate behaviour in an objective way to the person or persons concerned and to any other person with a proper reason for having that information;
- setting reasonable performance goals, standards or deadlines;
- giving information about unsatisfactory performance in an honest and constructive way;
- taking legitimate disciplinary action.

Cyberbullying is a form of bullying which involves the use of information and communication technologies.

child means anyone under the age of 18.

child abuse means the following conduct in relation to a child:

- bullying;
- emotional abuse;
- harassment;
- neglect;
- physical abuse;
- sexual abuse; or
- spiritual abuse.

child exploitation material means material that describes or depicts a person who is or who appears to be a child –

(a) engaged in sexual activity; or

(b) in a sexual context; or

(c) as the subject of torture, cruelty or abuse (whether or not in a sexual context) in a way that a reasonable person would regard as being, in all the circumstances,

offensive. Child exploitation material can include any film, printed matter, electronic data, computer image or any other depiction.

child pornography means sexually explicit or suggestive material depicting children. Child pornography is a form of child exploitation material.

Church means the Anglican Church of Australia.

church authority means the person or body having authority to ordain, license, appoint, dismiss or suspend a member of the clergy or church worker.

church body includes a parish, school, or any body corporate, organisation or association that exercises pastoral ministry within, or on behalf of, or in the name of, the Church.

church worker means a lay person:

- who is licensed or authorised by the bishop of a diocese;
- who is employed by a church body in respect of whom this Code is part of their employment contract; or
- who, for payment or not, holds a position or performs a function with the actual or apparent authority of a church authority or church body, including an office, position or function:
 - of leadership in a parish, diocese or General Synod body;
 - as a member of the General Synod or a diocesan synod;
 - as a member of a body incorporated by the General Synod, a diocese or a diocesan synod;
 - as a churchwarden, member of any parish council or member of any committee constituted by or by the authority of the General Synod, a diocesan synod or a parish council;

in respect of whom the diocesan synod, the diocesan council, the church authority or the church body has adopted this Code.

civil authorities means the police and the relevant State or Territory government child protection authority.

clergy means bishops, priests and deacons of the Church.

corporal punishment means any punishment inflicted on the body.

Director of Professional Standards means the person in a diocese who has responsibility for the maintenance of professional standards of clergy and church workers.

emotional abuse means acts or omissions that have caused, or could cause emotional harm or lead to serious behavioural or cognitive disorders. It includes:

- 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.

grooming refers to actions deliberately undertaken with the aim of engaging and influencing an adult or a child for the purpose of sexual activity.

In the case of sexual abuse of a child, an offender may groom not only the child, but also those close to the child, including the child's parents or guardians, other family members, clergy and church workers. Grooming can include providing gifts or favours to the child or their family.

In the case of sexual abuse of an adult, an offender may groom not only the adult, but also those close to them, including their children, clergy and church workers.

harassment means unwelcome conduct, whether intended or not, in relation to another person where the person feels with good reason in all the circumstances offended, belittled or threatened. Such behaviour may consist of a single incident or several incidents over a period of time. It includes:

- making unwelcome physical contact with a person;
- making gestures or using language that could reasonably give offence including continual and unwarranted shouting;
- making unjustified or unnecessary comments about a person's capacities or attributes;
- putting on open display pictures, posters, graffiti or written materials that could reasonably give offence;
- making unwelcome communication with a person in any form (for example, phone calls, email, text messages) ; and
- stalking a person.

individual pastoral ministry means pastoral ministry carried out one-to-one. It includes spiritual direction, or pastoral counselling arising out of bereavement, divorce or other life crises.

neglect means the failure to provide the basic necessities of life where a child's health and development are placed at risk of harm. It includes being deprived of:

- food;
- clothing;
- shelter;
- hygiene;

- education;
- supervision and safety;
- attachment to and affection from adults; and
- medical care.

offensive language includes blasphemy, verbal harassment, racial and other forms of vilification, personal insult or comment and obscene words.

pastoral ministry means the work involved or the situation which exists when a member of the clergy or church worker has responsibility as part of their role for the wellbeing of others. This includes the provision of spiritual advice and support, education, counselling, medical care, and assistance in times of need.

pastoral relationship means a relationship between clergy or church workers and any person for the purposes of pastoral ministry.

physical abuse means any intentional or reckless act, use of force or threat to use force causing injury to, or involving unwelcome physical contact with, another person. This may take the form of slapping, punching, shaking, kicking, burning, shoving or grabbing. An injury may take the form of bruises, cuts, burns or fractures. It does not include lawful discipline by a parent or guardian.

professional supervision/consultation is a formal, collaborative process which a more senior or experienced person uses to develop and support a person in their ministry.

This relationship is confidential, evaluative, and extends over time. It is preferable if the supervisor:

- has no other pastoral or personal relationship with the person being supervised; and
- has been trained in professional supervision.

prohibited material means:

- publications, films and computer games that have been classified by the Office of Film and Literature Classification as being unsuitable for a child to read, see or play;
- any other images or sounds not subject to classification by the Office of Film and Literature Classification that are considered with good reason within the Church to be unsuitable for a child to see or hear; and
- any substance or product whose supply to or use by children is prohibited by law, such as alcohol, tobacco products, illegal drugs and gambling products.

prohibited substance means any substance banned or prohibited by law for use or consumption by adults.

restricted material means:

- publications, films, and computer games that have been classified as Category 1 or 2 restricted, X or RC classification by the Office of Film and Literature Classification; and
- any other images or sounds not subject to classification by the Office of Film and Literature Classification (for example, internet material) that are considered with good reason within the Church as being offensive on the grounds of violence, sex, language, drug abuse or nudity.

sexual abuse of an adult means sexual assault, sexual exploitation or sexual harassment of an adult.

sexual abuse of a child means the use of a child by another person for his or her own sexual stimulation or gratification or for that of others. It includes:

- making sexual advances to a child using any form of communication;
- exposing oneself indecently to a child;
- having or attempting to have vaginal or anal intercourse with a child;
- penetrating or attempting to penetrate a child's vagina or anus with an object or any bodily part;
- kissing, touching, holding or fondling or attempting to kiss, touch, hold or fondle a child in a sexual manner;
- staring at or secretly watching a child for the purpose of sexual stimulation or gratification;
- making any gesture or action of a sexual nature in a child's presence;
- making sexual references or innuendo in a child's presence using any form of communication;
- discussing or inquiring about personal matters of a sexual nature with a child;
- possessing, creating or exposing children to child exploitation material of a sexual nature;
- exposing a child to any form of sexually explicit or suggestive material including clothing with sexually explicit images or messages;
- giving goods, money, attention or affection in exchange for sexual activities with a child;
- giving goods, money, attention or affection in exchange for images of a child for the purpose of sexual gratification of themselves or others; and
- encouraging, or forcing or attempting to encourage or force a child:
 - to sexually touch or fondle another person;
 - to perform oral sex;
 - either to masturbate self or others, or to watch others masturbate; and
 - to engage in or watch any other sexual activity.

Sexual abuse of a child does not include:

- sex education with the prior consent of a parent or guardian; or
- age appropriate consensual sexual behaviour between peers (i.e. the same or a similar age).

sexual assault means any intentional or reckless act, use of force or threat to use force involving some form of sexual activity against an adult without their consent. It includes:

- having or attempting to have vaginal or anal intercourse with a person without their consent;
- penetrating or attempting to penetrate another person's vagina or anus with an object or any bodily part without that person's consent;
- sexually touching and fondling or attempting to sexually touch or fondle a person without their consent;
- kissing or attempting to kiss another person without their consent;
- holding or attempting to hold another person in a sexual manner without their consent;
- forcing or attempting to force a person to sexually touch or fondle another person; and

- forcing or attempting to force a person to perform oral sex.

sexual exploitation refers to any form of sexual contact or invitation to sexual contact with an adult, with whom there is a pastoral or supervisory relationship, whether or not there is consent and regardless of who initiated the contact or invitation. It does not include such contact or invitation within a marriage.

sexual harassment means:

- an unwelcome sexual advance, or an unwelcome request for sexual favours, to the other person, or
- other unwelcome conduct of a sexual nature in relation to the other person, in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated that the other person would be offended, humiliated or intimidated.

Such behaviour may consist of a single incident or several incidents over a period of time. It includes:

- asking a person for sex;
- giving a person to understand that you would like sexual favours from them;
- making any gesture, action or comment of a sexual nature to a person directly or making a comment of a sexual nature about them in their presence;
- making jokes containing sexual references or innuendo using any form of communication;
- exposing a person to any form of sexually explicit or suggestive material;
- making unwelcome physical contact such as touching, pinching, or patting;
- making unwelcome or unnecessary inquiries about or attempts to discuss personal matters of a sexual nature;
- deliberately intruding on an individual's personal space;
- staring at or secretly watching a person for the purpose of sexual stimulation or gratification; and
- stalking a person.

spiritual abuse means the mistreatment of a person by actions or threats when justified by appeal to God, faith or religion. It includes:

- using a position of spiritual authority to dominate or manipulate another person or group;
- using a position of spiritual authority to seek inappropriate deference from others;
- isolating a person from friends and family members; and
- using biblical or religious terminology to justify abuse.

3 PUTTING THIS CODE INTO PRACTICE

Preamble

- 3.1 This Code will only be effective if it is widely known and available throughout the **Church**, practised consistently and implemented justly. **Clergy** and **church workers** will protect the safety of others and themselves by observing its standards and following its guidelines.
- 3.2 The absence of any reference to particular conduct in this Code does not imply that it is acceptable for clergy and church workers.
- 3.3 All clergy and church workers have a responsibility to ensure that personal behaviour and practices of pastoral ministry that are inconsistent with this Code are neither tolerated nor covered up.
- 3.4 Failure to meet the standards of this Code will indicate an area where clergy and church workers require guidance and specialised help. Such failures may result in formal disciplinary action if the conduct infringes an applicable disciplinary rule of the Church or is a breach of an employment contract.
- 3.5 Clergy and church workers are encouraged to follow the guidelines of this Code. Where this is impractical, the exercise of judgement will be required to ensure the safety of those to whom they minister and themselves. Wilful disregard of the guidelines may indicate an area where clergy and church workers require guidance and specialised help.

Standards for clergy and church workers

These standards state the Church's expectations for personal behaviour and the practice of pastoral ministry.

- 3.6 It is your responsibility to be aware of and meet the standards of this Code.
- 3.7 If you have overall authority in a **church body**, you are to ensure that all clergy and church workers for whom you are responsible are made aware of this Code.
- 3.8 You are not to penalise, discriminate or take action against other clergy or church workers because of any action taken in good faith under this Code.

Guidelines

These guidelines explain and illustrate best practice and highlight practical ways to achieve it.

- 3.9 If you know or have reason to believe that another member of the clergy or another church worker has failed to meet a standard of this Code, other than for **child abuse**, (the reporting of child abuse is addressed in paragraphs 5.14 and 5.15), you should:

- where you believe that a person has not suffered harm or is not at the risk of harm, approach the member of the clergy or church worker and identify the concern; or
- where you believe that a person has suffered harm or is at the risk of harm, report this to the **church authority** having responsibility for the member of the clergy or church worker or the **Director of Professional Standards**.

If in doubt seek advice from a colleague or supervisor or the Director of Professional Standards without identifying the member of the clergy or church worker.

- 3.10 If you know or have reason to believe that another member of the clergy or another church worker has not followed a guideline of this Code, you should approach the member of the clergy or church worker and identify the concern. If you consider that the member of the clergy or church worker is persisting in disregarding the guideline without good reason and a person has suffered harm or is at the risk of harm, you should seriously consider reporting this to the church authority with responsibility for the member of the clergy or church worker or the Director of Professional Standards. If in doubt seek advice from a colleague or supervisor or the Director of Professional Standards without identifying the member of the clergy or church worker.

4 PASTORAL RELATIONSHIPS

Preamble

- 4.1 All people are created in the image of God and are of equal value. This is the foundation of all **pastoral relationships**.
- 4.2 Clergy have authority conferred upon them by their ordination, consecration and licensing. Church workers have authority conferred upon them by their appointment. The authority and training associated with their roles means that they have power in pastoral relationships which is always to be exercised in the service of others.
- 4.3 Trust is of primary importance in the creation and maintenance of an effective pastoral relationship. Trust grows with the maintenance of physical, sexual, emotional and psychological boundaries suitable to pastoral ministry. (The issues of Children and Sexual Conduct are addressed in Sections 5 and 7 respectively.) Clergy and church workers will enhance their ability to maintain these boundaries by attending to their own wellbeing.
- 4.4 While clergy and church workers often enjoy personal friendships with those to whom they minister, their pastoral ministry responsibilities take precedence.
- 4.5 Clergy and church workers are colleagues in **pastoral ministry**: the activity of one inevitably impacts upon the ministry of others.

Standards for clergy and church workers

These standards state the Church's expectations for personal behaviour and the practice of pastoral ministry.

- 4.6 If you have overall authority in a **church body**, you are to ensure that clergy and church workers for whom you are responsible are provided with:
- a safe working environment, including safe housing, where housing is provided;
 - opportunities to maintain and enhance their ministry skills; and
 - personal encouragement, support and regular feedback.
- 4.7 When exercising pastoral ministry you are to act in the best interests of those to whom you are ministering. You must recognise any potential conflict of interest and take steps to resolve it.
- 4.8 When exercising pastoral ministry you are not inappropriately to discriminate between people.
- 4.9 You are not to disclose confidential information received in pastoral ministry to your spouse, family, friends, colleagues or any other person without the consent of the person providing the information, except where:
- the information is known publicly;
 - as required or allowed by law; or

- it is in the public interest (such as to avoid the risk of serious injury or harm to any person).

4.10 When you are on leave or unable to fulfil your responsibilities through illness or any other reason, you are to make alternative arrangements for pastoral ministry.

Guidelines

These guidelines explain and illustrate best practice and highlight practical ways to achieve it.

Boundaries

- 4.11 Make sure you are clear about the requirements of your role, including the hours to be worked and the nature of your responsibilities as well as your leave and other entitlements. You need to be sure that your legitimate personal needs can be met.
- 4.12 Recognise the limits of your skills and experience. Do not undertake any ministry (such as relationship counselling, counselling for abuse or addictions, or an exorcism) that is beyond your competence or the role for which you have been employed or trained. If in doubt seek advice. A person who requires specialised help should be referred to an appropriately qualified person or agency.
- 4.13 Where ministry responsibilities overlap, be aware of the activities, function and style of other clergy and church workers. Consult with these colleagues and co-operate wherever possible.
- 4.14 Where your ministry responsibility to one person may conflict with your responsibility to another person to whom you are ministering, or with your own needs, you should seek advice from a colleague or supervisor. Consider the possibility of transferring ministry responsibility for one or both of these to another minister.
- 4.15 If you are unable to act in the best interest of the person to whom you are ministering because of your own interests you should seek advice from a colleague or supervisor and transfer ministry responsibility for the person to another minister.
- 4.16 Avoid behaviour that could give the impression of favouritism and inappropriate special relationships, particularly with individual children.
- 4.17 Think carefully before providing pastoral ministry to a person with whom you already have a close personal relationship, such as a friend or member of your family. Care is needed because confusion between close personal relationships and pastoral relationships can lead to a loss of objectivity, failure to act in the other's best interest and harm to both parties.
- 4.18 Pastoral relationships can legitimately develop into romantic relationships. If this begins to happen:
- acknowledge to yourself that your personal interest and the pastoral relationship are at risk of becoming confused;
 - tell the other person that your relationship is changing and becoming romantic;

- disclose the nature of the relationship to a supervisor or colleague to ensure accountability and prevent misunderstanding; and
 - where practicable:
 - disclose to a supervisor or colleague any proposed alternative arrangements for ongoing **individual pastoral ministry**;
 - make alternative arrangements for ongoing individual pastoral ministry; and
 - cease providing individual pastoral ministry to the person.
- 4.19 If you are providing ongoing individual pastoral ministry or counselling, engage someone to provide regular professional supervision. This will help protect you and those to whom you minister.
- 4.20 When you resign or retire, you should generally terminate existing pastoral relationships. You should do this in a sensitive and timely manner to allow these responsibilities to be undertaken by your successors. Consult with your successor where the other person wishes to maintain an ongoing pastoral relationship with you.

Personal and professional development

- 4.21 Maintain a healthy lifestyle and do not overcommit yourself. Make sure you have adequate leisure time, through regularly taking time off, including your full holiday entitlement annually.
- 4.22 Try to develop interests outside your main area of ministry and continue to care for yourself and your personal and family relationships.
- 4.23 Look for, and take advantage of, opportunities to maintain and enhance ministry skills appropriate to the responsibilities of your role, through:
 - regular ministry development;
 - professional supervision / consultation;
 - peer support;
 - having a mentor; and
 - regular feedback including an annual ministry review.

Confidentiality and confessions

- 4.24 When you are seeking or providing professional supervision / consultation you should not identify any person and only disclose what is necessary to obtain the supervision or advice.
- 4.25 In most cases you should tell someone who is to give you confidential information of the limits to confidentiality and the arrangements for supervision or obtaining advice. This should be done before the disclosure of the confidential information, such as at the beginning of an interview.
- 4.26 The Confessions Canon 1989 or the proviso to Canon 113 of 1603 is in force throughout the Church. These Canons make provision for the confession of sins to clergy and for the confidentiality of this confession. If you are a member of the clergy, you should be aware of the scope of, and your obligations under, the applicable Canon. For example, absolution is not automatic and may be withheld. You may require of the person making the confession of sins some appropriate action of contrition and reparation before you give them absolution.

- 4.27 There is a distinction between disclosures made in ordinary pastoral situations and disclosures made as a confession as provided in the applicable pastoral service in the Church's authorised liturgies. This service should normally be heard in a public place at advertised times or by arrangement.
- 4.28 If you are a church worker, remember that only clergy have the authority to receive a special confession of sins as provided in the applicable pastoral service in the **Church's** authorised liturgies.
- 4.29 You may have a legal obligation to report criminal offences to the applicable civil authorities (the issue of **child abuse** is addressed in Section 5). You may be subpoenaed to produce documents or to attend court to give evidence, or both. In some States or Territories, clergy may be able to claim privilege from producing documents and/or disclosing information obtained in a confession referred to in paragraphs 4.23 to 4.25.
- 4.30 You should be aware of and, when appropriate, seek advice in regard to:
- your legal obligations with regard to confidential information received during an interview or a confession, particularly in relation to criminal offences and child abuse;
 - the pastoral consequences of breaching confidentiality; and
 - the risk of physical, financial or emotional harm or hardship to another person by disclosing or not disclosing such information, particularly in writings, sermons or other public media.
- 4.31 Exercise special care that any illustrative material you use from personal experience does not involve a breach of confidentiality.

Communication in a ministry context

- 4.32 Any communication in a ministry context, whether formal or informal, is a pastoral encounter. Communication may be face-to-face, in writing or involve some form of technology. Consider the appropriateness and impact of your words and actions.
- 4.33 Innuendoes or compliments of a sexual nature are always inappropriate. When a person asks questions or seeks advice around topics of a sexual nature, be aware that they may have motives or needs that you do not understand. Be realistic about your own ability to assist them.
- 4.34 To minimise the risk of being accused of or engaging in misconduct, particularly when conducting interviews, think carefully in advance about:
- the place of the meeting, the arrangement of furniture and lighting, and your dress;
 - whether the physical location allows for privacy of conversation while maintaining the opportunity for supervision. (For example, doors to interview rooms, if closed, should not be locked.);
 - the physical distance between you and the other person to maintain both hospitality and respect;
 - whether the circumstances would suggest a social interaction;
 - the propriety and circumstances of the interview when you are visiting or being visited alone, especially at night;
 - the personal safety and comfort of all participants;

- establishing at the outset the interview's purpose and the boundaries with respect to the subject matter, confidentiality and its duration;
- the appropriateness of initiating or receiving any physical contact, such as gestures of comfort, that may be unwanted or misinterpreted; and
- whether the presence of a child's parent, guardian or another person chosen by the child is appropriate.

4.35 When considering using technology for communication, you should apply the same principles as you would in any other form of communication. Minimise the risk of harming others or yourself by asking:

- is this an appropriate way to communicate about this matter?
- should this communication be confidential? If so, do not use electronic media;
- how will the language and images used impact upon the person receiving the communication and any other person who may access it?
- could the circumstances of the communication, including the language and images used, suggest your relationship with the other person(s) is inappropriate?

Risks associated with using technology in communication

Clergy, church workers, and other participants in church activities – including children – often communicate using text and picture messaging, email, instant messenger services and chat rooms, video conferencing, blogs and internet forums, websites, social networking sites, and other forms of electronic interaction.

Remember information posted online is tracked and can be retrieved. Dangers associated with the use of communication technology are not always appreciated by clergy and church workers. These dangers include:

- losing your privacy;
- losing control of information (such as photographs or emails);
- ignoring personal security settings on social networking sites;
- being unable to determine if people are who they say they are;
- being exposed to unwanted information; and
- becoming a victim of cyberbullying when someone sends or spreads threatening or embarrassing information.

Record-keeping and privacy

4.36 If you are engaged in individual pastoral ministry, consider keeping a factual record of your daily pastoral activity. Record details such as the date, time, place, participants, subject, and any proposed action arising from each activity. Record personal remarks accurately.

4.37 You need to know the relevant principles of the applicable privacy legislation in relation to the collection, use, disclosure and management of personal information. These have implications for:

- the publication of personal information in church directories, newsletters, rosters and websites;
- the recording and publication of voices and images of individuals; and
- the use and security of all personal information, and especially sensitive information, held by clergy and church workers or in church offices.

5 CHILDREN

Preamble

- 5.1 **Children** are entitled to be safe and protected. They have the right to be respected, listened to and their particular needs addressed in all church activities, whether mixed aged or child specific.
- 5.2 Ministry where children are involved requires absolute trustworthiness.
- 5.3 **Clergy** and **church workers** with overall authority in a **church body** (e.g. incumbents and school principals) have a responsibility that cannot be delegated for the implementation and maintenance of proper systems for the safety and welfare of children participating in its pastoral ministry.
- 5.4 When they are exercising a pastoral ministry involving children in a church body, clergy and church workers (e.g. Sunday school teachers, youth group leaders) have responsibility for the safety and welfare of children in their care.
- 5.5 Clergy and church workers have *authority* over children because of their position and *power* because of their greater age, maturity, physical size and life experience. Abuse arises from the misuse of authority or power. Any form of **child abuse** is always wrong.
- 5.6 Due to the inherent imbalance of power, children are incapable of giving valid consent to abuse.
- 5.7 Appropriate physical contact is important for children's healthy development.

Standards for clergy and church workers

These standards state the Church's expectations for personal behaviour and the practice of pastoral ministry.

- 5.8 If you have overall authority in a church body, you are to ensure that:
- proper systems for the safety and welfare of children participating in the church's pastoral ministry are implemented and maintained;
 - all applicable requirements of the civil authorities, the **church authority** and the church body are complied with; and
 - all clergy and church workers for whom you have responsibility and who work with children:
 - comply with all civil and Church screening and selection requirements;
 - receive regular training in child protection; and
 - are aware of the provisions of this Code relating to children.
- 5.9 If you are exercising a pastoral ministry involving children in a church body you are to take reasonable steps to ensure the safety and welfare of the children in your care.
- 5.10 You are not to abuse children.

- 5.11 When engaged in pastoral ministry you are not to administer **corporal punishment** to children in your care.
- 5.12 You are not to make available to children any **prohibited material**, except wine in the context of a Holy Communion service.
- 5.13 Before you allow a person who is currently charged with or convicted of an offence against a child to participate in activities involving children, you are to:
- consult the **Director of Professional Standards**;
 - ensure that a risk assessment is undertaken; and
 - be satisfied that no child will be at an increased risk of harm.
- 5.14 If you know or reasonably suspect that a child is at risk of harm from child abuse, you are to report this to the appropriate civil authorities.
- 5.15 If you know or reasonably suspect that another member of the clergy or a church worker has abused a child, you are to report this to the appropriate civil authorities and the Director of Professional Standards.

Guidelines

These guidelines explain and illustrate best practice and highlight practical ways to achieve it.

Recognising the characteristics and effects of child abuse

- 5.16 You need to be aware of the signs, symptoms and characteristics of child abuse and its impact on children.

Characteristics and effects of child abuse

Abuse of a child can be categorised as emotional, physical, sexual, or spiritual. It can also arise from neglect, bullying or harassment.

The signs and symptoms can include:

- **emotional abuse**—low self esteem, apathy, an over readiness to relate to anyone even strangers, unduly aggressive behaviour, withdrawn behaviour;
- **physical abuse**—bruises, bites, burns and scalds, fractures;
- **sexual abuse**—a level of sexual knowledge or desire for either contact or distance inappropriate to the child's age, self-harm, social isolation, and a sudden onset of soiling, wetting or other behavioural changes;
- **spiritual abuse**—low self esteem, high levels of anxiety and fear, excessive deference to a leader and isolation from former friends and family members;
- **neglect** – failure of a child to grow within the normally accepted pattern, failure of a parent or guardian to provide adequate food, clothing, shelter, medical care and supervision;
- **bullying or harassment** – low self-esteem, loss of trust in others, apathy, an over readiness to relate to anyone even strangers, unduly aggressive behaviour, withdrawn behaviour.

Sexual abuse of a child is often preceded by **grooming**.

The sexual abuse of a child commonly has the following characteristics:

- it usually starts with something minor and gradually builds up to more involved behaviours through a process of grooming;
- it is secretive and generally known only to the abuser and victim making it extremely difficult to detect;
- it is perpetrated by someone known to the child and/or held in a position of trust by the child or their parents or guardians; and
- it is rarely a self-contained or one-off incident but rather part of an ongoing relationship that is corrupting and distorting.

The abuse of a child commonly causes psychological and spiritual harm and is likely to lead to the impairment of their social, emotional, cognitive, spiritual and intellectual development and/or disturbed behaviour.

The effects of child abuse extend well beyond the abuser and their primary victims. The families of the victim and abusers as well as their communities can also experience a high degree of distress when revelations of abuse emerge. Often they can deny the disclosure and so reject the victim rather than face reality. Once the reality is confronted, the community will commonly experience profound shock, guilt about failing to protect the primary victim, deep hurt and disillusionment.

Grooming actions are designed to establish an emotional connection to lower the child's inhibitions through the development of a relationship with the child, and increased opportunity to see the child. Grooming involves psychological manipulation that is usually very subtle, drawn out, calculated, controlling and premeditated. Typically, grooming occurs incrementally: accessing the victim, initiating and maintaining the abuse, and concealing the abuse.

All Australian jurisdictions have grooming offences, which vary in scope and application. Grooming offences may target online or other electronic communications, subjecting children to child exploitation material, and/or using intoxicating substances to engage children for the purpose of sexual activity.

Recognising the characteristics of sexual offenders

5.17 You need to be aware of the characteristics of sexual offenders. A sexual offender may be a friend, a family member, a neighbour, a peer, or a person in authority.

Characteristics of sexual offenders

Sexual offenders generally:

- do not stop unless there is some intervening factor;
- believe or assert that the victim is complicit or a willing participant;
- attempt to deny, justify, minimise or excuse their behaviour by:
 - claiming their behaviour was an expression of love for the victim;
 - claiming their behaviour was a result of their childhood abuse;
 - claiming their behaviour was influenced by stress, the use of alcohol or other substances; and
 - blaming the victim;

- enjoy the activity, despite claims to the contrary; and
- are repeat offenders.

Sexual offenders who target vulnerable adults and children will often undertake a grooming process as a precursor to abusive behaviour.

Ensuring the safety of children

5.18 Taking all reasonable steps to ensure the safety and welfare of children for whom you have overall responsibility or are in your care requires you to prepare a risk management plan which considers the following issues:

- screening and selection of personnel;
- your role and capacity to perform it;
- use of external service providers;
- supervision;
- planning and conduct of activities;
- venue;
- health and safety;
- transport;
- disciplinary arrangements;
- physical contact;
- photographs and images; and
- record keeping.

These issues are considered in paragraphs 5.19 to 5.47.

Screening and selection of personnel

5.19 If you have responsibility for compliance with civil and Church screening and selection requirements, you should exercise care with the selection of leaders involved in mixed age or children's activities. You should ensure that any parents or guardians assisting with these activities are screened.

5.20 Consult the Director of Professional Standards as to whether a risk assessment is required before you appoint someone who has:

- been acquitted of a charge of an offence against a child;
- had a charge of an offence against a child not proceed;
- had a prohibited status under applicable child protection legislation lifted; or
- been the subject of Church disciplinary proceedings involving child abuse.

Your role and capacity to perform it

5.21 You need to recognise your own limits and not undertake any ministry that is beyond your competence or certification or that is not part of the role for which you have been or are being trained. Arrange for any such ministry to be provided by an experienced person or specialist agency. This applies particularly to outdoor or adventure activities such as canoeing, abseiling and hiking. Refer any child who requires specialised help (e.g. counselling for depression, abuse or addiction) to an appropriately qualified person or agency.

- 5.22 While children should be able to trust and confide in clergy and church workers— and you should expect to develop relationships of this character with children— avoid fostering inappropriate dependence on the part of a child.
- 5.23 Encourage children to develop leadership skills and undertake leadership roles that are appropriate for people of their age.

Use of external service providers

- 5.24 When you engage or use an external service provider for an activity (e.g. when you engage a specialist in outdoor education or a speaker for a camp), you should:
- make reasonable enquiries as to whether they have been screened and selected in accordance with civil and any Church requirements;
 - ensure that they are only used in a supplemental capacity; and
 - wherever practicable, ensure that they are not left alone with any child.

Supervision

- 5.25 The degree of supervision required will vary according to the nature and environment of the activity, the age and maturity of the children and the size of the group. Having multiple leaders to ensure that supervision and accountability standards are maintained is vitally important. You should:
- clearly distinguish the different levels of responsibility between you and any other supervisor and ensure that these differences are understood;
 - consider the extent of supervision required taking into account:
 - the age, number, ability and gender mix of the children; and
 - the venue, time, duration and nature of the activity;
 - have a register of all children with contact details and parents' or guardians' names for emergencies; and
 - monitor and periodically review the application of Church child protection procedures.

Activities

- 5.26 You should identify and minimise all potential hazards before embarking on any activity with children. This would include:
- being aware of the fire safety and evacuation procedures;
 - ensuring that emergency exits on church premises are clearly marked and never obstructed or internally locked;
 - not permitting smoking in any church premises where the activity is held; and
 - not knowingly permitting children with serious contagious diseases to attend the activity.
- 5.27 Games or activities that emphasise gender, physical, intellectual or ethnic differences should be assessed for their appropriateness. Think about what message children may learn from the way events are organised and conducted.
- 5.28 You should review in their entirety aural and visual materials, such as videos, films, computer games, graphics, photographs and lyrics, to ensure that any elements containing violence, sexual activity or lifestyle

are appropriate for the intended audience. Exercise care if a film or computer game has been recommended by the Office of Film and Literature Classification as unsuitable for viewing or playing by children of a particular age (e.g. MA, M and PG classifications). In assessing whether something is suitable you should take into account the age of the youngest child present. If in doubt, seek the advice of a supervisor or colleague.

5.29 To minimise the possibility of children being harmed, give careful consideration to any activities or games that require children to act alone or in pairs independent of leaders.

5.30 Ensure that no children's activity includes:

- secret initiation rites and ceremonies;
- nudity or engagement in sexual conduct;
- the use or availability of prohibited materials, except wine in the context of a Holy Communion service.

5.31 When taking children away from church premises, obtain the written consent of a parent or guardian and keep them informed of the place and timing of the event. If you can, include parents or guardians in a leadership team of mixed gender.

5.32 When meeting a child privately, you should:

- have parental or guardian consent, where practicable;
- ensure where appropriate that a parent, guardian or suitable adult is present;
- inform another member of the clergy, an adult church worker or another adult of the time, location and duration of the meeting;
- not invite or have children to your home or visit children in their home when no other adult is present; and
- make a record of the time, location, duration and circumstances of any meeting where it is impracticable to follow these guidelines.

Venue

5.33 Avoid working alone or in isolation with children. You should ensure that:

- all activities have defined boundaries that are easily observed or patrolled;
- all aspects of children's activities are open to observation;
- children are not permitted to leave church premises unsupervised; and
- where individual or small group ministry is needed, it occurs in the presence of adults, a public place or a location with high visibility.

5.34 When events require children to sleep over, you should ensure that where possible:

- parents or guardians are involved in the events and their supervision;
- sleeping accommodation is segregated between males and females;
- sleeping accommodation is supervised by more than one person, preferably including a parent or guardian or another adult of each gender; and
- supervisors do not sleep in close personal proximity to a child, unless they are a parent or guardian of the child.

- 5.35 Venues should allow for the privacy of all parties to be respected, particularly when changing clothes, washing and toileting. If you need to wash or toilet a child, tell another adult what you are doing.

Health and safety

- 5.36 Ensure that the risk management plan includes relevant contact details (e.g. emergency services and specialised help) and that a first aid kit appropriate to the activity is available. In the case of camps and similar activities, ensure that at least one adult present has first aid training.
- 5.37 Do not administer prescription medications to a child without the written consent of a parent or guardian.
- 5.38 Obtain information from parents or guardians about the particular physical and mental health or safety needs of children in your care (e.g. allergies, depression).

Transport

- 5.39 When making transport arrangements, take reasonable steps to ensure that:
- all drivers or operators are licensed, responsible, experienced and are not impaired by alcohol or any other mind-altering or addictive substance; and
 - all motor vehicles and other forms of transport used are registered, insured, safe and fitted with appropriate child restraints or safety devices (e.g. seat belts, life jackets).
- 5.40 To the extent practicable, avoid being alone with a child in a motor vehicle or driving a child home unaccompanied. If such a situation is unavoidable, inform another adult of the trip and the reason for it.

Discipline

- 5.41 If you have overall responsibility in a Church body, you should ensure that:
- there is a strategy to prevent child abuse from occurring during church activities. This includes giving age-appropriate warnings to children about their own behaviour; and
 - parents or guardians are advised that abuse of any child during children's activities will not be tolerated.
- 5.42 If you have overall authority for children's ministry in a Church body you should ensure that a disciplinary strategy is developed, made known and implemented.

Disciplining children

When a child's behaviour requires correction, either for the safety and welfare of themselves or the group, it is important that:

- a warning precedes any discipline, where the situation permits;
- the discipline is explained to the child;
- the child is given an opportunity to explain;
- the discipline is appropriate to the occasion and age of the child;
- the form of discipline is not corporal punishment, does not ridicule or humiliate or is not otherwise abusive;
- very young children are not isolated as a form of discipline;

- physical restraint is only used to protect children from harm or to avoid an accident;
- when physical restraint is used, a record is kept that identifies the restraint used, the member of the clergy or church worker and child involved and any witnesses, and sets out the incident's circumstances;
- the child's parents or guardians are informed of the circumstances of the incident and discipline; and
- you make a record of the circumstances of the incident and discipline.

Physical Contact

- 5.43 In general – excluding circumstances such as immediate physical danger or medical emergency – physical contact should be initiated by the child or occur with their permission. When you make physical contact with a child, be very careful that you respect the child's feelings and privacy.
- 5.44 Ensure that any physical contact you have with children is of a non-sexual nature and appropriate to the situation. Avoid any physical contact that is sexually stimulating, or that may be construed as sexually stimulating. Children may or may not be aware of creating such situations. It is your responsibility to be alert for such situations and to cease any inappropriate physical contact immediately.

Children and physical contact

You need to be very careful when making physical contact with children.

Appropriate contact includes:

- bending down to the child's eye level, speaking kindly and listening attentively;
- gaining permission before hugging a child and respecting their right to refuse;
- taking a child's hand and leading them to an activity;
- comforting a child by placing an arm around their shoulder and giving a gentle squeeze from the side;
- praising or welcoming a child by holding the child's two hands in yours;
- patting the child on the head, hand, back or shoulder in affirmation; and
- holding a preschool child who is crying, provided that they want to be held.

Inappropriate contact includes:

- kissing or coaxing a child to kiss you;
- extended hugging or tickling;
- touching any area of the body normally covered by a swimming costume, specifically the buttocks, thighs, breasts or groin areas; and
- carrying older children, sitting them on your lap or having them rub up next to you.

Communication

- 5.45 If you have overall responsibility in a Church body, you should ensure there is a policy for clergy and church workers which deals with the use of technology to communicate with children in pastoral ministry.
- 5.46 When considering using technology for communication, you should apply the same principles as you would in any other form of communication with children.

You should take care that:

- it is an appropriate way to communicate with a child;
- it is an appropriate way to communicate about the matter;
- you are sensitive to the impact of your words, images and actions on the child and any other person who may access it;
- you do not use sexually suggestive, explicit or **offensive language** or images; and
- the circumstances of the communication, including the language and images used, do not suggest your relationship with the child is inappropriate.

Risks associated with using technology in communication with children

Clergy, church workers and other participants in church activities – including children – often communicate using texting and picture messaging, email, instant messenger services and chat rooms, video conferencing, blogs and internet forums, websites, and group social networking sites.

Remember information posted online is tracked and can be retrieved. Dangers associated with the use of communication technology with children are not always appreciated by clergy and church workers. These dangers include:

- ignoring personal security settings on social networking sites;
- disclosing contact details or images of the child in the communication;
- being unable to determine if people are who they say they are;
- exposing the child to unwanted or inappropriate information;
- the child becoming a victim of cyberbullying; and
- sexual predators gaining access to the child.

Clergy and church workers can assist children to stay safe when using technology to communicate with others by:

- educating children and their parents or guardians about the risks associated with the use of this technology;
- encouraging children to exercise care in disclosing personal information about themselves and others such as their contact details;
- encouraging children to talk about anything that worries them with their parents or guardians, older siblings, friends, and clergy and church workers with whom they have a **pastoral relationship** instead of posting their problems in a chat room or blog; and
- encouraging children to talk about anything they see or experience online that worries them.

Photographs and images

- 5.47 If you have overall authority in a church body, you should ensure that there is a policy requiring clergy and church workers to obtain the permission of relevant parents and guardians before making or using images (including photographs and videos) of children who are engaged in children's activities. The form of permission should clearly indicate the intended use of the images.

Record keeping

- 5.48 If you have overall authority in a church body, you should ensure that any Church screening documents:
- are treated with confidentiality and never left where they can be accessed by unauthorised persons;
 - where kept on computer, are password protected and stored for an indefinite period of time with access limited to authorised persons; and
 - where kept in paper form, are stored separately from any other documents and locked in secure place for an indefinite period of time, with access limited to authorised persons.
- 5.49 If you have overall authority in a church body, you should:
- ensure that a register of attendance of children and leaders and their emergency contact details is kept for each pastoral ministry involving children;
 - consider including such registers in the church archives; and
 - keep and store in a secure place all permission forms and records relating to discipline and private meetings.
- 5.50 If you are exercising a pastoral ministry involving children in a church body, you should keep a register of attendance of the children for whom you are responsible.

6 PERSONAL BEHAVIOUR

Preamble

- 6.1 The personal behaviour and relationships of **clergy** and **church workers** have a significant impact on the **Church** and the community because they are a model to others. In a context where their responsibility is to care for others, people will especially observe the way in which clergy and church workers exercise power.
- 6.2 Abuse of power is at the heart of many relationship problems in the Church and the community. In essence, abuse is one person's misuse of power over another. Sometimes abuse will be a one off event and at other times it will be a pattern of behaviour.
- 6.3 **Abuse** can take any of several overlapping forms: **bullying, emotional abuse, harassment, physical abuse, sexual abuse** or **spiritual abuse**. Abuse in a family or domestic context is commonly known as "family and domestic violence".
- 6.4 It is important for clergy and church workers to be good citizens and obey the laws of the community, except where those laws conflict with Christian convictions.

Standards for clergy and church workers

These standards state the Church's expectations for personal behaviour and the practice of pastoral ministry.

- 6.5 You are not to engage in:
- bullying;
 - emotional abuse;
 - harassment;
 - physical abuse;
 - sexual abuse; or
 - spiritual abuse.
- 6.6 You are not to **abuse** your spouse, children or other members of your family.
- 6.7 You are to be responsible in your use of alcohol and other mind altering or addictive substances or services.
- 6.8 You are not to undertake any pastoral ministry when you are impaired by alcohol or any other mind-altering or addictive substances.
- 6.9 You are not to use any **prohibited substance**.
- 6.10 You are not to take property belonging to others, including intellectual property.
- 6.11 You are not knowingly to make statements that are false, misleading or deceptive.
- 6.12 You are not knowingly to use **offensive language**.

- 6.13 Without a legitimate purpose you are not to view, possess, produce or distribute **restricted material**.
- 6.14 You are to observe the law, other than any law that:
- is contrary to the Holy Scriptures;
 - unjustly prohibits the practice of religion; or
 - prohibits civil disobedience.

Guidelines

These guidelines explain and illustrate best practice and highlight practical ways to achieve it.

- 6.15 You need to be aware of the impact that abuse can have on people.

The impact of abuse

A person who is abused may suffer emotionally, psychologically, physically, socially and spiritually. The impact can be life long and affect the person, their relationships and their capacity for ministry.

How abuse affects the person and their relationships

The person who is abused may experience:

- feelings of shame, humiliation, rejection, powerlessness, insecurity, anger and resentment;
- sadness, tearfulness, depression, anxiety;
- fatigue, disturbed sleep, changed appetite and ill health;
- substance abuse, gambling and use of pornography;
- becoming more withdrawn or aggressive;
- burn out;
- suicidal thinking and action;
- loss of self-esteem and self-confidence;
- marital and family problems;
- breakdown in community and collegial relationships.

How abuse affects ministry

Clergy or church workers who are abused may experience:

- loss of coping skills;
- disillusionment;
- inability to concentrate;
- loss of motivation;
- decreased productivity and competence;
- bad decision-making and poor judgement;
- loss of faith or crisis of vocation;
- difficulty trusting others;
- diminished employability;
- premature desire to cease employment.

- 6.16 You need to be able to identify **bullying** and the cultures and environments which encourage it.

Cultures and environments which encourage bullying

Contexts in which bullying is likely to flourish are characterised by:

- overbearing or inadequate leadership;
- poor management;
- a high level of competition;
- a climate of uncertainty and insecurity;
- lack of support and governance structures;
- poor handling of conflict;
- rigid structures;
- low level of participation or consultation;
- excessive demands on time;
- unclear role description and processes;
- inadequate grievance procedures.

- 6.17 If another person indicates by their words or actions that they feel bullied or harassed by you, review your conduct. If in doubt, cease the conduct and seek advice. When teaching, admonishing or exercising discipline as part of your pastoral ministry, be sure you do it respectfully.
- 6.18 Love and care for your family and pay particular attention to the effect of your ministry on your family relationships. Ensure that your behaviour in family relationships is consistent with this Code.
- 6.19 Take steps to prevent your spouse or children or other members of your family becoming victims of your stress. If you find yourself acting violently or abusively to any member of your family, seek professional help immediately.
- 6.20 Monitor your consumption or use of alcohol and other mind altering or addictive substances or product (e.g. gambling) to ensure your wellbeing and that of others. Seek professional help if the use of these substances or products adversely affects your ministry, personal wellbeing or relationships.
- 6.21 You should be sensitive to the effect of your language on others. Avoid using language that may be misunderstood or that bullies, threatens, belittles, humiliates or causes unnecessary offence or embarrassment. Take care when using:
- any swear word;
 - language which has sexual connotations; and
 - racial, religious or other group descriptions.
- 6.22 Exercise discretion when viewing or using restricted material. You should:
- consider the legitimate purpose of viewing or using the restricted material;
 - consider whether your conduct will damage your reputation and impair your ministry; and

- disclose the purpose and circumstances of your conduct to a supervisor or colleague to avoid any misunderstanding.
- 6.23 When engaged in civil disobedience, do not act violently or intentionally provoke violence.
- 6.24 Be sensitive to the effect of your dress on others. Dress appropriately to the context.
- 6.25 You should comply with copyright legislation. Ensure that any licences for the use of copyright material are current and complied with and that copyright is duly acknowledged.

7 SEXUAL CONDUCT

Preamble

- 7.1 The sexual conduct of clergy and church workers has a significant impact on the **Church** and the community.
- 7.2 Sexuality is a gift from God and is integral to human nature. It is appropriate for **clergy** and **church workers** to value this gift, taking responsibility for their sexual conduct by maintaining chastity in singleness and faithfulness in marriage.
- 7.3 It is part of the role of clergy and church workers to care for, protect and respect all with whom they have a **pastoral relationship**. It is never appropriate for clergy and church workers to take advantage of their role to engage in sexual activity with a person with whom they have a pastoral relationship. Consent to such activity will not be regarded by the Church as valid, except within marriage.

Standards for clergy and church workers

These standards state the Church's expectations for personal behaviour and the practice of pastoral ministry.

- 7.4 You are to be chaste and not engage in sex outside of marriage and not engage in disgraceful conduct of a sexual nature.
- 7.5 You are not to:
- sexually abuse an adult;
 - sexually abuse a child;
 - engage in prostitution;
 - visit brothels and other places associated with the sex industry without a legitimate purpose;
 - view, possess, produce or distribute **restricted material** containing sex or nudity without a legitimate purpose; and
 - view, possess, produce or distribute any form of child pornography or **child exploitation material**.

Guidelines

These guidelines explain and illustrate best practice and highlight practical ways to achieve it.

- 7.6 If you intend to make physical contact with another adult or speak to them about a sexual matter you should:
- take responsibility for your own actions;
 - seek permission;
 - respect the person's wishes;
 - notice and respond to the person's non-verbal communication; and
 - refrain from such conduct if in doubt about the person's wishes.

- 7.7 You should avoid situations where you are vulnerable to temptation or where your conduct may be construed as a breach of the standards of sexual conduct in this Code.
- 7.8 Any involvement in pastoral ministry to persons in the sex industry requires safeguards and a high level of accountability and collegial support. If in pastoral ministry you intend to visit people or places associated with the sex industry, you should:
- consider the legitimate purpose of visiting the person or place;
 - consider whether your conduct will damage your reputation and impair your ministry; and
 - to avoid any misunderstanding, disclose the purpose and circumstances of what you are doing to a supervisor or colleague.

8 FINANCIAL INTEGRITY

Preamble

- 8.1 In both their personal capacity and their pastoral ministry **clergy** are involved in matters of a financial nature. The ministry of **church workers** may include financial management. The financial dealings of clergy and church workers have a significant impact on the **Church** and the community.
- 8.2 Financial integrity is essential to all financial processes and transactions.
- 8.3 Clergy and church workers with overall authority for financial management in a church body are responsible for the implementation and maintenance of proper systems for financial integrity and accountability. They cannot delegate this responsibility to anyone else.

Standards for clergy and church workers

These standards state the Church's expectations for personal behaviour and the practice of pastoral ministry.

- 8.4 You are not to avoid payment of your just debts and family support obligations.
- 8.5 You are not to engage in tax evasion.
- 8.6 You are not to seek personal advantage or financial gain for yourself or your family from your position or from a **pastoral relationship**, beyond your stipend or wage and recognised allowances and deductions.
- 8.7 You are not to allow yourself to be influenced by offers of money or financial reward.
- 8.8 You are to avoid situations of conflict between your personal financial interest and your pastoral ministry responsibilities.
- 8.9 You are to arrange your personal and church finances to ensure that clear account and transaction boundaries are maintained.
- 8.10 You are to fully disclose and be publicly accountable for all church monies which you handle.
- 8.11 If you have overall authority for financial management in a church body, you are to ensure that:
- proper systems for financial integrity and accountability are implemented and maintained;
 - all clergy and church workers for whom you have responsibility and who have authority for financial management in a church body are informed of their roles and responsibilities; and
 - all stipends, wages and allowances payable are adequate, and paid promptly and in full.

Guidelines

These guidelines explain and illustrate best practice and highlight practical ways to achieve it.

Financial management practices

- 8.12 You should ensure that your salary packaging and the accounts of any church body for which you have responsibility are in accordance with Church and civil taxation and accounting requirements.
- 8.13 If you have overall authority for financial management in a church body, you should minimise the risk of you and other clergy and church workers being accused of or engaging in financial impropriety by:
- having two persons unrelated by family to handle church money received;
 - not involving paid clergy or paid church workers in the counting of church offertories;
 - ensuring that church money on church premises is kept safely and securely;
 - avoiding church money being taken home wherever possible;
 - ensuring that all church money received is banked promptly;
 - ensuring that proper accounting records are kept for church transactions, in the form of receipts, diary entries, tax invoices, accounts and account statements;
 - ensuring that all church accounts have more than one signatory;
 - ensuring that any accounts paid by cash are duly receipted; and
 - ensuring that those with the responsibility for handling money have suitable training in financial matters.

Gifts

- 8.14 If you are offered or receive a gift, whether monetary or otherwise, from a person with whom you have a pastoral relationship, you should:
- establish for whom the gift is intended and exercise discretion as to whether the gift should be personally accepted;
 - consider:
 - o the size of the gift;
 - o the intentions and circumstances of the giver;
 - o the risk of your integrity being compromised; and
 - o whether acceptance of the gift would cause scandal and embarrassment if known publicly;
 - if it is substantial, disclose the offer or receipt to a supervisor or colleague; and
 - if there is any uncertainty as to the gift's appropriateness, seek advice from a supervisor or colleague.

Personal financial obligations

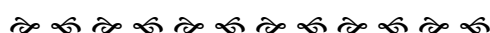
- 8.15 You should manage your finances so that personal debts, including those to any church body, are paid when due and in full.

8.16 You should avoid borrowing money from, or lending money to, a person with whom you have a pastoral relationship as this may place you in a position where your personal interest conflicts with your pastoral responsibilities. If you do, then disclose the circumstances to a supervisor or colleague. In some cultures where there are communal ownership and kinship obligations, this guideline may be applied differently.

Governance Policy for Diocesan Organisations

as at October 2022

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Background

- Representative members of the Anglican Church of Australia in New South Wales meet in synods to attend to governance needs arising from membership in the unincorporated association known as The Anglican Church of Australia. The New South Wales Parliament has provided a legislative framework for the seven New South Wales Anglican Diocesan Synods to carry out responsible and effective governance. The *Anglican Church of Australia Constitutions Act 1902* empowers each Anglican synod in New South Wales to make ordinances for the order and good government of the Anglican Church of Australia within that diocese. The *Anglican Church of Australia Trust Property Act 1917* gives a synod the power –
 - to vary the trusts on which church trust property is held,
 - to appoint and remove trustees of such property, and
 - to constitute councils and committees to govern and control the management and use of such property.

In addition the *Anglican Church of Australia (Bodies Corporate) Act 1938* gives an extraordinary power to a Synod in New South Wales to constitute such councils and committees as bodies corporate for the management and governance of an organisation of the Anglican Church or for holding, managing or dealing with church trust property.
- In the context of the Diocese of Sydney, there are currently about 60 diocesan organisations constituted by the Synod. There are also a number of bodies not constituted by the Synod in respect of whose organisation or property the Synod is nonetheless empowered to make ordinances. These organisations pursue diocesan purposes through a wide range of activities, including welfare, aged care, schooling, youth work, theological education, and administrative, secretarial and investment services. About 20 of these are incorporated by or under legislation including the *Anglican Church of Australia Trust Property Act 1917* or the *Anglican Church of Australia (Bodies Corporate) Act 1938*.
- The Synod acknowledges that diocesan organisations have taken steps on their own boards to ensure proper and effective board governance. Nevertheless, the Synod as the ‘parliament of the diocese’ also has a responsibility to the wider community to facilitate proper and effective governance as part of its oversight of all diocesan organisations.
- Currently, the Synod seeks to discharge this responsibility by electing a majority of the board members of diocesan organisations and requiring diocesan organisations which manage church trust property to provide an annual report to the Synod including its financial statements and auditor’s report.

Purpose of this document

- The adoption of a Synod Policy on the governance of diocesan organisations will enable the Synod to articulate more clearly how it intends exercising its powers to better achieve two broad expectations in the area of governance.
- The first expectation is that those responsible for governing diocesan organisations will seek the highest standards of governance appropriate to the size and nature of each organisation.

7. The second expectation addresses the reason for pursuing the highest standards of governance, namely, to maximise the extent to which a diocesan organisation meets the object for which it is constituted. The object of any diocesan organisation is to advance one purpose or another of the Diocese. Ultimately such purposes seek to promote the kingdom of Christ and give glory to God.

The nature of Christian leadership

8. Leadership is a gift of God for the purposes of order and good government. Among the people of God, church leaders are gifted by God for the teaching, discipline and modelling of godliness to those under their care. Secular leaders are likewise accountable to God for their governance, which is for the good of the community they serve, since they also act as “God’s servants” (Rom 13:4). Boards of Christian organisations should therefore have similar standards of integrity, truth and commitment with respect to their governance responsibilities. In particular, Jesus’ use of the imagery of both shepherd and servant for his own ministry, as well as that of his apostles, ought to characterise those who would govern Christian organisations.
9. Scripture states: “We aim at what is honourable not only in the Lord’s sight but also in the sight of others” (2 Cor. 8:21). In light of this, it is appropriate that Christian organisations take pains to ensure the appearance (as well as the substance) of propriety and accountability. This includes abiding by the highest governance standards observed by secular organisations, e.g. corporations, where they are applicable.
10. The Synod acknowledges and gives thanks for the board members of diocesan organisations who give generously of their time, energy and skills to exercise the governance responsibilities with which they have been entrusted.
11. The Synod encourages board members of diocesan organisations to work in partnership with the Synod in seeking the highest standards of governance. Such standards are to be underpinned by prayer, sacrificial service, a dependence upon God for wisdom and a proper regard to best practice so that decisions made will enhance the organisation’s effectiveness to promote the kingdom of Christ and give glory to God.

Application of this Policy

12. In this Policy –
 - “board” means the body of persons responsible for governing a diocesan organisation.
 - “chief executive officer” means the person who is responsible to the board for the leadership and management of the diocesan organisation.
 - “Diocese” means the Anglican Church of Australia in the Diocese of Sydney.
 - “diocesan organisation” means a body which has an Australian Business Number and –
 - (a) is constituted by ordinance or resolution of the Synod, or
 - (b) in respect of whose organisation or property the Synod may make ordinances,but excludes –
 - (i) the Synod, the Standing Committee and any of their subcommittees,
 - (ii) parish councils,
 - (iii) the chapter of a cathedral, and
 - (iv) entities that perform an administrative function under ordinance or resolution rather than conduct an enterprise in their own right.

See Schedule 1 for a list of diocesan organisations.

 - “Governance Standards” means the standards referred to in Appendix 1.
 - “Policy Guidelines” means the guidelines referred to in Appendix 2.
 - “Synod” means the Synod of the Diocese and includes, when the Synod is not in session, the Standing Committee of the Synod.
13. In support of the mission of the Diocese, this policy sets out the Governance Standards and Policy Guidelines that the Synod considers should apply to diocesan organisations.
14. The Synod will use these Governance Standards and Policy Guidelines as the basis for assessing and, as appropriate, changing (or seeking changes to) the ordinances, policies and procedures that apply to diocesan organisations.

15. The Governance Standards and Policy Guidelines are also intended to align with and give appropriate expression to the governance standards for registered entities made under the *Australian Charities and Not-for-profits Commission Act 2012*.
16. The Synod anticipates that it will amend this policy from time to time in order to better align the Governance Standards and Policy Guidelines with the purposes of the Diocese and to reflect any changes to the ACNC governance standards. For this purpose the Synod encourages on-going input from boards.

Appendix 1: Governance Standards

The Synod regards the following Governance Standards as applicable to all diocesan organisations and expects diocesan organisations to implement each of the Governance Standards in an appropriate and demonstrable way.

A. Christian leadership shaped by the Bible

- (a) The board members of a diocesan organisation elected by the Synod, the chair of the board and the chief executive officer must profess a personal Christian faith shaped by the Bible.
- (b) Other board members should profess a personal Christian faith shaped by the Bible.
- (c) The Archbishop must be able to address the board of a diocesan organisation on any pastoral or policy issue concerning the Anglican Church of Australia as it applies to the diocesan organisation, including the appointment of a chief executive officer for the organisation.
- (d) The board of a diocesan organisation should include members with formal theological training.

B. Mission clarity

(cf. ACNC governance standard 1 – purposes and not-for-profit nature of a registered entity)

- (a) The purpose of a diocesan organisation must be clearly expressed in its constituting ordinance, must align with the religious, educational or other charitable purposes of the Diocese whether such purposes are within or beyond the Diocese or the State and must ultimately promote the kingdom of Christ and give glory to God.
- (b) Information about the purpose of a diocesan organisation must be made available to the public, including any members, donors, employees and volunteers, as well as those that benefit from its activities.
- (c) A diocesan organisation must comply with its purpose and ensure that all its activities are demonstrably linked either directly or incidentally to the pursuit of its purpose.

C. Not-for-profit character

(cf. ACNC governance standard 1 – purposes and not-for-profit nature of a registered entity)

- (a) The property of a diocesan organisation must not be distributed for the private benefit of individuals either during the operation of the organisation or on its winding-up.
- (b) A diocesan organisation must comply with its not-for-profit character and take reasonable steps to ensure compliance.

D. Accountability and transparency

(cf. ACNC governance standard 2 – accountability to members)

- (a) A diocesan organisation must maintain an adequate level of accountability and transparency to the Synod and its members.
- (b) A majority of the board members of a diocesan organisation must be elected by the Synod.
- (c) A diocesan organisation which manages church trust property must submit to the Synod for tabling an annual report and such other reports as Synod requires and must take reasonable steps to ensure such reports are accurate, complete and provided on a timely basis.
- (d) Members of the Synod must have reasonable access to the annual reports of diocesan organisations tabled at the Synod and must have an adequate opportunity to ask and have answered questions about the governance of diocesan organisations.
- (e) A diocesan organisation which has a class of members which is distinct from the members of its governing board must maintain similar levels of accountability and transparency for such members.

E. Corporate responsibility

(cf. ACNC governance standard 3 – compliance with Australian laws)

- (a) A diocesan organisation must ensure its on-going operations, the safety of people in its care and the safety of its assets through compliance with applicable Australian laws and ordinances of the Synod.
- (b) A diocesan organisation must maintain as a reference for its board members a record, preferably in the form of a handbook, of the ordinances by which it is constituted or regulated and any other documents or policies by which it is governed.

F. Suitability of board members

(cf. ACNC governance standard 4 – suitability of responsible entities)

- (a) The board of a diocesan organisation must develop effective processes to ensure –
 - (i) the collective qualifications, skills, experience and gender balance of its members are adequate having regard to its purpose and the activities it undertakes in pursuit of its purpose, and
 - (ii) the induction of new members and the ongoing training and development of existing members, and
 - (iii) board renewal under the direction of the chair.
- (b) A person who is –
 - (i) disqualified from managing a corporation within the meaning of the *Corporations Act 2001*, or
 - (ii) disqualified by the ACNC Commissioner, at any time during the preceding 12 months, from being a responsible entity of a registered entity under the *Australian Charities and Not-for-profits Commission Act 2012*,
 is not eligible to be a board member of a diocesan organisation.

G. Board member responsibility

(cf. ACNC governance standard 5 – duties of responsible entities)

- (a) A diocesan organisation must take reasonable steps to ensure that its board members are subject to and comply with the following duties –
 - (i) to exercise the powers and discharge the duties of the diocesan organisation with the degree of care and diligence that a reasonable individual would exercise as a board member of a diocesan organisation, and
 - (ii) to act in good faith in the best interests of the diocesan organisation and to further the purposes of the diocesan organisation, and
 - (iii) not to misuse their position as a board member, and
 - (iv) not to misuse information obtained in the performance of their duties as a board member of a diocesan organisation, and
 - (v) to disclose perceived or actual material conflicts of interest of the board member, and
 - (vi) to ensure that the financial affairs of the diocesan organisation are managed in a responsible manner, and
 - (vii) not to allow the diocesan organisation to operate while insolvent.
- (b) A diocesan organisation must take reasonable steps to ensure compliance with these duties and to remedy any non-compliance.

Appendix 2: Policy Guidelines

The Synod considers that the constituting ordinances of diocesan organisations which are bodies corporate should usually conform to the following Policy Guidelines. However the Synod recognises that for some diocesan organisations it may not be appropriate to conform to all these Policy Guidelines. This will be the case particularly for those Policy Guidelines which go beyond the Governance Standards. Where it is proposed to amend the constituting ordinance of a diocesan organisation to conform with the Policy Guidelines, a full consultation process will be undertaken with the board of the organisation before any such amendments are made. Where a board of a diocesan organisation believes that a particular Policy Guideline should not apply, it would usually be appropriate for the board to provide a brief explanation of its position as part of the consultation process.

Purpose

1. The purpose of the diocesan organisation should be clearly expressed. Such purpose must align with the religious, educational or other charitable purposes of the Diocese whether such purposes are within or beyond the Diocese or the State and must ultimately promote the kingdom of Christ and give glory to God.
2. In recognition that the diocesan organisation is part of a network of parishes and organisations which is collectively seeking to advance the broader charitable purposes of the Diocese, the diocesan organisation should be expressly permitted to pursue its purposes in a manner which advances the broader charitable purposes of the Diocese, including such purposes as are declared or recognised from time to time by the Synod. See also paragraph 32.

Board size and composition

3. The total number of board members should be no less than 9 and no more than 14.
4. A majority of board members must be elected by the Synod.
5. The membership of the board should not include the Chief Executive Officer.
6. The membership of the board should include –
 - (a) at least two clergy licensed in the Diocese of Sydney, and
 - (b) at least two members with (at minimum) a three year theological degree from Moore Theological College or another college that is endorsed by the Archbishop for the purpose of this clause, noting that the requirements of paragraphs (a) and (b) may be met by the same two people.
7. The membership of the board may include no more than two persons appointed by the board.
8. Where a significant majority of members are elected by the Synod, the membership of the board may include persons appointed by any representative alumni association.

Role of the Archbishop

9. If the Archbishop is a board member he should be entitled to chair meetings of the board when present.
10. If the Archbishop is not a board member he should be entitled –
 - (a) to receive board papers at his request, and
 - (b) to attend board meetings, and
 - (c) to address the board on any pastoral or policy issue concerning the Anglican Church of Australia as it applies to the diocesan organisation including the appointment of a chief executive officer for the organisation.

The Archbishop should be able to appoint a nominee to exercise these entitlements on his behalf.

Election, appointment and term of office of board members

11. A board member should be elected or appointed for a term not exceeding 3 years. One third of Synod elected members should therefore retire at each ordinary session of the Synod or, in the case of members elected by the Standing Committee, at the first meeting of the Standing Committee following each ordinary session.
12. Any person who wishes to be elected, appointed or to remain as a board member must sign a statement of personal faith in a form determined by the Synod. The form of the statement is set out in Appendix 3.
13. A casual vacancy should arise in the office of a board member if the member –
 - (a) dies,

- (b) resigns in writing to the chairman of the board or to the Diocesan Secretary,
- (c) is an insolvent under administration,
- (d) is of unsound mind or whose person or estate is liable to be dealt with in any way under the laws relating to mental health or is otherwise incapable of acting,
- (e) is disqualified from managing a corporation within the meaning of the *Corporations Act 2001*;
- (f) has at any time during the preceding 12 months been disqualified from being a responsible entity of a registered entity by the Commissioner of the Australian Charities and Not-for-profits Commission;
- (g) is convicted of an offence punishable by imprisonment for 12 months or longer,
- (h) is subject to a recommendation from a tribunal or body under the Discipline Ordinance 2006 (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 board member,
- (i) is absent without leave for 3 consecutive meetings of the board and the board resolves that the person's membership should cease,
- (j) fails to sign the statement of personal faith, or declares that he or she is no longer able to subscribe to the statement, or
- (k) 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 a three-quarters majority that the person's membership should cease as a result of this failure,

and a person should be disqualified from being elected or appointed as a board member if any of the circumstances referred to in paragraphs (c) to (h) and (j) apply to the person.

14. Casual vacancies arising for Synod elected members should be filled by the Standing Committee. The person who fills the casual vacancy should hold office until the day on which the person whose vacancy he or she has filled would have retired had the vacancy not occurred.
15. In the absence of an alternative methodology in the constituting ordinance of a diocesan organisation which achieves effective board renewal in the context of that organisation under the direction of the chair, a retiring board member should only be eligible for re-appointment or re-election where such re-appointment or re-election would not in the normal course result in that member being a board member for more than 14 consecutive years. For this purpose, years are consecutive unless they are broken by a period of at least 12 months.
16. Board members should not be remunerated for their service as board members except by way of reimbursement for reasonable out-of-pocket expenses.

Chair and other office holders

17. The chair and any other officer of the board should be elected by board members for a term not exceeding 3 years. Such persons are eligible to stand for re-election but should not serve in the same office for more than 9 consecutive years.
18. A person is not eligible to be appointed or elected as the chair of a board unless he or she has first signed a statement of personal faith in a form determined by the Synod. The initial form of such a statement is set out in the Appendix 3.
19. A person should not be the chair of the board of a diocesan organisation if a member of the person's immediate family is employed by the diocesan organisation, unless the board has considered the circumstances and unanimously agreed to it by secret ballot.

The Chief Executive Officer

20. The board should have the power to appoint and remove the Chief Executive Officer.
21. The Chief Executive Officer is responsible to the board for the leadership and management of the diocesan organisation.
22. A person is not eligible to be appointed as the Chief Executive Officer unless he or she has first signed a statement of personal faith in a form determined by the Synod. The initial form of such a statement is set out in the Appendix 3.

Board meetings

23. Meetings of the board may be convened by the chair or a specified number of board members.

24. Board members should be able to attend meetings either personally or by suitable electronic means.
25. A quorum for meetings of the board should be no less than one half of its members.
26. The board should be able to pass resolutions without a meeting if –
 - (a) a copy of the proposed resolution is sent to all board 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 board members indicate within the specified timeframe that they support the proposed resolution being passed, and
 - (c) no board member objects within the specified timeframe either to the proposed resolution being passed or the proposed resolution being passed without a meeting.
27. The Chief Executive Officer should have the right to attend and speak at board meetings unless the board determines that he or she should not be present for a particular meeting, or part thereof.
28. The board must cause minutes to be made of –
 - (a) the names of the persons present at all board meetings and meetings of board committees,
 - (b) all disclosures of perceived or actual material conflicts of interest, and
 - (c) all resolutions made by the board and board committees.
29. 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.

Duties, powers and limitations

30. The diocesan organisation should have such powers as are necessary for the diocesan organisation to fulfil its purpose.
31. The board should, in governing the diocesan organisation, exercise all the powers of the diocesan organisation.
32. A board member is taken to act in good faith in the best interests of the diocesan organisation and to further the purposes of the diocesan organisation for the purposes of paragraph 33(b) if –
 - (a) the diocesan organisation is expressly permitted to pursue its purposes in the manner referred to in paragraph 2;
 - (b) the board member acts in good faith in pursuing the purpose of the diocesan organisation in a manner which advances the broader charitable purposes of the Diocese; and
 - (c) the diocesan organisation is not insolvent at the time the board member acts and does not become insolvent because of the board member's act.
33. Board members are subject to and must comply with the following duties –
 - (a) to exercise the powers and discharge the duties of the diocesan organisation with the degree of care and diligence that a reasonable individual would exercise if they were a board member of a diocesan organisation, and
 - (b) to act in good faith in the best interests of the diocesan organisation and to further the purposes of the diocesan organisation, and
 - (c) not to misuse their position as a board member, and
 - (d) not to misuse information obtained in the performance of their duties as a board member of a diocesan organisation, and
 - (e) to disclose perceived or actual material conflicts of interest of the board member, and
 - (f) to ensure that the financial affairs of the diocesan organisation are managed in a responsible manner, and
 - (g) not to allow the diocesan organisation to operate while insolvent.
34. A board member who has an actual or perceived material conflict of interest in a matter that relates to the affairs of the board must disclose that interest to the board and should not participate in any consideration of that matter by the board unless the board, by resolution, notes the interest and permits the member to participate.
35. The board should maintain records of applicable eligibility criteria for board membership and conflicts of interest disclosed by board members.

36. The board should have the power to delegate the performance of any of its functions to one or more committees provided any such committee is chaired by a board member and reports the exercise of its delegated functions to the next board meeting.
37. The diocesan organisation should not offer its property as security for any liability other than a liability of the diocesan organisation or a body controlled by the diocesan organisation.
38. Any mortgage, charge, debenture or other negotiable instrument given by the diocesan organisation over its property (other than a cheque drawn on a bank account held by the diocesan organisation) should include a provision limiting the liability of the diocesan organisation to the amount available to be paid in the event it is wound up.
39. The diocesan organisation should comply with all applicable ordinances and policies of the Synod (as amended from time to time) including, as applicable –
 - (a) the *Investment of Church Trust Property Ordinance 1990*,
 - (b) the *Accounts, Audits and Annual Reports Ordinance 1995*,
 - (c) the *Anglican Schools Ministry Ordinance 2016*, and
 - (d) the *Sydney Anglican Use of Property Ordinance 2018*, and
 - (e) the *Safe Ministry to Children Ordinance 2018*.

Not-for-profit

40. There should be a provision which affirms that because the property of the diocesan organisation is church trust property within the meaning of the *Anglican Church of Australia Trust Property Act 1917*, it must not as a matter of law be distributed for the private benefit of individuals, either during the operation of the organisation or on its winding-up.

Winding up

41. There should be a provision which affirms that if, on the diocesan organisation's winding up or dissolution, there remains after satisfaction of all its liabilities any property, such property must be applied for such purposes of the Diocese as the Synod may determine or, where appropriate, such purposes of the Diocese as the Synod may determine which are similar to the organisation's purposes. Where the diocesan organisation has been endorsed as a deductible gift recipient, there should be a provision which affirms that on the winding-up or dissolution of the organisation, the Synod must transfer the remaining property of the organisation to one or more deductible gift recipients which, in any case, is either a fund which comprises church trust property or another diocesan organisation.

Appendix 3: Statement of Personal Faith

Statement of personal faith

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 as 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) that 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;
 - (c) that we are justified before God by faith only; and
 - (d) that this faith produces obedience in accordance with God's word, including sexual faithfulness in marriage between a man and a woman, and abstinence in all other circumstances.
3. I shall endeavour to fulfil my duties as a member/the Chief Executive Officer [*delete whichever is not applicable*] of the [*insert name of board*] in accordance with its Christian ethos and its constituting ordinance.
4. I agree that my continuance as a member/the Chief Executive Officer [*delete whichever is not applicable*] of the [*insert name of board*] is dependent upon my continuing agreement with this statement and I undertake to resign if this ceases to be the case.

Signature

Full name (in block letters)

Date:

Schedule 1

Schedule of Diocesan Organisations

12. In this policy –
 “diocesan organisation” means a body which has an Australian Business Number and –
- (a) is constituted by ordinance or resolution of the Synod, or
 - (b) in respect of whose organisation or property the Synod may make ordinances,
- but excludes
- (i) the Synod, the Standing Committee and any of their subcommittees,
 - (ii) parish councils,
 - (iii) the chapter of a cathedral, and
 - (iv) entities that perform an administrative function under ordinance or resolution rather than conduct an enterprise in their own right.

Incorporated	Abbotsleigh (The Council of) Anglican Church Growth Corporation Anglican Church Property Trust Diocese of Sydney Anglican Community Services (Anglicare) Anglican National Superannuation Board Anglican Schools Corporation Anglican Youth and Education Diocese of Sydney (Anglican Youthworks) Archbishop of Sydney’s Anglican Aid (The) Arden Anglican School Council (The) Barker College (The Council of) Campbelltown Anglican Schools Council Endowment of the See Corporation Evangelism and New Churches Glebe Administration Board Illawarra Grammar School (The Council of The) King's School (The Council of The) Macarthur Anglican School Council Moore Theological College Council St Andrew's Cathedral School (The Council of) St Andrew’s House Corporation St Catherine's School, Waverley (The Council of) Sydney Anglican (National Redress Scheme) Corporation Sydney Church of England Grammar School Council (SHORE) Sydney Diocesan Services Tara Anglican School for Girls (The Council of) Trinity Grammar School (The Council of) William Branwhite Clarke College Council
Unincorporated	Anglican Media Council Arundel House Council Living Faith Council Ministry Training and Development Council Northern Regional Council South Sydney Regional Council South Western Regional Council Sydney Church of England Finance and Loans Board (Sydney Anglican Loans) Western Sydney Regional Council Wollongong Regional Council

Table of Amendments

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Anglican Diocese of Sydney

Responding to Domestic Abuse: Policy and Good Practice Guidelines

as at October 2018

A Word from the Archbishop

God is love. The Bible reveals God as a fellowship of love among the Father, the Son and the Holy Spirit, and a God who shares his love with all people. As the recipients of his love, he has called us to love him in return, with all our heart, with all our soul and with all our mind, and to love one another as ourselves. God has also designed marriage, as the proper place for sexual love wherein children might be born and brought up in the fear and knowledge of the Lord. Moreover, as the *Book of Common Prayer* reminds us, marriage signifies and represents ‘the spiritual marriage between Christ and his Church’.

Such a holy union is worthy of great honour and respect, especially by the husband and the wife, but also by society as a whole. As the love of God has joined us to himself, so the Bible instructs husbands to love their wives and wives to love their husbands. God’s word condemns unloving behaviour, and especially the misuse of power to control or exploit others. Abuse in all its forms is explicitly forbidden, as it is contrary to the nature of God and the love that he demands of us all. Yet sadly, not all husbands love their wives as Christ loved the Church, nor do all wives love their husbands as they should.

The effects of sin are ever present, and can cause great havoc to otherwise healthy relationships. For these reasons, we are concerned for those relationships where domestic abuse is present. We wish to address this issue honestly and transparently; we also wish to extend our care and compassion to those who suffer domestic abuse. This policy document is designed to assist us in this task, that we might strengthen existing marriages, but also assist those whose lives are at risk because of domestic abuse, with genuine options for godly responses. The recommendations made in this document include a framework for providing specialist support services which can be points of referral to ensure safety and protection for all. It also suggests how we might be better equipped and resourced in identifying and supporting victims of abuse in order to provide the pastoral care that is both appropriate and necessary.

This is a sensitive area for us to explore, but it must be explored and exposed, so that we might live as children of light, seeking to honour Christ as Lord and Saviour in every community, especially the family.



DR GLENN DAVIES
Archbishop of Sydney

Aim

This document sets out the Domestic Abuse Policy and Good Practice Guidelines of the Anglican Diocese of Sydney, as evidence and expression of the Church's commitment to address and respond effectively to domestic abuse both within its own community and in the wider society.

The aim of this policy and these guidelines is to inform, direct and equip people working at a local level so that they can offer the most appropriate care in circumstances of domestic abuse. This includes not only those in pastoral ministries, but also those who may be called upon by victims or alleged or known perpetrators to hear their story.

Scope

This policy applies to all parishes of the Diocese of Sydney, their clergy and church workers. It is also commended to all Anglican organisations associated with the Diocese of Sydney for their adoption as far as is applicable in their contexts.

It should be read in conjunction with *Faithfulness in Service*, our national Anglican code of conduct for clergy and church workers, as adopted by the Diocese of Sydney.

Outline

- Section 1 outlines the Policy on Responding to Domestic Abuse (the policy).
- Section 2 outlines the **Good Practice Guidelines** (guidelines) for responding to domestic abuse.

This is supported by 11 Appendices that provide reference material and templates on Good Practice. It is intended that links to additional resources that cover this subject from other angles will be published at a later date.

Where to find the Policy and Guidelines (with Appendices)

The Policy and Guidelines (with appendices) will be distributed via email:

- to all parish councils and organisations in the Diocese of Sydney, and
- to all licensed clergy and authorised lay ministers licensed in the Diocese of Sydney.

The most up-to-date version of the Policy and Guidelines will be available on the Safe Ministry website of the Professional Standards Unit (PSU). Hard copies of the policy and associated documents can be supplied via the PSU, on request.

On Terminology

We have chosen to use the expression **domestic abuse** rather than domestic violence in order to avoid the common misapprehension that only physical violence counts as domestic abuse. We make exceptions when quoting other literature, and when referring to official titles and terminology in common use in other professional circles, e.g., we sometimes refer to "domestic violence services".

We have also chosen to refer to **victims** of domestic abuse but acknowledge many victims go on to become survivors.

Section 1

Sydney Anglican Policy on Responding to Domestic Abuse

SECTION 1:

Sydney Anglican Policy on Responding to Domestic Abuse

1.1 We acknowledge domestic abuse exists and is wrong

- 1.1.1 All forms of domestic abuse are wrong and perpetrators must stop.
- 1.1.2 **Domestic abuse** includes but is not limited to emotional, verbal, social, economic, psychological, spiritual, physical and sexual abuse. Such behaviour often seeks to control, humiliate, dominate or instill fear in the victim. Please refer to Appendix 1 for an expansive description of domestic abuse.
- 1.1.3 The primary focus of this Policy is abusive or intimidating behaviour inflicted by an adult against a current or former spouse or partner. However, for a child to witness abuse between intimate partners is a form of child abuse. Any abuse involving children should follow child protection procedures.
- 1.1.4 Sometimes both spouses can be simultaneously perpetrators and victims of abuse, although neither is the pattern of abuse nor the impact generally symmetrical.

1.2 We are committed to safe places

The Anglican Diocese of Sydney is committed to promoting and supporting safer environments that:

- 1.2.1 Recognise equality between all people, including husbands and wives;
- 1.2.2 **Promote a culture of healthy relationships** of mutual responsibility and respect in marriages, families and congregations;
- 1.2.3 Ensure that all people feel welcomed, respected and safe from abuse;
- 1.2.4 **Strive to follow good practice** in protecting those experiencing domestic abuse;
- 1.2.5 **Refuse to condone** any form of abuse; and
- 1.2.6 Enable concerns to be raised and responded to clearly and consistently.

1.3 We uphold Faithfulness in Service

We uphold *Faithfulness in Service* as our diocesan code of conduct for clergy and church workers, specifically its affirmations in section 6:

- 1.3.1 Abuse of power is at the heart of many relationship problems in the Church and in the community. In essence, abuse is one person's misuse of power over another. Sometimes abuse will be a one-off event and at other times it will be a pattern of behaviour (6.2);
- 1.3.2 It is important for clergy and church workers to be good citizens and to obey the laws of the community, except where those laws conflict with Christian convictions (6.4);
- 1.3.3 You are not to abuse your spouse, children or other members of your family (6.6);

1.4 Domestic abuse requires a serious and realistic response

- 1.4.1 All forms of domestic abuse cause damage to the victim and are wrong.
- 1.4.2 Domestic abuse can occur in all communities, including churches.
- 1.4.3 Domestic abuse, if witnessed or overheard by a child, is a form of child abuse by the perpetrator of the abusive behaviour.
- 1.4.4 Working in partnership with vulnerable adults and children, statutory authorities and specialist agencies is essential in promoting the welfare of any child or adult suffering abuse.
- 1.4.5 Clergy and lay ministers do not typically have professional expertise in the area of domestic abuse. They need to obtain advice from those with professional expertise when faced with situations of domestic abuse, as advised by *Faithfulness in Service* (4.12).
- 1.4.6 Where mistakes in caring for people in difficult situations are made, an apology should be offered and advice sought on how to address any harm caused.

1.5 We respect people who come to us for help

Our churches are to be places of safety. We shall respond to domestic abuse by:

- 1.5.1 Valuing, respecting and listening to victims of domestic abuse;
- 1.5.2 Valuing, respecting and listening to alleged or known perpetrators of domestic abuse;
- 1.5.3 Appreciating the need to ensure a distance is kept between the two; and
- 1.5.4 Refusing to condone the perpetration or continuation of any form of abuse.

1.6 We uphold Scripture and its abhorrence of abuse in our words and public statements

In our words and public statements, we will:

- 1.6.1 **Clearly teach that domestic abuse is wrong** and that the Bible should never be interpreted to justify or excuse any form of abuse. Rather a relationship between a husband and wife is to be characterised by love, care and kindness;
- 1.6.2 Clearly teach that the Bible does not condone abuse and should not be interpreted to demand a spouse tolerate or submit to domestic abuse; and
- 1.6.3 Raise awareness of domestic violence agencies, support services, crisis accommodation, resources and expertise.

1.7 We ensure safety first

- 1.7.1 **Safety First** – Ensure that those who have experienced domestic abuse can find safety and informed help as a first priority, and can continue to stay safe.
- 1.7.2 **Take it Seriously** – Ensure that any disclosures of abuse are taken seriously and not dismissed.

- 1.7.3 **Get help from outside authorities** – Work with the appropriate statutory authorities during an investigation into domestic abuse, including when allegations are made against a member of the church community.
- 1.7.4 **Keep it confidential** – Respect the need for confidentiality within the bounds of good Safe Ministry practice, noting that reporting requirements exist where there is an immediate danger, where a child is at risk of serious harm or where the matter involves a clergy person or church worker as an alleged offender.
- 1.7.5 **Challenge with Care** – Carefully challenge inappropriate behaviour, but only in a way that does not place any individual, especially a victim, at increased risk.

1.8 We offer pastoral support to those in our care

- 1.8.1 **Offer informed care** – Ensure that informed and appropriate pastoral care and professional help is offered to any adult, child or young person who has suffered domestic abuse.
- 1.8.2 **Be guided by the victim** – It is never appropriate to pressure any victim of domestic abuse to forgive, submit to, or restore a relationship with an offender.
- 1.8.3 **Understand that reconciliation comes with conditions** – Any possibility of reconciliation between victim and offender is dependent principally upon the genuine repentance and reformation of the offender.
- 1.8.4 **Coordinate the care** – Identify the appropriate relationships of those with pastoral care responsibilities for both victims and alleged or known perpetrators of domestic abuse.
- 1.8.5 **Ensure equal access to care** – Work to ensure that clergy, clergy spouses, lay ministers and their spouses all have the same access to support and resources as others who experience domestic abuse.

1.9 Thinking Theologically – 10 Statements about Domestic Abuse

- 1.9.1 All human beings, both male and female, are created equal in the image of God, and are precious to him. As such their value and dignity rightly commands our respect and protection and should be upheld by all (Genesis 1:27; Psalm 82:3-4; Matthew 22:37-40).
- 1.9.2 Marriage is given by God as a good part of his creation for human wellbeing and should be honoured by all. It is intended as a lifelong union of a man and a woman. Healthy Christian relationships are characterised by servanthood and sacrifice, supremely modeled by Jesus Christ. Within a marriage relationship both husband and wife are to respond to one another by building each other up, which includes mutual love, nurture and respect. Any attempt to justify abusive behaviour by the use of passages in the Bible which speak of headship and submission is intolerable (Mark 10:42-45; Ephesians 5:21-33; Hebrews 13:4).
- 1.9.3 The Bible rejects all abuse, whether physical, verbal, or otherwise expressed from one person towards another and always condemns the misuse of power to control or exploit others. Therefore domestic abuse is evil. Such sin is deceptive in its power and damaging in its effects (Psalm 7; Galatians 5:19-26; 2 Timothy 3:2-3).
- 1.9.4 When domestic abuse in marriage is reported, then separation of the spouses for the sake of the safety of a victim and any children is an appropriate step to be taken and should never be discouraged (Proverbs 27:12; 1 Corinthians 7:10-11)
- 1.9.5 Victims of domestic abuse should be encouraged to seek help from the Police, from child protection authorities and other relevant domestic violence services. Church leaders who

become aware of situations of domestic abuse should always ensure they meet their mandatory reporting obligations, and obtain professional advice (Romans 13:1-5).

- 1.9.6 When a wife or husband separates for the sake of their safety (or that of their children), such action should not mean the person is deemed to have deserted the marriage or have abandoned their responsibilities as a parent even though they may have physically left the common home. Church leaders should welcome and offer ongoing support to those who have separated for such reasons (Psalm 82:3-4).
- 1.9.7 The gospel of the Lord Jesus Christ flows from both justice and love. It calls for repentance and offers forgiveness. When domestic abuse has been indicated as a factor in separation, the perpetrator must be called upon to repent and take full responsibility for their actions. Genuine repentance is demonstrated over time and includes the person gaining an understanding of what led them to behave in an abusive manner, what was wrong with their behaviour, and how it has impacted the victim. (Luke 3:8-14; Romans 12:9; 2 Corinthians 7:8-11). True reformation in such cases takes considerable effort on the part of the perpetrator, may take many years, and, for some, may never be achieved.
- 1.9.8 Forgiveness is often an important part of a victim's healing journey. However any attempts made at reconciliation should only proceed slowly and cautiously, and after consultation with experienced domestic violence services. The caution of a victim in regards to being reconciled to an offender is appropriate, and should not be mistaken for 'unwillingness' to forgive or be reconciled.
- 1.9.9 The grace of the gospel extends to all sinners. Church leaders have an obligation to provide support, pastoral accountability and supervision to any person who remains within their church communities known to have been a perpetrator of domestic abuse. However such support should only be given in a manner that does not condone the abuse nor compromise the safety or pastoral care of victims of domestic abuse.
- 1.9.10 Christians with a genuine desire to be faithful to Scripture hold different views on the question of when divorce is appropriate. However such differences should not impact a Christian's support for a victim of domestic abuse separating from their spouse for the sake of safety. For a discussion of when divorce might be an appropriate action in the circumstances of domestic abuse please see the attached 1984 Doctrine Commission report extract, para. 4:13, Appendix 13.

1.10 What do you need to do in your church?

When a case of domestic abuse is reported in a parish or organisation of the Diocese of Sydney, it is right to act in accordance with the following priorities:

Safety first – for the victim(s)

Accountability – for the abuser

Healing – for the victim(s)

Repentance, reformation and healing – for the abuser

Define and clarify the state of the relationship

- 1.10.1 A victim's physical, emotional and spiritual safety must be our primary and ongoing concern. Other matters above may be considered according to the priorities suggested, although inevitably some stages may overlap or need to be revisited.
- 1.10.2 Further advice is available in our detailed **Good Practice Guidelines**, along with extensive information in the series of attached **Appendices**. All clergy and church workers should familiarise themselves with these guidelines.
- 1.10.3 We have also prepared a **Domestic Abuse Response Flow Chart** with the appropriate processes to follow when you become aware of an incident of domestic abuse. On the page following the flow chart we also list a number of key telephone numbers and websites, along with an app for smart phones and tablets.

1.11 Key steps for prevention and care

- 1.11.1 Clergy and church workers should cooperate with statutory authorities such as the Police, child protection services and domestic violence services.
- 1.11.2 Parish Councils should consider adopting and publishing a local domestic abuse policy (see Appendix 6 for the recommended parish version of the above policy).
- 1.11.3 Consider displaying the church's domestic abuse policy statement in an appropriate place alongside information about how to access advice and support from the Police, domestic violence helplines and diocesan services.
- 1.11.4 Clergy and church workers should follow diocesan procedures for responding to concerns about domestic abuse (see Flowchart and Good Practice Guidelines – if there is any doubt as to what action to take, refer to the Professional Standards Unit or the Anglicare Domestic Violence Adviser (see 1.13).
- 1.11.5 Clergy should ensure the training of those in leadership positions, safe ministry roles and other pastoral roles about domestic abuse.
- 1.11.6 Clergy should ensure domestic abuse is addressed in appropriate contexts such as preaching, Bible studies, prayers and church publications, as well as in marriage preparation, youth groups and ministry training activities.
- 1.11.7 In such teaching, clergy should consider how to prevent convictions regarding biblical teachings, on matters like the marriage covenant, gender relationships, forgiveness and sacrificial love, being distorted or used to justify domestic abuse.

1.12 Domestic Abuse Flowchart

At any time in this process you can seek advice from a domestic violence professional. Within 48 hours of a disclosure you should debrief with such a professional.

A person discloses domestic abuse:

RESPECT & LISTEN

- Listen with acceptance
- Don't ask for proof
- Assure the victim it's not their fault
- Be honest about your ability to help
- Reassure normal confidentiality will be maintained, but explain its limits

Is there an immediate risk of harm?

Yes

SAFETY FIRST

- Discuss with the victim, but call the Police **000**
- Seek advice from the NSW Domestic Violence Line **1800 656 463**

No

Are there children involved?

Yes

CHILD PROTECTION PROCEDURES

- Call the Child Protection Helpline **132 111**
- Remember that witnessing domestic abuse harms children & may be reportable

No

Is the victim or accused in a ministry family?

Yes

KEEP PROFESSIONAL STANDARDS INFORMED

- Call the Professional Standards Unit (PSU) **9265 1604**

No

Has further help been requested?

Yes

ACTION

- Advise that any intervention needs care and can heighten risk.
- Be guided by what the victim wants
- Outline realistic options: Police, AVDOs, DV services, safety planning, GP, counsellor, refuge...
- Supply appropriate information, phone numbers, websites, Daisy app (be careful of storage).
- Encourage the victim to consult a service, or make a referral on their behalf.
- Record what was disclosed and your safety concerns, note your actions, and from whom you received advice. Date the record and keep it confidential.

No

NO FORMAL ACTION

- Your time was well spent. A victim knows they have been believed, is not in the wrong, and can return to you for further help.
- You can't make a victim of domestic abuse take any action. The most you may be able to do is listen and provide information (note earlier obligations regarding immediate danger or if children are involved).
- You may be able to offer other chances to meet and talk.
- You may be able to suggest referring more generally to a GP, psychologist or counsellor.
- You could supply appropriate information, phone numbers, websites, Daisy app (be careful of storage).
- Record what was disclosed and your safety concerns, note your actions and/or advice. Date the record and keep it confidential.



1.13 Domestic Abuse – key telephone numbers and websites for help

AGENCY	CONTACT DETAILS
<p>1800 Respect national helpline 24 hour national number for sexual assault, family and domestic violence counseling and advice.</p>	<p>1800 737 732 1800respect.org.au</p>
<p>Anglicare Domestic Violence Adviser Advice to clergy and lay ministers in the Anglican Diocese of Sydney especially for domestic abuse in a church-related setting.</p>	<p>0438 826 556 (business hours)</p>
<p>Daisy App The Daisy App connects people who may experience violence or abuse to support services in their local area. It was developed by 1800RESPECT and is free to use and download. It includes some safety features to help protect the privacy of people using it.</p>	<p>Free to download from iPhone App Store & Android Google Play</p>
<p>Child Protection Helpline Contact this helpline if you think a child or young person is at risk of harm from abuse.</p>	<p>132 111 reporter.childstory.nsw.gov.au/s/mrg</p>
<p>Lifeline 24 hour telephone crisis line.</p>	<p>131 114 www.lifeline.org.au/get-help</p>
<p>NSW Domestic Violence Line 24 hour number for comprehensive information and referrals to nearby support services, for all categories of domestic violence.</p>	<p>1800 65 64 63 domesticviolence.nsw.gov.au/get-help</p>
<p>NSW Rape Crisis Centre Counselling service for anyone in NSW – men and women – who has experienced or is at risk of sexual assault.</p>	<p>1800 424 017 www.nswrapecrisis.com.au</p>
<p>No To Violence: Men's Referral Service Telephone counselling, information and referral service for men using violence in families, male victims, and for their friends or relatives.</p>	<p>1300 766 491 ntv.org.au</p>
<p>Professional Standards Unit Advice about abuse involving clergy or church workers in the Anglican Diocese of Sydney.</p>	<p>9265 1604 safeministry.org.au</p>



N.B. Addresses for local refuges are generally not made public for security's sake.
Current as at May 2018.

*Section 2:
Addressing Domestic Abuse:
Good Practice Guidelines*

SECTION 2:

Addressing Domestic Abuse: Good Practice Guidelines

Preamble

For the purposes of these Guidelines, **domestic abuse** is defined as abusive or intimidating behaviour inflicted by an adult against a current or former spouse or partner. It includes, but is not limited to, emotional, verbal, social, economic, psychological, spiritual, physical and sexual abuse. Such behaviour often seeks to control, humiliate, dominate or instill fear in the victim.

A more extensive definition of the various forms which abuse can take is found in Appendix 1.

2.1 How to respond to victims

When you haven't personally experienced abuse, it's easy to listen with an attitude of assessing whether what is being reported is really abuse. 'Would I find that abusive? Doesn't everyone argue sometimes?' However, when a person has repeatedly been victimised and feels powerless, our response always needs to be to offer support, to listen and give those people the respect of being believed.

-Clinical psychologist and clergy wife

The guidance below aims to assist you in responding to people who disclose domestic abuse.

- 2.1.1 Those who respond to news of domestic abuse often feel ill-equipped. Sometimes it is difficult to distinguish between other types of marital dysfunction and domestic abuse, or it may be that concerns about abuse only emerge gradually. Clergy and church workers should acknowledge their professional limitations, and should consult the PSU, the Anglicare Domestic Violence Adviser or experienced domestic violence services for advice.
- 2.1.2 The safety of victims and any children is paramount. All actions should carefully consider the risk to their, and your, safety. Making telephone calls, possessing information about support services for domestic abuse, the use of texts and emails, and accessing relevant websites all create potential risks for those experiencing abuse.
- 2.1.3 For information on domestic abuse, its prevalence and effects, and how to recognise both victims and alleged perpetrators, please see Appendix 3. This also briefly notes other particular categories of domestic abuse.

2.2 Initial Disclosure

If a victim discloses or otherwise hints at abuse, the following factors are important:

- 2.2.1 **Ask after them** – Most victims want you to ask how they are doing. Your offer of help could be the first step in enabling them to seek help, e.g. 'How are things at home?' and if it becomes appropriate, 'Is anyone hurting you?' or 'Do you ever feel afraid?';
- 2.2.2 **Take time to listen** – Take plenty of time to listen and believe what they say. If they sense disbelief they may be discouraged from speaking again;
- 2.2.3 **Choose the place wisely** – If it is at all possible, speak with the victim in a safe, private place where you will not be interrupted, or arrange to talk again, keeping in mind that someone in distress may start talking anywhere. As is the case in other ministry situations

when speaking with a woman, male clergy should consider inviting her to bring a support person, or should conduct the discussion where there are others in the general vicinity; and

- 2.2.4 **The limits of confidentiality** – Make it clear that complete confidentiality cannot be guaranteed, depending on the nature of what is disclosed. For example, further disclosure may be needed when someone is being hurt or in serious danger, a serious criminal offence has been committed, or when children are involved.

2.3 Immediate action

- 2.3.1 **Dial 000** if you are witnessing a violent incident or if the person needs medical care.
- 2.3.2 **Call the Police** if the victim is in immediate danger. Also seek advice from the NSW Domestic Violence Line **1800 656 463**. Be aware that intervention may heighten risk, but it is important to explore how to ensure that people are safe.
- 2.3.3 **Are children involved?** If children are involved and there is a risk of significant harm, a referral to the child protection authorities needs to be made, in addition to calling the Police, and if possible, encourage the victim to make the referral themselves, perhaps supporting them through the process.
- 2.3.4 **Is a clergy person or church worker involved?** If the matter involves a clergy person or church worker as an alleged offender, the PSU will also need to be informed.
- 2.3.5 **Is there a threat of self harm?** Any threat to self-harm must be taken seriously as threats of self-harm made by a perpetrator of domestic abuse to their victim are usually part of their controlling and manipulative behaviour. If the victim reports this to you, and you believe there is a risk of serious harm, you should attempt, if possible, to get medical help for the alleged perpetrator.
- 2.3.6 **Keep their confidence** – Remember that the confidentiality of the victim must be maintained.

2.4 Your response to the disclosure

- 2.4.1 **You are brave** – Acknowledge the victim's strength and courage it takes to have endured abuse and now to talk about it.
- 2.4.2 **Here are some options** – Give the victim choice in what the next steps are and the timing of those steps unless there is imminent risk of physical harm or mandatory reporting obligations.
- 2.4.3 **Here is where to find help** – Encourage them to seek professional help from a local domestic violence service who will be able to offer practical safety planning advice, even if they do not want to leave their home. In addition give information about specialist helplines and websites, as required. (See Flow Chart and page following the flow chart.)
- 2.4.4 **Are you in danger?** – Express concern for their safety and immediate welfare. Do they have somewhere to stay?
- 2.4.5 **Are children in danger?** – Ask about the children and their safety and welfare. You may need to persuade them to report any concerns to the child protection authorities. You have no option but to do so if you have received information that a child is at serious risk of harm.
- 2.4.6 **Do you have support?** – Be sensitive to people's backgrounds and cultures. Ask them how cultural issues may affect them. Ask them about what support is available to them from friends and family.

- 2.4.7 **Take care of yourself** – Encourage them to focus on their own needs, something they may not have been able to do since the abuse began but which is critical in helping them to change their situation.
- 2.4.8 **It's not your fault** – Reassure them that whatever the circumstances, abuse is not justified and not their fault.
- 2.4.9 **How can our church best help you?** – Ask them what they want from you and the parish. Offer help which is in response to their needs and preferences and which lets them keep in control, as much as possible.

2.5 Record keeping and follow up re. victims

Please also see the guidance from *Faithfulness in Service* paragraphs 4.36 and 4.37 (noted in Appendix 5) which address the need to keep notes of individual pastoral activity, and also to be aware of relevant privacy legislation.

- 2.5.1 **What's the best way to contact you?** – Check if it is all right to contact the victim at home before doing so. Establish their preferred means of contact, and make sure that this is safe.
- 2.5.2 **Keep it confidential** – Keep information confidential and, as a general rule, only share it where appropriate and with informed consent of the victim.
- 2.5.3 **Tell authorities when appropriate and keep a record** – In some circumstance you will be required to share information with statutory authorities, for example, where the victim or others may be at risk. Always keep a record of your decision and the reasons why you decided to share (or not). If in doubt, contact the PSU, the Police or the child protection authorities.
- 2.5.4 **Take notes** – It is recommended that you make a brief objective note of dates, facts and context of what you have been told, but keep your opinions separate. This should be kept in strict confidence but could be useful in any future prosecution.
- 2.5.5 **First 48 hours – Within 48 hours of the disclosure you ought to share the incident with someone who is qualified** in the area of domestic abuse, who can support you and help you to think through the issues. This may be a Police Domestic Violence Liaison Officer, the Anglicare Domestic Violence Adviser or via the 1800 RESPECT national domestic violence helpline.
- 2.5.6 **Review church safety** – If the alleged perpetrator is in the same church as the victim, you will need to review the safety issues. There may need to be a risk assessment and memorandum of understanding (MOU) put in place. You are advised to consult with the PSU.
- 2.5.7 **Safety plan with a professional** – Victim safety planning should be conducted by a professional, ideally from a domestic violence service or the Police. But there may be an occasion when a victim wishes to discuss their safety with you. You should seek advice before entering into detailed safety planning discussions with the victim. However Appendix 7 gives an example of a safety planning format that normally guides such planning. Careful consideration should be given to where and how such information is provided and kept by the victim, to avoid the alleged perpetrator learning the details of the plan.
- 2.5.8 **When to go to the PSU** – If the alleged perpetrator is a clergy person or church worker you must report this to the PSU.
- 2.5.9 **Extreme discretion needed – Do not give information about the victim's whereabouts, contact details or personal circumstances to the alleged perpetrator or to others who might pass information on to the alleged perpetrator.** Do not discuss with the parish council or any other members of a congregation or anyone who might inadvertently pass information on to the perpetrator.

- 2.5.10 **Offer practical help** – When victims are leaving a controlling perpetrator, they often have to leave with nothing and have access to very limited financial support. Consider how your church can provide practical support for victims.

2.6 Responding to alleged or known perpetrators

Every church has an important role to play in challenging inappropriate behaviour among its members. This can, however, lead to increased risks for both the victim and the person who challenges an alleged or known perpetrator. This needs to be done in an extremely careful way that does not place a victim at increased risk.

Factors to consider when responding to perpetrators:

- 2.6.1 **The victim comes first** – Ensure that the victim is at the highest priority in terms of safety and wellbeing, and that any action is centred on the victim. Action here includes giving the victim choice in what the next steps are and the timing of those steps unless there is imminent risk of physical harm or mandatory reporting obligations;
- 2.6.2 **Strength in numbers** – If meeting an alleged perpetrator, ensure that it is in a public place, and that there are others in the meeting;
- 2.6.3 **Be safe** – Maintaining an awareness of the danger that the alleged perpetrator may pose to you, and ensuring that you and others are safe;
- 2.6.4 **First 48 hours** – **Within 48 hours of the disclosure you ought to share the incident with someone who is qualified** in the area of domestic abuse, who can support you and help you to think through the issues. This may be a Police Domestic Violence Liaison Officer, the Anglicare Domestic Violence Adviser or via the 1800 RESPECT national domestic violence helpline;
- 2.6.5 **Get help** – If the alleged perpetrator threatens self-harm while talking with you, then they may require urgent support. Dial 000 if you are witnessing a violent incident or if the person needs urgent medical care. Otherwise you could refer them to their GP;
- 2.6.6 If the alleged perpetrator is in the same Church as the victim, you will need to review the safety issues. There may need to be a risk assessment and 'memorandum of understanding' (MOU) put in place. You are advised to consult the Safe Ministry website (safeministry.org.au/for-parishes/safe-ministry-journey/safe-ministry-map/4-0/) or contact the PSU;
- 2.6.7 **When to contact the PSU** – If the **alleged perpetrator is a clergy person or church worker** you must report this to the PSU;
- 2.6.8 **Extreme discretion needed** – Ensure that information concerning the victim is only given to statutory authorities and not to the alleged perpetrator. This includes keeping all contact details and personal circumstances confidential; and
- 2.6.9 **Where to get help** – Share information about helplines and accountability programs.
- 2.6.10 **Be alert** – Understand the possibility that you are being or may have been groomed by a perpetrator.

2.7 Record keeping and follow up re. perpetrators

Please see the previous section on 'record keeping and follow up' in regards to a victim. What follows is additional guidance in relation to responding to alleged or known perpetrators.

- 2.7.1 **You can't promise confidentiality** – While you might respect an individual's right to confidentiality this cannot be guaranteed. In some circumstances you will be required to share information with statutory authorities, for example, when someone is being hurt, a serious criminal offence has been committed or a child or adult is at risk.
- 2.7.2 **Keep a record** – Always keep a record of your decision and the reasons why you decided to share or withhold information. If in doubt, contact the PSU, the Police or the child protection authorities.
- 2.7.3 In following up alleged or known perpetrators:
- Do not collude with, excuse or minimise their behaviour;
 - Do not meet with them alone and in private. Meet in a public place or in the church with several other people around; and
 - Do not try to offer/provide treatment. Only those with professional training should discuss such issues formally with them.
- 2.7.4 In relation to any investigations or legal proceedings for domestic violence:
- Cooperate fully with requests from the police;
 - In the event that the alleged perpetrator requests you to produce documents or give oral evidence in any proceedings, insist that a subpoena is issued;
 - A church leader should exercise extreme caution and seek advice before acting as a character witness or advocating for an alleged perpetrator; and
 - A church leader may arrange for the alleged perpetrator to be provided with pastoral care throughout the investigation or proceedings, but should contact the PSU for further advice and not provide this care themselves.

2.8 Additional guidance for clergy and licensed lay ministers – responding to victims

- 2.8.1 **Help** – Help the victim with any spiritual concerns.
- 2.8.2 **Be patient** – Accept that victims may choose to stay in their situation for a variety of reasons, including genuine spiritual concerns regarding a desire to keep promises and for reconciliation.
- 2.8.3 **Abuse is always wrong** – Emphasise that violence or other domestic abuse is always unacceptable in a marriage, whether Christian or otherwise.
- 2.8.4 **Remember the Lord** – Assure them of God's love and presence and pray with them.
- 2.8.5 **Don't rush to reconcile** – Do not encourage them to forgive the alleged perpetrator or take them back in the absence of persistent evidence of repentant attitudes and behaviour, especially without obtaining professional advice.
- 2.8.6 **Do not pursue couples' counseling/mediation with them and their partner if you are aware that there is abuse in the relationship.**
- 2.8.7 **Seek advice** – Where couples' counseling has been commenced for general marital difficulties and concern about abuse emerges, seek advice about whether it should be discontinued.

2.9 Responding spiritually to perpetrators

- 2.9.1 **Be clear** – Address any spiritual rationalisations they may offer or questions they may have.
- 2.9.2 **No excuse** – Do not allow them to use theological excuses for their behaviour.
- 2.9.3 **Name the sin** – Name the abuse as *their* sin, not the victim's sin. Tell them that only they can stop it and that they need to seek help.
- 2.9.4 **Do not be easily swayed** – Do not be taken in by the perpetrator's remorse or "conversion" experience. If it is genuine, it will be a tremendous resource as they proceed with accountability. If it is not genuine, it is only another way to groom or manipulate you, so as to maintain control of the process and to avoid accountability.
- 2.9.5 **Pray** – Pray with them.
- 2.9.6 **Remorse** – Be aware that remorse expressed may or may not be genuine. Be particularly careful of an alleged perpetrator expressing remorse without any accompanying signs of real and visible repentance.
- 2.9.7 **Repentance must be real, visible and enduring** – A perpetrator may ask for forgiveness from God and seek to live a repentant life. Look for actions of repentance, not just words of repentance. What has the perpetrator done, for how long, with what kinds of accountability, to show evidence of change, such as engaging in a long term behaviour change program?
- 2.9.8 **Care** – Assure them of your pastoral care in this endeavour.
- 2.9.9 **Do not pursue couples' counselling/mediation with them and their partner if you are aware that there is abuse in the relationship.**

2.10 Perpetrator programs

The attitudes that underpin domestic abuse often have deep roots and are difficult to change. Some success has been achieved through Men's Behaviour Change programs for alleged or known perpetrators. These programs are conducted over an extended period of time and include one-on-one support as well as a group work program. Participation in such programs should not be linked to suggestions of reconciliation or discussions of postponing separation or divorce.

NSW has minimum standards for accredited Men's Behaviour Change Programs. Information on who is accredited and where programs are conducted can be found at the Men's Behaviour Change Network website: <https://www.mbcn-nsw.net/>. Accredited programs in NSW are strongly underpinned by victim support.

Anglicare is accredited to run Men's Behaviour Change Programs in Nowra and Parramatta. Contact the Anglicare Domestic Violence Adviser for further information.

Participation in a Men's Behaviour Change Program may be mandated by a court but self-referral to community-run programs is possible. Contact the Men's Referral Service (MRS) on 1800 065 973.

There is currently not a female equivalent to accredited Men's Behaviour Change Programs. If a female perpetrator was willing to seek assistance, a referral to a specific domestic violence service would be an appropriate option. Be aware that female perpetration often occurs in the context of self-protection, and needs to be thoroughly assessed.

2.11 Pastoral issues

- 2.11.1 **Consult the PSU** – There are complex issues for parishes where both parties continue to attend church. Parishes need to be aware of any legal restrictions around those accused of perpetrating abuse and ensure these are not undermined. As stated earlier (2.5.6), a risk assessment and MOU put in place may also need to be put in place. You are advised to consult with the PSU regarding any instance of a victim and an abuser (known or alleged) remaining in the same church. If a MOU cannot be agreed, the PSU can provide further advice about options. Remember that safety for the victim is paramount.
- 2.11.2 **Is a clergy person involved?** If the victim or alleged perpetrator is a member of the clergy, please talk urgently to the PSU to review the action required to ensure the victim's safety and the appropriate response (see section 2.12.2 below).
- 2.11.3 **Division of care** – Congregational leaders will need to consider how to provide pastoral care to both parties safely, noting that a clergy person or church worker cannot do this for both individuals. If they need further advice in relation to providing support they should contact the PSU or the Anglicare Domestic Violence Adviser.
- 2.11.4 **Long-term care for victims** – There may also be a need to provide long-term pastoral support for victims of domestic abuse, including support to couples when one or both parties have experienced abuse in a previous relationship.
- 2.11.5 **Caring for carers** – Likewise those responsible for caring for victims, or for perpetrators, also need emotional and pastoral support, along with others indirectly impacted; for example, friends or family within the parish.
- 2.11.6 **Dissatisfaction with care is possible** – There may be times that either victim or perpetrator, or both, may be dissatisfied with pastoral care provided in such difficult situations, even with significant efforts by congregational leaders to follow good practice guidelines.

2.12 Clergy and Domestic Abuse – Victims

- 2.12.1 **Care for victims** – If an ordained person, or the spouse of an ordained person, discloses abuse, they must be treated similarly to any other victim. Clergy and their spouses must have the same access to support and resources as others who are experiencing domestic abuse.
- 2.12.2 **Bishops to listen with acceptance** – Clergy or their spouses should expect a bishop to listen with acceptance when disclosing abuse, and be supported should they wish to separate.
- 2.12.3 **Safety of the vulnerable is paramount** – In addition to the seriousness of marriage vows, the significance of ordination promises, or issues regarding housing security may make clergy or their spouses particularly vulnerable to staying in abusive relationships. In such situations, our diocese should not put fear of scandal above the safety of vulnerable people.
- 2.12.4 **Development of Bishop protocol** – Our bishops have developed a protocol for support. This protocol includes the provision of a designated support person for a clergy person or their spouse who is a victim of abuse. Such support persons will need to be well trained in understanding domestic abuse and will also need a good understanding of the support and care structures that exist within the diocese (e.g. the Clergy Assistance Program) as well as in the community. Counseling should be made available if requested for the victim and any children.
- 2.12.5 **Interim Support Arrangements** – Preparation of legal and administrative arrangements can be made regarding the payment of stipends and living arrangements in cases where a clergy

person is alleged to have committed domestic abuse, which ensure that sufficient arrangements are made for housing and financial support of the spouse and any children affected.

- 2.12.6 **Ministry Support Fund** – Acknowledging that clergy and other ministry couples and families are in a unique situation (often with housing and other family arrangements attached to a parish), a Ministry Spouse Support Fund is being established to assist the spouse and family (if any) re-establish their lives when there has been a determination of misconduct by the church worker through domestic abuse.

2.13 Clergy and Domestic Abuse – Alleged perpetrator

- 2.13.1 Clergy who are suspected of perpetrating domestic abuse must be treated in a similar way to any other alleged perpetrator (see section 2.6).
- 2.13.2 Bishops may consider appointing someone to offer pastoral support to an alleged perpetrator who is a member of the clergy.
- 2.13.3 Any allegations of domestic abuse committed against a member of the clergy should also be referred to the PSU (see section 2.12).
- 2.13.4 Domestic abuse may result in proceedings under our ministry standards and disciplinary ordinances (which can be found under the Ordinances on the SDS website – www.sds.asn.au) if:
- it involves sexual abuse of an adult, or
 - conviction for an offence punishable by imprisonment for 12 months or more, or
 - may otherwise call into question the fitness of the person to hold a role or position or to remain in holy orders.

2.14 Mediation

- 2.14.1 **Get professional help** – Mediation is a specialist activity that in the context of domestic abuse must be undertaken by trained professionals. In order for mediation to be effective any imbalances in power in the relationship need to be addressed.
- 2.14.2 **Safety first** – In the context of family and domestic abuse, mediation (or ‘family dispute resolution’ as it is known when parenting arrangements are being discussed) can be an empowering process for a victim. However, this can only occur if safety needs are managed and both parties are well-prepared for the mediation process.
- 2.14.3 **Legal advice** – Where children or property matters are concerned, it is also important that both parties have received legal advice. Government-funded Family Relationship Centres (FRCs) are a good referral option for family dispute resolution and have designated processes to ensure the safety of all concerned. Anglicare currently operates FRCs at Nowra and Parramatta.

A Case Study: Andrew and Jody

Andrew is separated from his wife, Jody. She had called the Police and Andrew was arrested after an incident of domestic abuse. Charges were pressed and he was found guilty. An Apprehended Domestic Violence Order (ADVO) has been issued, with Jody and the children listed as protected parties.

Andrew is living apart from Jody. The couple have two children aged 6 and 8, both of whom live with Jody. Andrew wants to be reconciled with his wife and with the church of which they are both long-standing members. He has come to the rector's home in order to discuss with the rector how he can achieve reconciliation with Jody. He is currently not attending church. But Andrew appears to be remorseful and says how sorry he is and how desperate he is to be back in church fellowship and back with his family.

Considerations in responding

The rector needs to seek advice and support from the PSU or Anglicare Domestic Violence Adviser in how best to respond.

The conditions in the ADVO need to be understood to ensure that any contact Andrew has with Jody and the children does not breach the conditions of the ADVO.

The rector needs to be aware and cautious of Andrew's motives. In approaching the rector, who knows them both, Andrew might be seen as manipulating or grooming the rector to support him, with the prime motive of reconciliation with his wife. What evidence is there of his repentance, and the steps he has taken to change his behaviour? How are his spiritual needs currently being met?

Consideration of Andrew's desire for reconciliation with Jody must be made in the context of assessing risk to her and risk to their children, and can only be considered if Jody is also willing to consider a conciliation process, and the conditions of the ADVO allow for contact.

However, the rector should not get involved in any conciliation between them as this is specialist work and needs to be undertaken by an independent agency equipped for the purpose. The rector can signpost Andrew to such agencies.

The rector can discuss with Andrew the marks of true repentance and forgiveness by God, and arrange for him to receive pastoral care. This would be most appropriately offered by someone not known to either of them.

The rector needs to be aware of boundaries of confidentiality and should not be passing information from Andrew to Jody or vice versa. If he were to do so not only may he lose the trust of one or the other, but he may be putting Jody and her children at further risk.

In conclusion, the rector should be careful to give priority to the safety of the victim and her children who are the vulnerable people in this circumstance.

Section 3: Appendices

Please note that these appendices do **not** form part of the Policy or Guidelines, but are provided as additional resources.

1. An expansive description of Domestic Abuse
2. The Duluth 'Power and Control' Wheel
3. Domestic Abuse Facts
 - 1) Who experiences domestic abuse?
 - 2) Domestic Abuse Statistics for Australia
 - 3) Challenging misconceptions about domestic abuse
 - 4) Recognising domestic abuse in adult victims
 - 5) Recognising domestic abuse in children
 - 6) Who are the perpetrators of domestic abuse?
 - 7) Recognising perpetrators of domestic abuse
 - 8) Particular Types of Domestic abuse
4. Legal Framework
5. Domestic Abuse: Policy Guidance from *Faithfulness in Service*
6. Suggested Parish Policy on Domestic Abuse
7. Draft Safety and Exit plan
8. Marriage Preparation: Recommended good practice
9. Synod Resolutions related to Domestic Abuse
10. Timeline of Public Statements by Diocesan Leadership addressing Domestic Abuse
11. "A Letter Made Me Think"
12. "Walking Through It: A Family Violence Survivor's Reflection"
13. Doctrine Commission on Divorce and Remarriage
14. Doctrine Commission on The Use and Misuse of Scripture with Regard to Domestic Abuse

Appendix 1: An expansive description of Domestic Abuse

This Australian Parliamentary Library Research Publication¹ makes clear that domestic abuse or domestic violence includes far more than just physical violence.

Domestic violence refers to acts of violence that occur between people who have, or have had, an intimate relationship in domestic settings. These acts include physical, sexual, emotional and psychological abuse. Defining forms of violence, its perpetrators and their victims, is complicated by the many different kinds of intimate and family relationships and living arrangements present in Australian communities. Domestic violence is most commonly perpetrated by males against their female partners, but it also includes violence against men by their female partners and violence within same-sex relationships.

The traditional associations of domestic violence are with acts of physical violence within relationships occurring in the home. This understanding fails to grasp the complexity of the phenomenon. The National Council to Reduce Violence against Women and Children (NCRVWC) found that –

... a central element of domestic violence is that of an ongoing pattern of behaviour aimed at controlling one's partner through fear (for example, by using violent or threatening behaviour)
... the violent behaviour is part of a range of tactics used by the perpetrator to exercise power and control ... and can be both criminal and non-criminal in nature.

Domestic violence includes:

- **Emotional Abuse** – blaming the victim for all problems in the relationship, undermining the victim's self-esteem and self-worth through comparisons with others, withdrawing interest and engagement and emotional blackmail;
- **Verbal Abuse** – swearing and humiliation in private and public, focusing on intelligence, sexuality, body image or the victim's capacity as a parent or spouse;
- **Social Abuse**—systematic isolation from family and friends, instigating and controlling relocations to a place where the victim has no social circle or employment opportunities and preventing the victim from going out to meet people;
- **Economic Abuse** – controlling all money, forbidding access to bank accounts, providing an inadequate 'allowance', preventing the victim seeking or holding employment and taking wages earned by the victim;
- **Psychological Abuse** – making threats regarding custody of children, asserting the justice system will not believe or support the victim, destroying property, abusing pets and driving dangerously;
- **Spiritual Abuse** – denial and/or misuse of religious beliefs or practices to force victims into subordinate roles and misusing religious or spiritual traditions to justify physical violence or other abuse;
- **Physical Abuse** – direct assaults on the body, use of weapons (including objects), assault of children, locking the victim out of the house, sleep and food deprivation; and
- **Sexual Abuse** – any form of pressured/unwanted sex or sexual degradation, causing pain during sex, coercive sex without protection against pregnancy or sexually transmitted disease, making the victim perform sexual acts unwillingly and criticising or using degrading insults.

Family violence is a broader term referring to violence between family members as well as violence between intimate partners. This term also covers a complexity of behaviours beyond that of direct physical violence. The Australian and New South Wales Law Reform Commission's review of family violence law in Australia recommended that state and territory legislation 'should provide that family violence is violent or threatening behaviour, or any other form of behaviour, that coerces or controls a family member or causes that family member to be fearful'.

¹ Source: "Domestic violence in Australia – an overview of the issues"
By Liesl Mitchell, Social Policy Section, Parliamentary Library Research Publications, 22 November 2011, Parliament of Australia
http://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/BN/2011-2012/DVAustralia
(accessed 15/8/2017)

Appendix 2: The Duluth ‘Power and Control’ Wheel

Many victims have found a visual representation of the signs or symptoms of domestic abuse helpful in identifying and understanding their own situation. The Duluth ‘Power and Control’ Wheel is one such resource. The Domestic Abuse Intervention Programs, based in Duluth, MN, USA, which developed the diagram, invites people to use it in their efforts to inform and educate others.



DOMESTIC ABUSE INTERVENTION PROGRAMS
202 East Superior Street
Duluth, Minnesota 55802
218-722-2781
www.theduluthmodel.org

Appendix 3: Domestic Abuse Facts

1. Who experiences domestic abuse?

Domestic abuse can occur to anyone regardless of age, race, disability, sexuality, class, or income.

Most domestic abuse is perpetrated by men against women, but the perpetrator of domestic abuse can be of either sex, and the victim can be of either sex.

Victims can be male, although the majority are female. Abuse can also occur in same sex relationships, between siblings or by adult children against a parent.

Sometimes both spouses can be simultaneously perpetrators and victims of abuse, although the pattern of abuse is not always symmetrical.

Many victims will only disclose that a partner was violent and abusive after leaving a relationship. Things to keep in mind:

- Women are particularly vulnerable to abuse when pregnant or seeking to leave a relationship;
- Older people and disabled people can be vulnerable to domestic abuse;
- Children experience domestic abuse in many ways, including through directly intervening to protect one of their parents, being forced to join the adult perpetrator, and hearing or witnessing violent attacks or verbal abuse;
- Coercive and controlling behaviour in a domestic abuse situation can be exerted over the whole family so any children suffer as well as the victim;
- Many women come to Australia to work and improve their lives, and many can then become trapped in relationships characterised by abuse with no avenue to seek safety and support; and
- Domestic abuse happens within the Church. Church leaders, members of the clergy, and spouses of clergy have been found to be victims of domestic abuse.

2. Domestic Abuse Statistics for Australia

Note: Statistics do not tell the whole story, as they do not identify patterns of control and abuse in relationships. They do not capture level of fear, or the severity of injury or impact, for the victim.

Prevalence of Domestic Violence in Australia¹

- 1 in 6 women (17%) and 1 in 16 men (6%) had experienced threatened or actual physical or sexual violence by a partner they had lived with.²
- 23% of women and 16% of men have experienced emotional abuse by a partner since the age of 15.

Who experiences Domestic Violence and Abuse?³

- Most (69%) of domestic assault victims are women, but almost one-third involved a male victim.
- Most (81%) of the domestic assault perpetrators are men.
- Most victims are between the ages of 20 and 39.⁴ Women aged 20–29 years had the highest rate of DV-related assault, and were 3.3 times more likely than men in the same age group to be a victim.

¹ Australian Bureau of Statistics, (2017) *Personal Safety Survey 2016*, accessed 31 May 2018 at <http://www.abs.gov.au/ausstats/abs@.nsf/mf/4906.0>. The survey collected information about the nature and extent of violence experienced by men and women since the age of 15, including their experience of violence in the 12 months prior to the survey.

² This means that approximately 1.6 million women have experienced at least one incident of actual or threatened physical or sexual violence by an intimate partner (since the age of 15). Note that this excludes broader forms of domestic abuse, such as emotional or spiritual abuse.

³ Domestic abuse is not restricted to any one demographic. It occurs across ages, socioeconomic groups, cultures, races, and geographic regions. However, there are variations in occurrence.

⁴ Australian Bureau of Statistics, (2013) *Personal Safety Survey 2012*, accessed 4 August 2017 at <http://www.abs.gov.au/ausstats/abs@.nsf/mf/4906.0>.

- Indigenous women and girls were 35 times more likely than the wider female population to be hospitalised due to family violence.⁵
- 25% of children in Australia have been witnesses to domestic violence.⁶

Reported incidents of Domestic Violence in NSW⁷

- Every week NSW Police deal with over 1,250 domestic violence related incidents.⁸
- The NSW Domestic Violence Death Review Team, convened by the state Coroner reports that between 1 July 2000 to 30 June 2014 there were 204 cases where a person was killed by a current or former intimate partner in a context of domestic violence (162 females and 42 males).
 - 79% of intimate partner homicide victims were women. 98% of women killed by an intimate partner had been the primary domestic violence victim in the relationship.
 - Almost two-thirds of women killed by a former intimate partner had ended the intimate relationship with the domestic violence abuser within three months of being killed.
 - 89% of men killed by a female intimate partner had been the primary domestic violence abuser in the relationship.⁹
- NSW Police record about 26,000 cases of domestic assaults annually, which represent about one third of all recorded assaults. In 2015, there were 18,959 incidents of DV-related assault in which police proceeded against a person of interest (perpetrator). The majority of these incidents involved male perpetrators.
- More than one-third of the domestic assault incidents recorded in NSW in 2004 were alcohol-related.¹⁰

3. Challenging misconceptions about domestic abuse

Many people will have misconceptions and attitudes about domestic abuse which are incorrect. Here are some common myths about what domestic abuse is and who it affects:

Myth 1: It happens to certain types of people

It can be thought that domestic abuse happens to a certain type of person – based on socio-economic status, religious or cultural backgrounds, or a perception of strength and resilience. This is not the case. Domestic abuse and violence can happen to anyone at any time.

Myth 2: It happens because of...

Domestic abuse is complex, and is not necessarily explained by a single theory. It is sometimes claimed that domestic abuse happens primarily because of worldview factors regarding gender or religion, or because of alcohol or drug abuse, unemployment, abuse as a child, mental or physical ill health, or other environmental factors.

Although these may be contributory factors, abuse happens because an abusive person chooses to behave in a way that enables them to assert power and control over another person – excuses and reasons are given to justify abusive behaviour.

Myth 3: A victim can cause a perpetrator to become abusive

Often a perpetrator will tell a victim that they caused them to do it. But a victim is never to blame if a perpetrator chooses to behave in an abusive and controlling way.

⁵ White Ribbon Australia, “Domestic Violence Statistics”, accessed 2 August 2017 at <https://www.whiteribbon.org.au/understand-domestic-violence/facts-violence-women/domestic-violence-statistics/>

⁶ Australian Domestic and Family Violence Clearinghouse, *Children affected by domestic violence: a literature review*, Report produced for The Benevolent Society, Sydney, 2011. Accessed 26 July 2017 at <http://earlytraumagrief.anu.edu.au/files/ImpactofDVonChildren.pdf>

⁷ Much domestic violence goes unreported – usually because the victim does not consider an incident serious, is too ashamed, fears the offender, or thinks police cannot or will not act.

⁸ NSW Police Force (2013), *Code of Practice for the NSW Police Force Response to Domestic and Family Violence*, accessed 4 August 2017 at <http://www.police.nsw.gov.au/>

⁹ NSW Domestic Violence Death Review Team (2017), *NSW Domestic Violence Death Review Team Report 2015-2017*, pp. xi-xii.

¹⁰ Australian Bureau of Statistics, (2013) *Personal Safety Survey 2012*, accessed 4 August 2017 at <http://www.abs.gov.au/ausstats/abs@.nsf/mf/4906.0>.

Myth 4: A victim can fully understand what is happening to them

When someone is in a relationship in which they are subject to abuse they will often feel very confused about what is happening, and they are sometimes not sure that what they are experiencing is abuse.

Myth 5: A victim can choose to leave and if they don't, they are choosing to stay

People ask why victims stay in a situation where they are suffering abuse, and assume that it is easy to leave, to escape the situation and to start a new life. This is not the case, either on a practical or an emotional level. A perpetrator of abuse will work to ensure that the victim feels that they cannot cope on their own.

Leaving a physically violent relationship is often the most dangerous time for women and children. It may also be financially impossible to leave the situation, particularly when there are children. Victims often do not have a choice in leaving and may feel, or be, threatened that if they leave they will be in danger. It may feel safer to stay than to leave.

Myth 6: Domestic abuse is all about anger

Domestic abuse is not all about being angry or losing control. Although not always a calculated action, a central element is the choice to act in a controlling way..

Myth 7: Domestic abuse doesn't happen in our church

Domestic abuse happens in every community, including within the Church. The ABS's 2016 Personal Safety Survey suggested that 1 in 6 Australian women and 1 in 16 Australian men have, since the age of 15, experienced physical or sexual violence from a partner they have lived with. So it is extremely likely that there will be those in your church who have been affected by domestic abuse.

4. Recognising domestic abuse in adult victims

It is very difficult to create a definitive list of signs that domestic abuse is happening because abuse can occur on many levels and both victims and alleged or known perpetrators can behave and respond in a range of different ways. The following list of signs of behaviour for victims is not exhaustive, and should not be used as a definitive list but should be used as guidance:

- Has unexplained bruises or injuries;
- Shows signs of feeling suicidal;
- Becomes unusually quiet or withdrawn;
- Has panic attacks;
- Has frequent absences from work or other commitments;
- Wears clothes that conceal even on warm days;
- Stops talking about her/his partner;
- Is anxious about being out or rushes away;
- May never be seen alone, and is always accompanied by their partner;
- May become more isolated, possibly moving away from home, withdrawing from friends and family;
- Goes along with everything their partner says and does;
- Checks in often with their partner to report where they are and what they're doing;
- Receives frequent, harassing phone calls from their partner; and/or
- May have unexplained injuries, and may give other reasons for the injuries which refer to them being accidental.

Survivor View

The abuse went on for six years before I realised that what I was experiencing wasn't just a bad marriage. Everyone says marriage is difficult so at first I thought it was that – our adjustment to married life.

There was pressure to make marriage work and to sacrifice yourself. After all the church says 'till death us do part'. I bent over backwards to make it work.

From the outside most people thought we were the perfect happy couple. But I was walking on eggshells in my own home, never knowing what mood he would be in when he came home.

It was such a lonely time. I didn't think anyone would believe me if I told them what it was really like at home. I was desperate for some hope.

5. Recognising domestic abuse in children

Living in a home where there's domestic abuse is harmful. It can have a serious impact on a child's behaviour and wellbeing. Parents or carers may underestimate the effects of the abuse on their children because they don't see what's happening.

Indeed, a child who witnesses or overhears domestic abuse is generally considered to be the victim of indirect child abuse by the perpetrator of the abusive behaviour. If children are involved this way, a referral to the child protection authorities will need to be considered.

Domestic abuse can also be a sign that children are suffering another type of abuse or neglect. The effects can last into adulthood. However, once they're in a safer and more stable environment, most children are able to move on from the effects of witnessing domestic abuse.

Younger children who experience and witness domestic abuse may:

- Become aggressive;
- Display anti-social behaviour;
- Become anxious;
- Complain of tummy aches and start to wet the bed;
- They may find it difficult to sleep, have temper tantrums and start to behave as if they are much younger than they are;
- They may also find it difficult to separate from their abused parent when they start nursery or school; and/or
- Children may be clingy, have behavioural difficulties, may be tired and lethargic, and struggle in social settings and at school.

Older children/young people who experience and witness domestic abuse react differently:

- Boys seem to express their distress much more outwardly, for example by becoming aggressive and disobedient. Sometimes, they start to use violence to try and solve problems, and may copy the behaviour they see within the family;
- Older boys may play truant and start to use alcohol or drugs (both of which are a common way of trying to block out disturbing experiences and memories);
- Girls are more likely to keep their distress inside. They may become withdrawn from other people, and become anxious or depressed;
- Girls may think badly of themselves and complain of vague physical symptoms. They are more likely to have an eating disorder, or to harm themselves by taking overdoses or cutting themselves;
- Girls are also more likely to choose an abusive partner themselves; and/or
- Suffer from depression or anxiety.

Children of any age can develop symptoms of what is called 'Post-traumatic Stress Disorder'. They may get nightmares, flashbacks, become very jumpy, and have headaches and physical pains. Children dealing with domestic violence and abuse often do badly at school. Their frightening experiences at home make it difficult to concentrate in school, and if they are worried about their abused parent, they may refuse to go to school.

Long-term impact on children and young people

As adults, children who have witnessed violence and abuse are more likely to become involved in a violent and abusive relationship themselves. Children tend to copy the behaviour of their parents.

However, children don't always repeat the same pattern when they grow up. Many children don't like what they see, and try very hard not to make the same mistakes as their parents.

Even so, children from violent and abusive families may grow up feeling anxious and depressed, and find it difficult to get on with other people.

6. Who are the perpetrators of domestic abuse?

Most known perpetrators of domestic abuse are men.

- Anyone across the social spectrum can perpetrate domestic abuse – a perpetrator's outward appearance may be outgoing and friendly, and/or very confident, whilst the victim may be withdrawn and considered by many as unfriendly. However a disclosure of domestic abuse by any individual should always be taken seriously.
- There is no excuse for abuse. People who abuse their partners make a choice to do so. Often alcohol, drugs, childhood problems (such as a violent/abusive childhood), and mental health and psychological disorders are cited as causes of domestic abuse. Whatever the contributors in any given case, domestic abuse always involves a misuse of power by one person over another. Individuals who perpetrate domestic abuse generally do so to get what they want and to gain control.
- Domestic abuse happens within the Church; church leaders, members of the clergy, spouses of clergy, and prominent lay members have all been found to be perpetrators of domestic abuse.
- Seeing change in perpetrators is a long-term process. Perpetrator programs are long-term groups or one to one interventions which challenge the underlying attitudes and beliefs that drive domestic abuse. For more information on where accredited programs are conducted can be found at the Men's Behaviour Change Network website: <https://www.mbcn-nsw.net/>

7. Recognising perpetrators of domestic abuse

Perpetrators are very good at hiding their behaviour. The following list of signs of perpetrator behaviour is not exhaustive, and should not be used as a definitive list but should be used as guidance:

- Presents confidently;
- Focuses on themselves and has no empathy with partner;
- Assertively claims victim status;
- Finds no fault in themselves;
- Makes unfounded accusations;
- Puts partner down and portrays partner often as unreasonable or unstable;
- Does not consider the children's experiences;
- Makes disparaging remarks about their partner in public;
- Uses their wedding vows as leverage to keep their partner tied to them – "you promised...";
- Expresses suspicion about legitimate activities of partner;
- Restricts access to partner's family and friends;
- Controls financial access and activity;
- Recruit others to back them up against their partner;
- Uses inappropriate humour, especially about compliance;
- Tries to engender pity in order to manipulate and recruit colluders;
- Shows changeable behaviour in order to hold onto control; and
- Uses Scripture to justify behaviour, demands or requests.

8. Particular Types of Domestic abuse

Domestic abuse can occur in many contexts. For example, there is abuse within indigenous communities, and in same-sex relationships; there is also child or adolescent to parent abuse, and abuse of elders.

Awareness of the wide variety of culturally specific forms of abuse will also help in identifying abuse and responding appropriately. For example, these can include so-called 'honour' crimes and killings, forced marriage and female genital mutilation.

Some forms of abuse are justified by religious and cultural beliefs as a way of maintaining patriarchal power and control. Often the violence or abuse is perpetrated by members of the extended family, with the collusion of others in the community.

The need to protect remains the main imperative, irrespective of the cultural context in which domestic abuse occurs.

Appendix 4: Legal Framework

A range of legal measures exist to protect people in Australia who have experienced domestic violence and to prevent further violence.

The following legislation governs responses to incidents of domestic and family violence in NSW:

- Crimes (Domestic and Personal Violence) Act 2007;
- Crimes Act 1900;
- Children and Young Persons (Care and Protection) Act 1998;
- Young Offenders Act 1997;
- Criminal Procedure Act 1986; and
- Family Law Act 1975.

NSW Crimes (Domestic and Personal Violence) Act 2007¹

The primary piece of legislation governing domestic violence matters in NSW, is the *Crimes (Domestic and Personal Violence) Act 2007* (the “Crimes DPV Act”).

The Crimes DPV Act has the following **aims**²:

- a. to ensure the safety and protection of all persons, including children, who experience or witness domestic violence;
- b. to reduce and prevent violence by a person against another person where a domestic relationship exists between those persons; ;
- c. to enact provisions that are consistent with certain principles underlying the Declaration on the Elimination of Violence against Women; and
- d. to enact provisions that are consistent with the United Nations Convention on the Rights of the Child.

The Crimes DPV Act sets out a framework for applications to be made to the Magistrate’s Court for Apprehended Domestic Violence Orders (ADVOs) for the protection of a person against another person with whom he or she has or has had a **domestic relationship**. Further detail about ADVOs is set out below.

According to Section 5 of The Crimes DPV Act, a person has a **domestic relationship** with another person if the person is or has been married to an offender (s5a), has or is in a de facto relationship (s5b) or an intimate personal relationship (s5c). However, the Crimes DPV Act also includes:

- a. A person who is living or has lived in the same household or other residential facility as the person who commits the offence;
- b. A person who has or has had a relationship involving his or her dependence on the ongoing paid or unpaid care of the person who commits the offence; or
- c. A person who is or has been a relative of the person who commits the offence.

Section 5 of the Crimes (Domestic and Personal Violence) Act 2007 explicitly recognises **domestic violence can also occur between two persons if the victim:**

- ‘is living or has lived in the same household as the other person’ (Section 5 (d)) (such as co-residents);
- ‘is living or has lived as a long-term resident in the same residential facility as the other person and at the same time as the other person’ (Section 5 (e)), (such as co-residents); or
- ‘has or has had a relationship involving his or her dependence on the ongoing paid or unpaid care of the other person’ (Section 5 (f)), (such as staff of licensed boarding houses).

The Crimes DPV Act extends upon the personal violence offences set out in the Criminal Code. Under Section 11, **a domestic violence offence** includes not only personal physical and sexual violence but also those offences that intend to coerce or control a person and cause them to be intimidated and/or fearful.

¹ NSW Government, *Crimes (Domestic and Personal Violence) Act 2007*, accessed 4 August 2017 at <https://www.legislation.nsw.gov.au/#/view/act/2007/80>

² Section 9

Section 13 also makes it an offence to stalk or intimidate another person with the intention of causing the other person to fear physical or mental harm.

Legislation introduced in 2015 now enables domestic violence victims to give their evidence in chief through a recorded video or audio statement.

Apprehended Domestic Violence Orders (ADVOs)

The *Crimes DPV Act* provides the legislative framework for the issue of Apprehended Domestic Violence Orders (ADVOs). An ADVO is a civil matter and does not result in a criminal offence unless the ADVO is breached. The aim of an ADVO is to protect a person from future violence. Restrictions are placed on persons against whom an order is made. These restrictions may include not harassing or not approaching the person.

In 2016, NSW amended laws regarding ADVOs to enable³:

- the recognition of inter-state ADVOs and foreign orders;
- a change to the meaning of domestic relationships order to widen the criteria for those who can apply for an Apprehended Domestic Violence Order (ADVO);
- Police to apply for a provisional ADVO if they suspect or believe that domestic violence has happened or is likely to happen, even if the victim is not willing to make a complaint;
- Police to direct or detain offenders while applying for a provisional ADVO;
- Senior Police Officers to determine applications for provisional ADVOs. This new process will provide faster and immediate access to provisional ADVOs for victims at risk of violence; and
- Courts to have the power to issue an ADVO if it is satisfied that a person (applicant) has reasonable grounds to fear that a domestic violence offence will be committed against them. This removes the previous requirement that in addition to having reasonable grounds to fear, the court also had to be satisfied that the person actually did fear an offence.

Section 48 of the *Crimes DPV Act*, enables police to apply for an ADVO on behalf a person experiencing domestic violence, sometimes referred to as a *person in need of protection* ('PINOP').

If the PINOP is an adult, that person may also apply for an ADVO on their own at the Local Court of NSW. Police are the only authority mandated to apply for ADVOs on behalf of a child under section 48 (3) of the *Crimes DPV Act*.⁴

More information is available from the NSW Government Domestic Violence website⁵, Women's Domestic Violence Court Assistance Scheme or a local Women's Domestic Violence Court Advocacy Service.⁶ An individual who wishes to hire a lawyer may contact Legal Aid NSW.

Protection of Children

There are both Federal and State laws which govern the protection of children. The *Family Law Act 1975* governs the resolution of private disputes about the parenting of all children in Australia. In comparison, NSW 'child protection laws' aim to protect children from abuse and neglect.

Due to the substantial overlap between Federal and State Laws in regards to domestic violence and protection of children, there have been calls for the institution of one court to deal with domestic violence, including protection orders, child protection, family law, perhaps even criminal issues.⁷

³ NSW Police, *Police Issued ADVOs: Summary of Changes to the Crimes (Domestic & Personal Violence Act)*, accessed 4 August 2017 at http://www.police.nsw.gov.au/community_issues/domestic_and_family_violence

⁴ NSW Government, *Crimes (Domestic and Personal Violence) Act 2007*, accessed 4 August 2017 at <https://www.legislation.nsw.gov.au/#/view/act/2007/80>

⁵ NSW Government, "Apprehended Violence Orders (ADVOs)", *Domestic Violence* [website] accessed 2 August 2017 at <http://www.domesticviolence.nsw.gov.au/get-help/apprehended-violence-orders-avos>

⁶ Women's Domestic Violence Court Advocacy Service, accessed 4 August 2017 at <http://www.wdvcasnsw.org.au/>

⁷ Australian Law Reform Commission (2010), *Family Violence: A National Legal Response*, ALRC AReport 114, accessed 4 August 2017 at <http://www.alrc.gov.au/publications/family-violence-national-legal-response-alrc-report-114>

Federal Family Law Act 1975⁸

In 2006, the Australian Government introduced legislative changes to the Family Law Act 1975, in order to increase parental cooperation and responsibility in the separation process and increase the focus on the child's best interests.⁹ However, in 2011 amendments were made after research suggested that the co-operative parenting changes made in 2006 may have contributed to increasing rates of reports of family violence and child abuse around relationship breakdown. The main changes to the *Family Law Act* were as follows:

- Section 4AB, now provides that family violence is violent, threatening or other behaviour by a person that coerces or controls a member of the person's family (the family member), or causes the family member to be fearful. For clarity, a new sub-section 4AB(2) provides an open list of the types of circumstances that may constitute family violence under the Act;
- The definition of child abuse has been extended to include two new categories of behaviour. The new definition, at sub-section 4(1) provides that child abuse is physical or sexual assault, serious neglect, and now action causing a child 'serious psychological harm' and expressly including *subjection or exposure to family violence*. Exposure to family violence is explained further by example at sub-sections 4AB(3) and (4);
- Ensuring that the 'need to protect a child from harm' carries more weight than the 'relationship with parents' consideration;
- New provisions requiring the court, in every child-related case, to expressly ask the parties about whether they have any 'concerns' about family violence or child abuse;
- In section 60CG, courts must ensure that parenting orders are consistent with any family violence order; and do not expose a person to an unacceptable risk of family violence; and
- Courts must be advised of any ADVOs or other State investigations into domestic violence.

Mandatory Reporting of Children at Risk of Significant Harm in NSW

The *Children and Young Persons (Care and Protection) Act 1998*¹⁰ (The Care and Protection Act) provides the legislative framework for the reporting of domestic violence incidents which put children at significant risk of harm. Section 23 (d), states the circumstances which constitute a reportable incident include:

*the child or young person is living in a household where there have been incidents of domestic violence and, as a consequence, the child or young person is at risk of serious¹¹ physical or psychological harm.*¹²

A **mandatory reporter** is an individual required by law to report to government authorities when they have reasonable grounds to suspect that a child is at risk of significant harm. Mandatory reporters are defined under section 27 of the Care and Protection Act, as people who deliver the following services to children as part of their paid or professional work:¹³

- Health care (e.g. registered medical practitioners, nurses government and other allied health professionals working in sole practice or in public or private health practices);
- Welfare (e.g. psychologists, social workers, caseworkers and youth workers);
- Education (e.g. teachers, counsellors, principals);
- Children's services (e.g. child care workers, family day carers and home-based carers);
- Residential services (e.g. refuge workers); and
- Law enforcement (e.g. police).

⁸ Australian Parliament, *The Family Law Act 1975*, accessed 2 August 2017 at <https://www.legislation.gov.au/Details/C2016C01106>

⁹ Australian Domestic and Family Violence Clearinghouse, *Children affected by domestic violence: a literature review*, Report produced for The Benevolent Society, Sydney, 2011. Accessed 26 July 2017 at <http://earlytraumagriev.anu.edu.au/files/ImpactofDVonChildren.pdf>

¹⁰ NSW Government, *Children and Young Persons (Care and Protection) Act 1998*, accessed 4 August 2017 at <https://www.legislation.nsw.gov.au/#/view/act/1998/157/full>

¹¹ Here, "serious" means sufficient to warrant a response by a statutory authority irrespective of a family's consent

¹² NSW Police Force, *Domestic and Family Violence Policy 2012*, accessed 4 August 2017 at https://www.police.nsw.gov.au/community_issues/domestic_and_family_violence/policy

¹³ NSW Government, *Children and Young Persons (Care and Protection) Act 1998*, accessed 4 August 2017 at <https://www.legislation.nsw.gov.au/#/view/act/1998/157/chap3/part2/sec27>

Members of the community and mandatory reporters who suspect that a child or young person is at “risk of significant harm” should report their concerns to the Child Protection Helpline. To help reporters decide whether a case needs to be reported to the Child Protection Helpline, reporters can use the online Mandatory Reporter Guide.¹⁴

The Domestic Violence Death Review Team (DVDRT) was established in 2010 under the Coroners Act 2009 (NSW) to review deaths occurring in the context of domestic violence in New South Wales.

¹⁴ Childstory Reporter, *Welcome to the ChildStory Reporter Community*, accessed 4 August 2017 at <https://reporter.childstory.nsw.gov.au/s/>

Appendix 5: Domestic Abuse: Policy Guidance from Faithfulness in Service

All clergy and church workers (whether paid or volunteer leaders) in the Anglican Diocese of Sydney are bound by our national code of conduct, *Faithfulness in Service*, as adopted in the Anglican Diocese of Sydney.

Section 6 of *Faithfulness in Service* addresses **Personal Behaviour**.

In its **Preamble**, it states that *misuse of power* is at the heart of abuse. This includes domestic abuse.

6.1 *The personal behaviour and relationships of **clergy** and **church workers** have a significant impact on the **Church** and the community because they are a model to others. In a context where their responsibility is to care for others, people will especially observe the way in which clergy and church workers exercise power.*

6.2 *Abuse of power is at the heart of many relationship problems in the Church and the community. In essence, abuse is one person's misuse of power over another. Sometimes abuse will be a one off event and at other times it will be a pattern of behaviour.*

6.3 ***Abuse** can take any of several overlapping forms: **bullying, emotional abuse, harassment, physical abuse, sexual abuse** or **spiritual abuse**. Abuse in a family or domestic context is commonly known as "family and domestic violence".¹*

6.4 *It is important for clergy and church workers to be good citizens and obey the laws of the community, except where those laws conflict with Christian convictions.*

The section entitled "**Standards for clergy and church workers**" states the Church's expectations for personal behaviour and the practice of pastoral ministry. This section **unequivocally rules out any domestic abuse** from clergy and church workers.

6.5 *You are not to engage in:*
bullying;
emotional abuse;
harassment;
physical abuse;
sexual abuse; or
spiritual abuse.

6.6 *You are not to **abuse** your spouse, children or other members of your family.*

This section also insists that **church leaders must observe** the law of the land, which obviously includes **laws regarding domestic abuse**.

6.14 *You are to observe the law, other than any law that:*
is contrary to the Holy Scriptures;
unjustly prohibits the practice of religion; or
prohibits civil disobedience.

Section 4 of *Faithfulness in Service* addresses **Pastoral Relationships**.

In its **Guidelines** section, it gives the following guidance regarding **Boundaries** in pastoral ministry.

4.12 *Recognise the limits of your skills and experience. Do not undertake any ministry (such as relationship counselling, counselling for abuse or addictions, or an exorcism) that is beyond your competence or the role for which you have been employed or trained. If in doubt seek advice. A person who requires specialised help should be referred to an appropriately qualified person or agency.*

¹ The full definitions of these forms of abuse within *Faithfulness in Service* can be read at the end of this Appendix. It should be noted that these definitions overlap to a significant extent with common secular definitions of domestic abuse, such as those adopted by the diocesan Policy.

4.13 *Where ministry responsibilities overlap, be aware of the activities, function and style of other clergy and church workers. Consult with these colleagues and co-operate wherever possible.*

4.14 *Where your ministry responsibility to one person may conflict with your responsibility to another person to whom you are ministering, or with your own needs, you should seek advice from a colleague or supervisor. Consider the possibility of transferring ministry responsibility for one or both of these to another minister.*

This supports our good practice guidelines, which **require church workers to obtain specialised help** from persons or agencies appropriately qualified in responding to situations where domestic abuse is indicated or alleged.

It also notes the difficulty clergy and church workers can have from the expectations of multiple roles, for example in:

- providing pastoral care both to victim and alleged perpetrator;
- making some kind of investigation of the allegations; and
- being responsible for the adjudication and implementation of some aspects of church discipline should an offender have been or continue in the life of the church.

Also note the following provisions regarding **record keeping and privacy**, which can be especially crucial for safety in situations involving domestic abuse.

4.36 *If you are engaged in individual pastoral ministry, consider keeping a factual record of your daily pastoral activity. Record details such as the date, time, place, participants, subject, and any proposed action arising from each activity. Record personal remarks accurately.*

4.37 *You need to know the relevant principles of the applicable privacy legislation in relation to the collection, use, disclosure and management of personal information. These have implications for:*

- *the publication of personal information in church directories, newsletters, rosters and websites;*
- *the recording and publication of voices and images of individuals; and*
- *the use and security of all personal information, and especially sensitive information, held by clergy and church workers or in church offices.*

Section 3 of *Faithfulness in Service* speaks of **Putting this Code into Practice**.

Its **Guidelines** section make it clear that where you have reason to believe that a clergy person or church worker has perpetrated domestic abuse (breaching standards of the Code at 6.5 and 6.6), then **you have a reporting obligation**, since the threat of domestic abuse certainly creates the risk of harm.

3.9 *If you know or have reason to believe that another member of the clergy or another church worker has failed to meet a standard of this Code, other than for **child abuse**, (the reporting of child abuse is addressed in paragraphs 5.14 and 5.15), you should:*

- *where you believe that a person has not suffered harm or is not at the risk of harm, approach the member of the clergy or church worker and identify the concern; or*
- *where you believe that a person has suffered harm or is at the risk of harm, report this to the **church authority** having responsibility for the member of the clergy or church worker or the **Director of Professional Standards**.*

If in doubt seek advice from a colleague or supervisor or the Director of Professional Standards without identifying the member of the clergy or church worker.

3.10 *If you know or have reason to believe that another member of the clergy or another church worker has not followed a guideline of this Code, you should approach the member of the clergy or church worker and identify the concern. If you consider that the member of the clergy or church worker is persisting in disregarding the guideline without good reason and a person has suffered harm or is at the risk of harm, you should seriously consider reporting this to the church authority with responsibility for the member of the clergy or church worker or the Director of Professional Standards. If in doubt seek advice from a colleague or supervisor or the Director of Professional Standards without identifying the member of the clergy or church worker.*

Section 3's Preamble makes it clear that domestic abuse or a failure to observe the law could result in clergy or church workers facing formal disciplinary action. Likewise negligence of guidelines in pastoral counselling regarding domestic abuse might result in the requirement to receive specialised help.

3.4 Failure to meet the standards of this Code will indicate an area where clergy and church workers require guidance and specialised help. Such failures may result in formal disciplinary action if the conduct infringes an applicable disciplinary rule of the Church or is a breach of an employment contract.

3.5 Clergy and church workers are encouraged to follow the guidelines of this Code. Where this is impractical, the exercise of judgement will be required to ensure the safety of those to whom they minister and themselves. Wilful disregard of the guidelines may indicate an area where clergy and church workers require guidance and specialised help.

Definitions

Please note the following definitions of abuse from *Faithfulness in Service*, Section 2, the **glossary of terms**.

abuse in relation to an adult means the following conduct:

- bullying;
- emotional abuse;
- harassment;
- physical abuse;
- sexual abuse; or
- spiritual abuse.

bullying means repeated and unreasonable behaviour directed to a person or persons which, having regard to all the circumstances, would be expected to victimise, humiliate, undermine or threaten the person or persons, and which creates a risk to their health and safety. Where it involves the use of information and communication technologies, it is often called cyberbullying. It can include:

- making derogatory, demeaning or belittling comments or jokes about someone's appearance, lifestyle, background, or capability;
- communicating in an abusive manner;
- spreading rumours or innuendo about someone or undermining in other ways their performance or reputation;
- dismissing or minimising someone's legitimate concerns or needs;
- inappropriately ignoring or excluding someone from information or activities;
- touching someone threateningly or inappropriately
- invading someone's personal space or interfering with their personal property;
- teasing, or making someone the brunt of pranks or practical jokes;
- displaying or distributing written or visual material that degrades or offends.

emotional abuse means acts or omissions that have caused, or could cause emotional harm or lead to serious behavioural or cognitive disorders. It includes:

- 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.

harassment means unwelcome conduct, whether intended or not, in relation to another person where the person feels with good reason in all the circumstances offended, belittled or threatened. Such behaviour may consist of a single incident or several incidents over a period of time. It includes:

- making unwelcome physical contact with a person;

- making gestures or using language that could reasonably give offence including continual and unwarranted shouting;
- making unjustified or unnecessary comments about a person's capacities or attributes;
- putting on open display pictures, posters, graffiti or written materials that could reasonably give offence;
- making unwelcome communication with a person in any form (for example, phone calls, email, text messages) ; and
- stalking a person.

physical abuse means any intentional or reckless act, use of force or threat to use force causing injury to, or involving unwelcome physical contact with, another person. This may take the form of slapping, punching, shaking, kicking, burning, shoving or grabbing. An injury may take the form of bruises, cuts, burns or fractures. It does not include lawful discipline by a parent or guardian.

sexual abuse of an adult means sexual assault, sexual exploitation or sexual harassment of an adult. [Note: these terms are further defined in the same section]

spiritual abuse means the mistreatment of a person by actions or threats when justified by appeal to God, faith or religion. It includes:

- using a position of spiritual authority to dominate or manipulate another person or group;
- using a position of spiritual authority to seek inappropriate deference from others;
- isolating a person from friends and family members; and
- using biblical or religious terminology to justify abuse.

Appendix 6: Suggested Parish Policy on Domestic Abuse

Parish of Policy for Responding to Domestic Abuse

All forms of domestic abuse are wrong. Perpetrators must stop.

1. The primary focus of this Policy is abusive or intimidating behaviour inflicted by an adult against a current or former spouse or partner. (Abuse involving children should follow child protection procedures.) **Domestic abuse** includes but is not limited to emotional, verbal, social, economic, psychological, spiritual, physical and sexual abuse. Such behaviour often seeks to control, humiliate, dominate or instill fear in the victim.

2. We are committed to safe places which –

- Recognise equality amongst people,
- Promote a culture of healthy relationships of mutual responsibility in marriages, families and congregations,
- Ensure that all people feel welcomed, respected and safe from abuse,
- Strive to follow good practice in protecting those experiencing domestic abuse,
- Refuse to condone any form of abuse, and
- Enable concerns to be raised and responded to clearly and consistently

3. We uphold *Faithfulness in Service* as our national code of conduct for clergy and church workers, specifically its affirmations that –

- Abuse of power is at the heart of many relationship problems in the Church and in the community. In essence, abuse is one person's misuse of power over another. Sometimes abuse will be a one-off event and at other times it will be a pattern of behaviour, (6.2)
- It is important for clergy and church workers to be good citizens and to obey the laws of the community, except where those laws conflict with Christian convictions, (6.4) and
- You are not to abuse your spouse, children or other members of your family (6.6).

4. We recognise that Domestic abuse requires a serious and realistic response –

- All forms of domestic abuse cause damage to the victim and are wrong,
- Domestic abuse can occur in all communities, including churches,
- Domestic abuse, if witnessed or overheard by a child, is a form of child abuse by the perpetrator of the abusive behaviour,
- Working in partnership with vulnerable adults and children, statutory authorities and specialist agencies is essential in promoting the welfare of any child or adult suffering abuse,
- Clergy and lay ministers need to obtain advice from those with professional expertise when faced with situations of domestic abuse, and
- Where mistakes in caring for people in difficult situations are made, an apology should be offered and advice sought on how to address any harm caused.

5. We respect people who come to us for help by –

- Valuing, respecting and listening to victims of domestic abuse;
- Valuing, respecting and listening to alleged or known perpetrators of domestic abuse;
- Appreciating the need to ensure a distance is kept between the two; and
- Refusing to condone the perpetration or continuation of any form of abuse.

6. We uphold Scripture and its abhorrence of abuse in our words and public statements by –

- Clearly teaching that domestic abuse is wrong and that the Bible should never be interpreted to justify or excuse any form of abuse. Rather a relationship between a husband and wife is to be characterised by love, care and kindness;
- Clearly teaching that the Bible does not condone abuse and should not be interpreted to demand a spouse tolerate or submit to domestic abuse; and

- Raising awareness of domestic violence agencies, support services, crisis accommodation, resources and expertise.

7. We ensure safety first by –

- Ensuring that those who have experienced domestic abuse can find safety and informed help as a first priority, and can continue to stay safe,
- Taking it Seriously – Ensuring that any disclosures of abuse are taken seriously and not dismissed,
- Getting help from outside – Working with the appropriate statutory authorities during an investigation into domestic abuse, including when allegations are made against a member of the church community,
- Keeping it confidential – Respecting the need for confidentiality within the bounds of good Safe Ministry practice, noting that reporting requirements exist where there is an immediate danger, where a child is at risk of serious harm or where the matter involves a clergy person or church worker as an alleged offender, and
- Challenging with Care – Carefully challenging inappropriate behaviour, but only in a way that does not place any individual, especially a victim, at increased risk.

8. We offer pastoral support to those in our care by –

- Offering informed care – Ensuring that informed and appropriate pastoral care and professional help is offered to any adult, child or young person who has suffered domestic abuse,
- Being guided by the victim – Never pressuring any victim of domestic abuse to forgive, submit to, or restore a relationship with an offender,
- Understanding that reconciliation comes with conditions – Understanding that any reconciliation between victim and offender is dependent principally upon genuine repentance and reformation of the offender, and
- Coordinating the care – Identifying the appropriate relationships of those with pastoral care responsibilities for both victims and alleged or known perpetrators of domestic abuse.

If you have any concerns or need to talk to anyone please contact...

- The Police: dial **000**
 - 24/7 in emergencies where safety is at risk.
- 1800 Respect national helpline: **1800 737 732** or 1800respect.org.au
 - 24/7 for sexual assault, & domestic violence counselling and advice.
- Child Protection Helpline: **132 111** or reporter.childstory.nsw.gov.au/s/mrg
 - If you think a child or young person is at risk of harm from abuse.
- Lifeline: **131 114** or www.lifeline.org.au/get-help
 - 24 hour telephone crisis line.
- Professional Standards Unit: **9265 1604** or safeministry.org.au
 - Advice about abuse involving Anglican clergy or church workers

Appendix 7: Draft Safety and Exit plan

Ordinarily safety planning would be done with an experienced professional in the field of responding to domestic abuse. However this sample gives a sense of the wide range of issues that would have to be considered.

Step 1: I CAN USE SOME OR ALL OF THE FOLLOWING STRATEGIES:

- A. If I decide to leave, I will _____ . (Practice how to get out safely. What doors, windows, stairwells or fire escapes would you use?)
- B. I can keep my purse and car keys ready and put them _____(place) in order to leave quickly.
- C. I can tell _____ about the abuse and request they call the police if they hear suspicious noises coming from my house.
- D. I can teach my children how to use the telephone to contact the police and the fire department.
- E. I will use _____ as my code for my children or my friends so they can call for help.
- F. If I have to leave my home, I will go _____(Decide this even if you don't think there will be a next time). If I cannot go to the location above, then I can go to _____ or _____.
- G. I can also teach some of these strategies to some/all of my children.
- H. When I expect we are going to have an argument, I will try to move to a space that is lowest risk, such as _____ . (Try to avoid arguments in the bathroom, garage, kitchen, near weapons or in rooms without access to an outside door).
- I. I will use my judgment and intuition. If the situation is very serious, I may be able to give my partner what he/she wants to calm him/her down. I have to protect myself until I/we are out of danger.

...over

Step 2: SAFETY WHEN PREPARING TO LEAVE

Leaving must be done with a careful plan in order to increase safety. Perpetrators often strike back when they believe that the person they are abusing is leaving the relationship.

I can use some or all the following safety strategies:

- A. I will leave money and an extra set of keys with _____ so that I can leave quickly.

- B. I will keep copies of important papers and documents or an extra set of keys at _____.

- C. I will open a savings account by _____, to increase my independence.

- D. Other things I can do to increase my independence include:

- E. The domestic violence program's hot line telephone number is _____ and I can seek shelter by calling this hot line.

- F. I can keep change for phone calls on me at all times. I understand that if I use my mobile, the following month the telephone bill will tell my perpetrator the numbers that I called after I left. I could get a 'pay as you go' phone. There are no bills and all communication would be confidential.

- G. I will check with _____ and _____ to see who would be able to let me stay with them or lend me some money in an emergency.

- H. I can leave extra clothes with _____.

- I. I will sit down and review my safety plan every _____ in order to plan the safest way to leave the residence.

- J. _____ (domestic violence advocate or friend) has agreed to help me review this plan.

- K. I will rehearse my escape plan and, as appropriate, practice it with my children.

...over

Step 3: SAFETY IN MY OWN RESIDENCE

There are many things that a person can do to increase her safety in her own residence. It may be impossible to do everything at once, but safety measures can be added step by step.

Safety measures I can use include:

- A. I can change the locks on my doors and windows as soon as possible.
- B. I can replace wooden doors with steel/metal doors.
- C. I can install security systems including additional locks, window bars, poles to wedge against doors, an electronic system, etc.
- D. I can purchase rope ladders to be used for escape from second floor windows.
- E. I can install smoke detectors and purchase fire extinguishers for each floor in my house/apartment.
- F. I can install an outside lighting system that lights up when a person is coming close to my house.
- G. I will teach my children how to use the telephone to make a reverse charge call to me and to _____(friend/ other) or get them a mobile phone in the event that my partner takes the children.
- H. I will tell people who take care of my children which people have permission to pick up my children and that my partner is not permitted to do so. The people I will inform about pick- up permission include:
 - a. _____(school)
 - b. _____(day care staff)
 - c. _____(Sunday School teacher)

Appendix 8: Marriage Preparation: Recommended good practice

Marriage preparation offers an opportunity to challenge inappropriate behaviour and assumptions about domination, control or abuse, while making it clear that some degree of conflict within an intimate relationship is natural and healthy, if dealt with appropriately.

The principles of understanding humanity (female and male) as made in God's image and of equal worth; of equality amongst people and within relationships; and of not condoning any form of abuse, should underpin any marriage preparation offered by the Church.

Care must be taken if the biblical themes of a wife's submission or a husband's role as 'head' are to be expressed in the marriage vows or other parts of the marriage service, or in marriage preparation more generally. Please spell out what such ideas **do not and must not** involve to avoid any misunderstanding or twisting of Scripture.

For example, any wife's submission must only ever be voluntary. It ought not to involve submitting to disobedience to God or to illegal activity. No wife is spiritually obligated to submit to domestic abuse from her husband.

Likewise husbands are never told to assert authority over their wife. In particular, they are never told to make their wife submit. Any manipulation or hint of coercion of her towards such ends is sin.

Given the high incidence of domestic abuse within marriage, we recommend that clergy and lay people who offer marriage and wedding preparation should have attended some training on issues of domestic abuse. It is important that there is a clear understanding amongst those who offer marriage preparation that domestic abuse is always unacceptable and that domestic abuse breaks the sanctity of marriage.

The subjects regularly dealt with when preparing couples for marriage, e.g. communication, conflict and in particular "How do you deal with your anger?" offer an opportunity for couples to discuss together how their parents dealt with anger, rows and conflict, or how the couple might have dealt with these in previous relationships. Sometimes those who have experienced domestic abuse as children have a very idealised view of marriage.

It is possible that those working with couples hoping to marry may become aware or suspect that abuse is taking place or may take place between the partners. This is always a difficult area to deal with and illustrates the need for training for people involved in this work, but one or more of the following ideas might help in such a situation.

The facilitator might include a statement at the beginning of the 'course' or conversation and again before dealing with a subject such as 'marital conflict' or anger. The following, which may need amending depending on the circumstances, is an example of a form of words that might be appropriate:

"When we think about relationships in general and our own in particular, there is always a chance that issues may be raised that touch us in a way that leaves us feeling disturbed, uncomfortable or anxious. If this happens you may wish to speak to one of us today more privately or to seek help from a counsellor or other helping organisation."

If a domestic abuse issue is raised directly or indirectly by one of the couple, the facilitator should not pursue it in the presence of the other: this could be highly dangerous. They may need to find a way to give the person a chance to say more in private, with the object of encouraging them to get one-to-one help from a competent person or organisation.

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Because the Prepare-Enrich questionnaires are so widely used among Anglican churches for marriage preparation and marriage enrichment, it is worth reporting briefly on research published by the Prepare-Enrich organisation, entitled, "Spouse Abuse & Marital System based on Enrich" by Shuji G. Asai and David H. Olson, both of the University of Minnesota¹.

This was research based in the United States from a national sample of over 20,000 couples taking the Enrich questionnaire.

¹ Source: <https://www.prepare-enrich.com/pe/pdf/research/abuse.pdf>, viewed 1 August 2017

Its literature review noted that one's background (e.g. family abuse in one's own past) and context (e.g. unemployment) can be correlated with higher rates of abuse. It noted that individual traits and behaviour can be significant with victims tending to have low self esteem and to be higher on avoidance. It also showed features of couple interaction, such as good communication and conflict resolution, can be associated with higher relational quality. Conversely, there is an association between family violence and unequal decision making power, with levels of violence higher for wives among husband-dominating patriarchal couples.

Based on self-reporting to the inventory question, "Have you ever been abused (verbally, emotionally, physically, or sexually) by your partner?", over 61% of couples in the study were classified as non-abusing, 16.8% as having the husband abusing, 13.4% having both partners abusing, and 8% having the wife abusing.

Using the Enrich Couple typology, 95% of Vitalised couple types, 88% of Harmonious couple types, and almost 80% of Traditional couple types were classified as non-abusing.

Conversely, less than 28% of Devitalised couple types were non-abusive.

In the middle, 52% of Conflicted couples types were non-abusive. So it was noted that about half of conflicted couples could maintain non-abusive relationships, even when there were significant difficulties reported. That is, unresolved conflict does not always make a marriage abusive.

Of the various Couple scales, the most significant predictors of abuse were lower scores for Positive Couple Agreement in the categories of 'Family and Friends', 'Personality Issues', 'Communications', and 'Conflict Resolution', along with lower rating of 'Couple Closeness'. Lack of 'Couple Flexibility' was also significant.

Couples with a more Egalitarian² approach to Role Relationships appeared to be less likely to experience abuse of the wife.

On individual Personality scales, non-abusive couples tended to display both partners scoring higher in self-confidence and assertiveness, and lower in partner dominance and avoidance.

Unsurprisingly, abusive couples have the abused partner tending to be high in avoidance and partner dominance and lower in assertiveness and self-confidence (although not so much with self-confidence in the case where husbands report abuse).

A strength of the research was its broad definition of abuse, including verbal, emotional, physical and sexual. A limit is its self-reporting nature, especially given the likelihood that abuse is underreported. The study sample group was predominantly Caucasian (85%), so results may be different in other ethnic groups.

Another limit would be in applying this to marriage *preparation* since the study only measured those who had already been married for some time, and were engaging in the Enrich inventory. So some caution would be needed in extrapolating findings of correlations to results of those doing the Prepare inventory, although there is intuitive expectation that similar correlations might be found.

Nevertheless, this research may give those engaged in marriage preparation some idea of particular measures to focus on as possible correlates for abuse being more likely as a possibility, especially where domestic abuse is expressed or suspected as a concern.

Steps taken to increase an individual's assertiveness and self-confidence and to develop skills in communication and conflict resolution may be worth considering in this context. But where a proneness to abuse or other serious relational difficulty is suspected, clergy and church workers should carefully consider referrals to trained counsellors or other professionals.

² Note that 'Egalitarian' here in Prepare/Enrich is not defined primarily in theological terms.

Appendix 9: Synod Resolutions related to Domestic Abuse

Please note the following resolutions of the Anglican Diocese of Sydney. Synod is the 'parliament of the local churches' (made up largely by the senior minister and two elected member representatives of each local church, with some additional representation from various Anglican leadership and organisations within the Diocese).

Any resolutions of Synod, although not carrying the force of denominational law, express our peak representative 'position statements' on particular issues at particular points of time.

37/07 Biblical pattern of marriage

Synod –

- (a) affirms that the relationship of loving, sacrificial leadership of a husband and the intelligent, voluntary submission of a wife is the Biblical pattern of marriage, and
- (b) totally rejects the use of this Biblical pattern to justify any form of domestic abuse, and
- (c) totally rejects all forms of domestic abuse, and
- (d) expresses its concern for those children, women and men, who are victims of domestic abuse, and
- (e) calls on Christian husbands and wives to use their God-given responsibilities for the good of their families, and
- (f) calls on ministers to teach congregations the Biblical model for marriage and also to teach against domestic abuse.

(Mrs Lesley Ramsay 25/09/07)

33/13 Domestic violence and educating clergy

Synod requests Moore College and Ministry Training and Development, in consultation with the Safe Ministry Board and appropriate experts as required, having reviewed the input they already provide, to investigate and, if needed, develop an effective approach to educating ordinands and clergy in regards to domestic violence and how to respond when it comes up as an issue in marriage (and other relationships).

In such training, consideration ought to be given to ensuring that upholding the Bible's good teaching on submission and sacrificial love – both in preaching and teaching, and in marriage education and counselling – is not easily twisted as a cover for abuse.

Synod requests that Moore College and Ministry Training and Development report back with a progress report by the next session of Synod.

(Canon Sandy Grant 16/10/2013)

24/16 Domestic Violence

Synod –

- (a) acknowledges that domestic abuse continues to be a significant social problem both inside and outside the church;
- (b) gives thanks for the work of the Domestic Violence Response Task Force and calls on them to continue their work – in particular that of developing policy and pastoral guidelines to recommend to Standing Committee and make recommendations about education – as expeditiously as possible;
- (c) calls on Standing Committee to consider providing funding for the Task Force sufficient to expedite its work and particularly the work of interviewing and caring for victims;
- (d) calls upon all clergy, church workers and parish councils to read the Task Force's 2016 progress report to Synod and to familiarise themselves with the headline definition and expansive description of domestic violence adopted by the Task Force;
- (e) notes that clergy and church workers who are domestic abusers are in breach of standards expressed in Faithfulness in Service;
- (f) encourages victims of domestic abuse by clergy or church workers to speak to the Professional Standards Unit;
- (g) asks the Task Force, and the Discipline Ordinance 2006 Review Committee, to consider changes to the necessary ordinances which would allow victims of domestic abuse, who have brought the abuse

to the attention of church-workers who have their pastoral oversight and who feel that they have received negligent, callous or otherwise improper advice or treatment by those with pastoral oversight, to have complaints referred to the Professional Standards Unit;

- (h) looks forward to the inclusion of education in the area of domestic violence in 2017 via the PSU's compulsory Faithfulness in Service training sessions for clergy and paid church workers, and while the Task Force's pastoral guidelines are being developed encourages ministers, whenever they receive an allegation of domestic abuse, to consider contacting the PSU for advice on the best practices for pastoral care;
- (i) encourages clergy and church workers to preach and speak against domestic violence, again rejecting the twisting of Scripture to justify abuse of any kind, and to make pastoral enquiries when meeting with married people;
- (j) requests the Task Force to report again, no later than next Synod; and
- (k) expects that the diocesan response to domestic violence will go beyond the ambit and life of the Task Force,

and prays for the protection, healing and support of victims and survivors of domestic violence within our churches; for wisdom and insight, courage and compassion for clergy and church workers in providing pastoral responses to people in such situations; and for the continued work of the Task Force.

(Canon Sandy Grant 12/10/2016)

17/17 Grief and apology in regards to domestic abuse

That this Synod grieves with victims and survivors of domestic abuse, and prays for their healing and recovery. We give thanks to God for those women and men, clergy and lay people, who have faithfully supported, cared for and protected such victims in our churches and communities.

We grieve that God's good gift of marriage can be distorted and dishonoured through the sin of perpetrators. We pray for their repentance and restoration to faithful living under Christ.

We also deeply regret that domestic abuse has occurred among those who attend our churches, and even among some in leadership. We apologise for those times our teaching and pastoral care have failed adequately to support victims and call perpetrators to account.

(Canon Sandy Grant 10/10/2017)

32/17 Assistance for spouses and families of clergy and lay stipendiary workers where separation has occurred due to domestic violence

In light of its wholehearted acceptance of the Provisional Sydney Anglican Policy on Responding to Domestic Abuse, and its deeply sincere expression on 10 October 2017 of grief, regret and sorrow to victims and survivors of domestic abuse, Synod –

- (i) acknowledges the responsibility of the Anglican Church of Australia to examine its ordination candidates to ensure that they are fit to enter Holy Orders,
- (ii) acknowledges the responsibility of the Anglican Church of Australia to ensure that its clergy are fit to remain in Holy Orders,
- (iii) acknowledges the responsibility of the Anglican Church of Australia to ensure that its lay stipendiary workers are fit to be licenced to work in churches and to remain in this work,
- (iv) accepts the theological statements in the Provisional Sydney Anglican Policy on Responding to Domestic Abuse that speak of the circumstances when it is right for the victims of domestic abuse to separate from their spouses and not be reconciled,
- (v) acknowledges that a key reason why domestic abuse victims might find it difficult to separate from their spouses is because of potential financial hardship (especially where children are involved),
- (vi) acknowledges that the family of clergy and lay stipendiary workers live in locations where the relevant ministry worker is licenced to minister, rather than around their natural support networks (e.g. family and close friends), and that this can make it even more difficult for victims of domestic abuse to separate from their spouses,

and therefore requests –

- (a) that Standing Committee, as a matter of urgency and in consultation with the Professional Standards Unit, create a generously provisioned long-term operating fund which has the purpose of assisting spouses of clergy and lay stipendiary workers who have been or will be left in financial hardship as a result of their need to separate from their spouse due to domestic abuse,
- (b) that the policy which is created to administer the fund proposed in paragraph (a) provide a way for funds to be distributed quickly to those who are in need,
- (c) that Anglican Schools Corporation schools have short to medium term bursaries available to assist the families of clergy and lay stipendiary workers where separation has occurred due to domestic abuse, and
- (d) that Anglicare give priority for emergency assistance to the families of clergy and lay stipendiary workers where separation has occurred due to domestic abuse.

(The Rev Mark Tough 16/10/2017)

Appendix 10: Timeline of Public Statements by Diocesan Leadership addressing Domestic Abuse

Extract: Archbishop's Presidential Address to Synod 2012

At the heart of family is marriage, understood as the union of two persons of the opposite sex from different families by way of promises of permanence and exclusion. If the promises reflect, as they do in the *Book of Common Prayer*, the differences between man and woman as well as the equality, it is always to be understood that the headship of the man brings with it the awesome responsibility to nurture and cherish as Christ loved and cherished his church. To use this, as some have, as an excuse to demand slave like servility, or even to engage in physical and emotional bullying is to misuse it utterly and no wife should feel spiritually obliged to accept such treatment. Here too sin takes and distorts what is for our good in its own evil interests. Likewise, however, to treat husband and wife as two simply interchangeable 'partners' is to court damage to the fabric of the family itself. Even more damaging, of course, is the modern habit of living together without the benefit of the public promises – an inherently unstable relationship. Still more damaging is the current encouragement to casual promiscuity.

(Most Rev Dr Peter Jensen, Archbishop of Sydney until 2012)

Extract: Archbishop's Presidential Address to Synod 2015

Domestic Violence

If it were not enough that marriage was under threat by the advocates of 'same-sex marriage', the recent heightened awareness of domestic violence within marriage is another wake-up call for our society. Two years ago our Synod raised this question as a matter of concern. Since then, considerable work has been done in addressing the issue, including Moore College and Ministry Training & Development in their education of prospective and recently ordained ministers, though there is still more to be accomplished. I am particularly grateful for Canon Sandy Grant's having raised this matter on a number of occasions both at Synod and Standing Committee and for his initiative in persuading Standing Committee to establish a Task Force to develop a diocesan response to domestic violence. The Task Force has been asked to consult with domestic violence victims or their representatives and report back with recommendations on the following:

- (a) developing, adopting and communicating a diocesan domestic violence policy statement, along with advice for good pastoral practice;
- (b) facilitating education of lay membership of our churches on the issue (e.g., via preparation of suitable resources);
- (c) educating our youth in regards to the recognition and prevention of domestic violence; and
- (d) encouraging further developments in our education of clergy and church workers in this area (e.g., recognising warning signs in marriage preparation).

While I welcome this Task Force, it grieves me that we need it. It is a salutary reminder of the corrosive effects of sin even in the believer, that men who profess Christ should treat their wives with such contempt, inflicting either verbal or physical abuse upon those whom they have promised 'to love and to cherish, till death us do part.'

This is not the way of Christ. It should not characterise the bride of Christ. It does not reflect, despite the accusations of some, the inevitable consequences of the doctrine of headship in marriage. What it does demonstrate, regrettably, is that in the words of the Thirty-nine Articles: 'in the visible Church the evil be ever mingled with the good' (Article xxvi). If even Satan can use the words of Holy Scripture to tempt our Lord, it is not difficult to concede that the Evil One can twist good doctrines to his own evil purposes. That Christian women are caught in such a vulnerable situation at the hands of those who abuse their responsibilities as husbands is both horrendous and inexcusable. It is therefore important that we address this issue with honesty, compassion and resolve, so that we may protect those who suffer any form of domestic abuse and find ways to prevent its reoccurrence, especially in the household of God.

(Most Rev Dr Glenn Davies, Archbishop of Sydney from 2013)

Extract: "For Christians who missed the memo: the Bible abhors all domestic abuse", Sydney Morning Herald, March 4, 2015

So let's be clear for any Christians who missed the memo. The Bible says any abuse or aggression from one spouse to another, whether physical or verbal, is wrong.

For example, Colossians 3:19 says, "Husbands, love your wives and **do not be harsh with them**".

St Peter says we're never to exploit those with less power.

What about a passage that sounds foreign to modern western ears, like Ephesians 5? This section asks a wife to "submit" to her husband and says he is the "head of the wife, as Christ is the head of the church". Christians who take the Bible at face value immediately notice how it continues that 'headship' is expressed by "loving your wife, just as Christ loved the church and gave himself up for her". And we know 'submission' cannot be bad in and of itself, since Jesus is said to submit to his heavenly father. And all Christians are to submit to the lawful governing authorities (not least in regards to domestic violence laws). We also remember that mutual consent is the standard for decision-making in things like sexual activity (1 Corinthians 7:5).

What does it mean in practice? I think such headship is only properly expressed in loving sacrifice and a concern to nurture, provide and protect (Eph 5:28-29). And loving submission is a loyalty that respects and leaves room for a husband's initiative in the above (Eph 5:33). Many people find this is good and workable.

Of course, domestic abuse can occur whether the theory you espouse is 'traditional', 'egalitarian' or 'feminist'. But whatever you understand when the Bible talks of 'submission' or being the "head in a marriage", it's crystal clear that **husbands are never told to make their wives submit**.

The American pastor John Piper was wrong when he suggested a wife might "endure perhaps being smacked one night", before seeking help "from the church". Victims of domestic violence should be encouraged to seek help from the Police and others too, and to get to a safe place.

The church should support that.

(Canon Sandy Grant, Senior Minister, St Michael's Cathedral, Wollongong, chair of the Domestic Violence Task Force)

Extract: "The Christian and Submission" (keynote address) Priscilla & Aquila Conference 1 February 2016

4. Equality, order and love

We began, at the beginning of the first session, by recognising that in recent days attempts have been made to draw a causal connection between the biblical teaching about a wife's submission to her husband and the scourge of domestic violence. The charge has been made that this doctrine encourages the subjugation of women and allows a justification for abuse in all its forms. I said back then that there is nothing in Scripture which justifies the use of violence towards women or the abuse of women in any way whatsoever, and whenever an appeal is made to Scripture in attempt to justify such behaviour it is not only a perversion of Scripture, but a dishonouring of the God whose word it is. There is not and can never be any justification for domination, bullying and mental, emotional or physical abuse of women, least of all by their husbands. The teaching of the New Testament speaks of relationships characterised by profound equality, genuine order and other-centred love. As in the submission of the Son to the Father, the submission of a wife to her husband has nothing to do with value and it has nothing to do with power. It is not something coerced or demanded but something freely, willingly given. It is a relationship of two human beings of equal value, both created in the image of God, both redeemed by the blood of Christ. And in this asymmetrical relation of equals the common element is true other-centred love.

I mentioned one of the articles in the Herald last year I found most helpful amidst the attempt to draw a link between the biblical teaching about submission and domestic violence. It was written by a Christian woman, Sarah, and one of the explanations she gave for delighting with her friends in the Bible's teaching on this subject was this: such women

do not connect submission with personal worth, because they already know that they are infinitely precious to God and, in good marriages, to their believing husbands. Instead, they see submission — where one person trusts another to lead them, and honours them for exercising that responsibility selflessly — helps two people grow closer together and enables them both to flourish as individuals.¹

Far from being an embarrassment to Christian men and women at the beginning of the twenty-first century, this biblical teaching is something we should rejoice in, because it is God's word to us and God is good and always provides for the welfare of his people. We need to speak out in the loudest possible voices against domestic violence and do all in our power to protect those who have been subjected to it — women and men — I hope we will all do that and continue to do that. But biblical headship and submission is not the cause, in fact quite the opposite.

(Rev Dr Mark Thompson, Principal Moore College, Chair of the Doctrine Commission of the Diocese of Sydney)

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Extract: Domestic Violence – A Starting Point for Answers²

Is domestic violence an issue in our churches?

Of course. Where there are people there is sin. Even as Christians we know we still sin. Domestic violence is an extreme expression of sin and sadly is present even in our churches. We mustn't be naïve about this. But at the same time, as we take steps to address this evil in our churches, we need to be careful not to make it *the* pastoral issue. There is a fine line we walk: the majority issues for marriage and family life will be more everyday struggles and strains, while at the same time there will be particular and more significant crises facing some couples and families, including infidelity, violence, and sickness. These must be handled with great care, and may require significant investment of time.

Passages like Ephesians 5 encourage women to submit to their husbands, is there a risk these passages can be used to excuse domestic violence?

Yes they may be used to justify sinful behaviour like domestic violence. Yet we must be clear, the instruction for women to submit to their husbands does not give license to men to exploit or abuse their wives. In fact, the wife's submission is voluntary. The truth is that as women are called to submit in Ephesians 5, husbands are instructed to love their wives as they love their own bodies, and in Colossians 3:19 Paul forbids them from being harsh with them. There is no place in Scripture for a husband exercising his biblical headship in a dominating, exploitive or self-serving manner. As the husband's role is modelled on Christ's loving, sacrificial leadership, so he lives that out for the benefit of his wife.

There is a lot of discussion at the moment suggesting there is a link between biblical teaching on submission and headship with the prevalence of DV in church. Some argue the existence of this teaching leads to domestic violence.

I believe this is mistaken for two reasons. Firstly, to create cause and effect at this point suggests that God's good word to us is wrong or mistaken. Also, taken to its logical conclusion, it would assume that churches that deny this teaching are free from DV which we know is untrue. Secondly, by making this the reason for DV means we fail to fully explore and understand the issue and that, I think, is an injustice to those involved.

Church leaders have a responsibility to teach this doctrine correctly, call out inappropriate and sinful misapplications, and care for those who have suffered at the hands of those who have (wickedly) twisted God's word to satisfy their own sinful behaviour.

What are some helpful things to do if we think someone is a victim of domestic abuse?

First and foremost: listen and believe. Then assess whether it is safe for the victim to return to the home. If there is evidence that a crime has taken place, then a report must be made to the police. If not, there are

¹ S. Colyer, "Submission" to my husband allows us both to flourish in our marriage', Sydney Morning Herald 8 March 2015 online at <http://www.smh.com.au/comment/submission-to-my-husband-allows-us-both-to-flourish-in-our-marriage-20150308-13y83i.html> (accessed 23/12/15).

² Source: <http://www.australianchurchrecord.net/domestic-violence-a-starting-point-for-answers/>

several avenues to explore to care and support the abused. It might be that you actually do nothing straight away as the victim might not be ready to leave the situation or report to the police. If the victim asks you not to tell anyone, honour their wishes (as hard as this is) because they must be able to trust you. As a church, have a plan of how you care for people in these circumstances and make sure leaders are aware of it. If the abuse is disclosed by a child, leaders of course have mandatory reporting responsibilities.

(The Venerable Kara Hartley, Archdeacon for Women's Ministry)

Appendix 11: A Letter Made Me Think

By Kate Bradford

I minister and write as a chaplain. Last night I had an interesting experience that highlighted for me an important difference between chaplaincy and parish ministry: chaplains know that a person is in some sort of crisis – whereas ministers may have no reason to suspect a problem.

Chaplains like social workers, GPs, psychologists, counsellors, and psychiatrists initially meet people at times of crisis, illness or trauma. We usually have no prior relationship or social connection with the people to whom we minister and people disclose things that they have not told their family or minister. This allows for greater objectivity for chaplains as we listen to their story, while hearing their emotion and pain, the way in which they construct their meaning.

With these fragmentary clues to meaning, we hear of people's faith and beliefs, but we also catch glimpses of their default 'faith' settings exposing the things that they *really* depend upon when everything else is in flux. We also hear where they belong in their web of relationships – family, church, community, culture and society and whether they experience healthy relationships or alienation and isolation. We see hints that point to loving relationships and clues to destructive relationships. We also look for clues as they express their desires and dreams, or fears and dreads, to see the role hope has in their thinking, with the aim of knowing how best to share Christ's love and message of hope with them.

I am very conscious chaplaincy ministry is different from parish ministry in many ways, most particularly because it is a ministry offered in the public space to people of many different religious and faith positions.

I was contacted by someone last night who has been abused by their spouse. They are a couple that I have known for a number of years and at one stage we were part of the same church community. The abusive spouse has been involved in ministry in a number of congregations and is considered a leader in the ministries in which they are involved. I was shocked as I read the email, not comprehending what the letter was saying, until the abuser's name was spelt out in print in the sentence. This was a most massive 'aha' experience for me. As I read the letter again, I remembered particular incidents and instances that jarred but I had never put these things together. I always thought their family just did things differently from us, but as soon as I read the letter I knew that it was true.

I suddenly realised what it must be like for clergy who know people in their congregation, who are on ministry teams and seem to have happy stable families and on the surface appear to be the 'model' Christian couple or family.

My reflection on this is: as people ministering among our congregations, we sincerely think that we know people, who are the model of a lively Christian faith in the parts of their life that we see. We forgive their idiosyncrasies, because we know their good works and believe that they mean well. The victim may act to keep the peace and might smooth things over for lots of reasons, including fear of shame or blame.

Kate is a hospital chaplain, and she is also part of Anglicare's Chaplaincy Training and Development. Kate is married to Steve, and together they were CMS missionaries at a remote rural hospital in Tanzania. Kate is also a chaplain at Moore College, from where she also has a BTh and an MA.

*This article was originally published by The Bible Society, 11 May 2015:
<https://www.eternews.com.au/archive/a-letter-made-me-think/>*

Appendix 12: Walking Through It: A Family Violence Survivor's Reflection

The author of this article has asked that her name be withheld.

(Used by permission, courtesy of The Gospel Coalition, Australia¹)

I recently wrote a letter to ministers, entitled "Things I wish you understood: An open letter to ministers from a family violence survivor." The response has been humbling. I'm glad it resonated with the experience of many, because it reminds me that I'm not alone, and that nor am I crazy because sometimes I have to fight with my emotions and body to get control again. Thank you to the sisters and brothers who have said "that's me, too." May God bless, comfort and heal you also.

I'm also more glad than I can say for the people who said it would help them to love their flock better. That's what I was praying for. My experience won't speak to everyone, and won't be applicable to everyone, but if it starts a conversation or raises awareness, then I thank God for that. If it means that I or someone else might have a better chance of hearing and understanding what the Bible says on some of those more difficult passages, so much the better. That was my heart—I want to hear and learn, and sometimes I can't because of what I've been through. I'm not alone in that.

I've been encouraged privately to reflect and share on the experience of coming forward in the church. I am profoundly grateful for the godly men and women who walked through it with me. My experiences were generally positive but there were moments that weren't so positive as well, and moments which might have gone much, much worse but for the grace of God. I am somewhat unusual, from what I can gather, in that I didn't meet with *anyone* (outside of my then-husband) who treated me with harshness or ungraciousness. Even those who weren't helpful still tried to treat me with love. My heart aches for those who have not been met with grace and love.

Here are some things that I've been reflecting on about my own experience:

1. Listening to me, and believing me were the biggest gifts anyone could give me.

Those who listened and believed will have my everlasting gratitude and love. The first person I shared with was not a minister, but a friend who by the grace of God had walked this journey before. I didn't realise that at the time because I didn't actually know what was happening to me. I just knew my life was suddenly spinning out of control, and I was scared. She knew the value of listening and believing. She'd had experience. She knew what to do on every level: emotional, spiritual, practical. She validated what I told her—the first tentative forays into shattering the illusion I had been so carefully maintaining. I didn't tell her the whole picture, just the part that was upsetting me the most at the time. She treated me with respect, grace and dignity. That led me to go further, to bring deeper wounds forward to see if perhaps—breath-takingly—they might meet with tenderness too. *She believed me, and she told me she believed me.*

2. It was an incredibly scary thing to bring the leadership of my church into the picture.

I knew them to be men of gentleness and compassion, but I had seen what I thought was gentleness and compassion turn into harshness and anger before. I was terrified of being dismissed. I was petrified of being told that I was in sin, that I needed to go back. I didn't know what I would do if they did. The weight of that possibility made it difficult to breathe. I thought I was going to have a heart attack from the mere thought of having to choose between going back or defying the leadership of my church. The choice *felt* like one between my life and sanity, and my very salvation. My salvation was never actually on the line but, battered and broken as I was, that is what it felt like. It was agony.

3. Common sense isn't really enough in these situations.

The norms of relationships don't apply. The nature of abuse makes all sorts of things impossible. I couldn't do counselling with my then-husband. Any attempts to discuss the issues led to an escalation of abuse. When my pastor accidentally broke my confidence in discussion with my then-husband, I was placed in harm's way, and again received a tirade of abuse that left me trembling

¹ Source: <https://australia.thegospelcoalition.org/article/walking-through-it-a-family-violence-survivors-reflection>

and sobbing. Thankfully, my pastor learned from that and was very careful not to inadvertently break my confidence again. **He was also willing to listen to the advice of those who had more training in abuse than he did.** It is an area which requires knowledge and understanding, and I know that his willingness to listen and learn from his mistakes had positive outcomes for me.

4. **I needed professional help to recover.**

I drew near to God, and dug deep into my Bible, but I am indebted to the Christian counsellor I worked with for many years, and still work with today. Romans 12:2 talks of not being conformed any longer to the world, but renewing our minds, so that we can work out what God's will is. God used my counsellor mightily in that. So much in my thinking had been warped by abuse that I needed to re-evaluate everything I had ever learned or thought I knew about marriage, submission and headship. The process of sorting through what the Bible actually said and what had been twisted was long and arduous. The process still continues, and probably always will.

5. **I needed, and still need, clear and unambiguous teaching on these points.**

In renewing my mind, I didn't and don't want secular views to form the basis of my understanding. I don't want to abandon biblical teachings on headship, respect, submission or divorce. I want my views and understanding to be rooted in the Bible and nothing else. Marriage is God's good plan, and His intention and design for it are what I want and need to understand. Abuse is not part of His plan, and it has warped my understanding. My last letter was a plea for ministers to understand that they can help immensely in this. I want to hear from preachers who've thought, prayed and read deeply about abuse and marriage, and can steer me past the rocks and the pitfalls that abuse created, and for which my often faulty prior understanding laid the groundwork. The best help I have in my recovery is understanding what God actually says about me, about the way I was treated and about marriage in general.

6. **It was the compassionate and faithful teaching of a pastor which God used to begin open my eyes to the truth of my situation.**

I had no idea I was being abused, but I was hurting over what was happening in my marriage, and desperately wondering if the problem really was me. I wondered if I really was being called to submit to this, and what if anything, I could do to make things better. I wondered if this was normal. Over the years and months before I finally left my marriage, this pastor preached through various books of the Bible. Every single time something about marriage or the roles of men and women came up, he took the time to gently and compassionately point out what those passages *didn't* mean, as well as what they did. His was the sole voice of hope I heard, and it was powerful because he was an authority figure. Abuse is isolating. I was afraid to discuss my marriage with anyone else and afraid to read or research on the subject. God used the voice of this pastor to remind me that the way I was being treated wasn't His will, even though I was a long way from leaving or even understanding that it was abuse. His voice called me back to God, back to prayer and reading the Bible, rather than hardening me against God in my pain.

7. **The people who truly comforted me were okay with the mess and didn't try to fix it.**

My life was in tatters. My mental and physical health was breaking under the strain of what was happening, and the torrent of abuse that leaving unleashed. The people who truly gave me comfort loved me in the midst of that. They sat with me, they looked after me. They let me cry when I needed to, and listened to my doubts and fears and anger. They didn't see my anxiety and depression as a spiritual failure on my part, but as the direct and natural result of my experience. They encouraged me to seek help. They prayed with me, for strength and courage and reliance on God in the midst of the mess. They never gave me platitudes, and their faith was not rocked by my suffering. When they offered the occasional Bible verse, it was because it was something they had *lived*, and had helped them. In the manner of 2 Corinthians 1:3—4, they comforted me with the comfort they had been given and continually drew my eyes to the God of all comfort.

8. **Some people were really uncomfortable with my suffering and wanted to offer quick fixes.**

One woman listened sympathetically, and then told me that Romans 8:28 meant that God would put my marriage back together again. She couldn't conceive that the "good" God was working for was to make me more like Christ, and that didn't necessarily come with a fairy-tale ending. Another implied that I was giving way to negative thinking and outlined what I needed to do to win the battle of my

mind. The hearts of both were in the right place, and I loved them for their intent, but it wasn't at all helpful. I didn't need to be offered false promises that were a distortion of God's Word. I didn't need to feel blamed for my mental health crumbling under the strain, and feel like it was being attributed to some lack of discipline or sin on my part. The reality was, I was walking with God more closely than I ever had before, and I believed that the "good" Romans 8:28 promised could only be defined by God, not dictated human desires. I was clinging to that verse, but trusting God for what it would look like.

9. **I equally distrusted those who were willing to rewrite the Bible so that I wouldn't be hurt, and those who applied it rigidly and legalistically, without compassion.**

It was a very long time before I asked my leadership team if I could seek divorce. They never pushed me about it one way or another, but gave me space to ask when and if I was ready. I watched, and listened to everything they said, and every sermon they preached. I'd seen the way that they took care to show compassion while still preaching the truth. I didn't ask the question until I was certain that their desire for obedience to God was as strong as their compassion for His flock. I needed them to have both qualities in equal measure to feel safe asking. If they had told me I had to remain unmarried, I would have submitted to that, but I needed to know that they would understand what they were actually asking of me, and understood the pain it would cause. I needed to know they would be there if I had to live out that path. When I did ask, they gave me clear, reasoned answers from the Bible; answers that I will not detail here, as to do so would require more detail of my circumstances than is safe to give.

10. **The decision to walk away from my marriage was the most painful one I have ever made.**

I had prayed so hard over the years, and done everything I could do to have the quiet and gentle spirit that 1 Peter 3 talks about. I had wrestled with God over injustices and hurts, begged for change and railed at Him over the circumstances. I was repeatedly brought lovingly to my knees in repentance as He chose to deal with MY heart within the marriage. At the point when it became untenable and I left physically, I had long since learned that in my particular case God was going to deal with MY sinfulness with me, regardless of what my spouse was doing. He was going to make me like Christ, and I would need to trust Him in the journey, because He loved me. He would deal with my spouse in His time, not mine. It was hard, and I struggled with it often. When the crisis point came, I was taken by surprise.

11. **God is incredibly faithful.**

The more I reflect on my journey, the more I see His merciful provision to me, both in practical supports and emotional and spiritual ones. He drew close to me, and when I feared that I would lose absolutely everything I held dear, I learned that He is truly enough, and that His gift of salvation is the one thing that cannot be taken from me. Much in my life looks different than I had hoped, but the deep knowledge of His faithfulness and love is a gift beyond words.

Appendix 13: Doctrine Commission on Divorce and Remarriage

There are various views among Bible-based Christians about divorce and remarriage, ranging through the options listed in paragraph 4.14 below. To aid Sydney Anglicans in their consideration of these matters, we note the 1984 Doctrine Commission report "21/82 The Remarriage of Divorced Persons (1984)".

Specifically we reprint these paragraphs from the "Synthesis and Application of Biblical Evidence" section of the 1984 report, which represented the majority position at the time:

4.12 In 1 Corinthians 7:11 Paul recognises that the Christian may separate from his or her spouse (though he urges that person to remain single or else be reconciled). However, this separation is distinguished from that described in v. 15 because it is a separation designed to promote reconciliation rather than a separation designed to end the relationship. We must consider the sort of grounds in our situation today which may make such a separation legitimate. These would include:

- (a) Sexual infidelity.*
- (b) Mental or physical cruelty.*
- (c) Religious persecution.*

4.13 Although it is true that Paul urges the separated partner to remain single in such a case, we must ask whether this command is to be understood in absolute terms. The purpose of Paul's exhortation is that opportunity for reconciliation be maintained. When this fails, either because the other partner refuses in the long term to take steps leading to reconciliation, or because actions are taken that make reconciliation impossible, the believer is not bound to remain single, according to the principle of 7:15. In such a case the relationship has been abandoned by one who is, or is acting as, an unbeliever.

The test for "fault" is not so much past actions as a present unwillingness to be reconciled.

4.14 In paragraph 1.3, the Commission listed the possible approaches to the problem of divorce and the remarriage of divorced persons.

- (a) No divorce.*
- (b) No remarriage after divorce.*
- (c) Remarriage by the innocent party after divorce on the ground of adultery.*
- (d) Remarriage by the innocent party after divorce on the grounds of adultery or desertion.*
- (e) Remarriage after irretrievable breakdown of marriage demonstrated by the fact that reconciliation is impossible, but any party standing in the way of reconciliation ought not to be so married.*
- (f) Remarriage on the grounds of irretrievable breakdown of marriage without fault being considered as relevant.*

The Commission believes that options (a), (b) and (c) are more strict than Scripture allows, although it appreciates the concerns of those who adopt such views in order to safeguard marriage. The Commission regards the last option, (f), as being more liberal than the Scriptures allow. In our view the concept of fault cannot be abandoned, although emphasis needs to be laid on the reconciliation of the parties.

4.15 In considering the relative merits of (d) and (e) in paragraph 4.14 the Commission concluded that (d) is a true interpretation of Scripture, but that it is capable of being understood in too rigid a way. If it is read in terms of (e), the emphasis will fall on reconciliation. In this case the test for fault will be an unwillingness to be reconciled. It remains permissible for a partner to leave an impossible situation, but not permissible to remarry until the situation is resolved with finality from the other side. Options (d) and (e) are not to be seen as alternatives. The latter views the Biblical teaching on divorce and remarriage in the light of the gospel imperative to express and seek reconciliation. This gives some flexibility in the pastoral context, and paves the way for counselling which is not directed by legal motives.

Appendix 14: Doctrine Commission on The Use and Misuse of Scripture with Regard to Domestic Abuse

Some people use Bible verses as an excuse to abuse their wife, husband, or children. This is always wrong. Others think that the Bible tells them to put up with abuse. This is also wrong. Here are some important Bible verses that are sometimes used in this way. For each verse, there are wrong meanings and correct meanings. There are many more things to say about these verses, but these are the most important points for domestic abuse. These points do not explain the verses fully. To understand them more fully, we must do three things together:

- a) Read the whole chapter or section in which the verse or verses are found.
- b) Understand how the verse or verses fits into the chapter or section.
- c) Think about how the Bible's teaching applies to your situation.



Please note: If you think you might be a victim of domestic abuse, we suggest you read this document with a supportive friend or counsellor.

Key Words and their Meanings

Helper

Bible verses: Genesis 2:18, 21


¹⁸ The Lord God said, "It is not good for the man to be alone. I will make a helper who is just right for him." ... ²¹ So the LORD God caused the man to fall into a deep sleep. While the man was sleeping, the LORD God took out one of the man's ribs. He closed up the opening that was in his side.




Wrong meaning: The woman is below the man.	
	A "helper" is a servant. God made the woman to be the servant of the man. The woman is less important than the man.
Correct meaning: The woman and the man are equal.	
	The word "helper" does not mean below or less. This word is mostly used in the Bible to describe God. God is Israel's "helper" when he comes to rescue them (e.g. Deuteronomy 33:26; Psalm 22:19; Psalm 121:1-2). The words "just right for him" mean that the woman and the man are a perfect match. Each one needs the other. In Genesis 2:21 God made the woman out of the man's rib. She was not taken from his head, to be over him, or from his foot, to be under him. She came from his side to be his equal partner.

Submit

Bible verses: Ephesians 5:22-23



²² Wives, submit to your own husbands as you submit to the Lord. ²³ The husband is the head of the wife, just as Christ is the head of the church. The church is Christ's body. He is its Saviour.

Wrong meaning (verse 22): The wife must always submit to her husband no matter what.	
	A wife must not ask questions or think for herself. She must always do what her husband tells her to do, even if he asks her to sin or submit to abuse. If she does not submit to him, then he is allowed to punish her.

Correct meaning (verse 22): A wife chooses to submit. Her husband must not force, pressure or punish her.	
	The Bible teaches that a wife should freely choose to submit to her husband. It is a gift she gives. A husband must never force or pressure his wife to submit. He must never punish her if she does not submit. If a wife cannot say no, then her submission cannot be free. Sometimes a wife should not submit. She must be free to say no to sin. She should not submit to abuse.
Wrong meaning (verse 23): The husband may do anything he likes.	
	The husband has all the power, because he is the head. He can do what he wants. He can make all the decisions. He can tell his wife what to do, but she can never tell him what to do. For example, he may demand sex whenever he wants, and she has no right to refuse.
Correct meaning (verse 23): The husband's responsibility is to serve his wife.	
	"Christ is the head of the Church." This means that he loved us and sacrificed himself for us. A husband must be the head of his wife in the same way. He must do all he can to love and protect her. He must encourage and care for his wife like his own body (Ephesians 5:28-29). Loving and caring means putting his wife's needs first.



Bible verses: 1 Peter 3:1, 5-6

¹ Wives, submit yourselves to your husbands in the same way. Suppose some of them don't believe God's word. Then let them be won to Christ without words by seeing how their wives behave... ⁵ This is how the holy women of the past used to make themselves beautiful. They put their hope in God. And they submitted themselves to their own husbands. ⁶ Sarah was like that. She obeyed Abraham. She called him her master. Do you want to be like her? Then do what is right. And don't give in to fear.

Wrong meaning: Endure abuse to show your husband what Jesus is like.	
	In the same way that Christ endured suffering (1 Peter 2:21-23), and slaves are to endure mistreatment from unjust masters (2:20), a wife should also endure abuse at the hands of her husband. A wife should be like Jesus. If her husband beats her, she should suffer the beating quietly. She should not be afraid. This will show her husband what Jesus is like.
Correct meaning: Respect your husband, even if he is hostile to your faith.	
	1 Peter 3 continues the argument of 1 Peter 2. "In the same way" (3:1) means that Peter is continuing his discussion of respect. Out of respect, slaves should submit to their masters (2:18). Out of respect, wives should submit to their husbands (3:1). Out of respect, husbands should be considerate of their wives (3:7). However, it is important to understand the difference between the examples given in 1 Peter 2 and 1 Peter 3. Peter told slaves to suffer beatings patiently, like Jesus did. But he does not tell wives to suffer beatings. Wives are not slaves. Even the laws of the Romans did not permit wives to be beaten. The hardship the wife must endure in 1 Peter 3 is the hardship of being married to an unbelieving husband, not to an abusive husband. The passage does not teach wives to submit to domestic abuse.



Sex**Bible verses: 1 Corinthians 7:3-5**

³ A husband should satisfy his wife's sexual needs. And a wife should satisfy her husband's sexual needs. ⁴ The wife's body does not belong only to her. It also belongs to her husband. In the same way, the husband's body does not belong only to him. It also belongs to his wife. ⁵ You shouldn't stop giving yourselves to each other except when you both agree to do so. And that should be only to give yourselves time to pray for a while. Then you should come together again. In that way, Satan will not tempt you when you can't control yourselves.

Wrong meaning: You must always have sex when your spouse wants to.	
	It is always wrong to say no to your spouse. If you say no to your spouse, they will fall into sexual temptation. This will be your fault.
Correct meaning: Sex is a gift which a husband and a wife freely give to each other.	
	Sex is a gift your spouse gives to you. You do not take it from them. It is their free gift. It is a normal part of married life. It helps to avoid temptation. When you are free to give sex, then you should give sex, unless you both agree to stop for some time, so you can pray (verse 5). But your spouse is not always free to give and receive sex. They may be sick, or in pain, or tired, or sad, or bearing a child, or having sexual problems. The bodies of husbands and wives belong to each other (verse 4). This means you must care for each other's bodies. You should wait until they are ready to give and receive sex. You must not pressure them. A gift that you demand is not a true gift, and a gift you force upon someone is not a true gift. You must be patient and kind with each other.



Forgive**Bible verse: Matthew 6:15**

But if you do not forgive the sins of other people, your Father will not forgive your sins.

Wrong meaning: Forget the sin and start again.	
	If you forgive someone, then you must forget what they did. Everything can be the same as it was before. The other person does not need to change their behaviour.
Correct meaning: Forgive others as God has forgiven you.	
	This passage does not say everything that the Bible teaches about forgiveness. The basic point of Matthew 6:15 is that we should forgive as we have been forgiven. If we genuinely repent and turn from our sin, then God forgives us. In the same way, when an abuser genuinely repents and tries to change, we also should forgive them. This may be a difficult and long process. Sometimes we will come back together with a person we have forgiven. Sometimes this will not be possible. Separation may be necessary and may even become permanent. Forgiveness does not mean that we take sin lightly. If an abuser continues to abuse, they must be stopped. You do not need to endure abuse in the name of forgiveness.

Trust**Bible verse: Deuteronomy 19:15**

Every matter must be proved by the words of two or three witnesses.

Wrong meaning: Doubt the victim's testimony.	
	When someone says, "I was abused!", you should not believe them. You should only believe them if other people saw the abuse and agree to be witnesses.
Correct meaning: Trust the victim's testimony.	
	Moses gave this law for crimes that other people witnessed. When nobody saw a crime, Moses did not expect witnesses. Deuteronomy 22:25-27 shows that we may believe the word of an abused person when there are no witnesses.

Conclusion

The Bible is the good Word of a good God. Sadly, we can twist and misuse this good gift. So it is very important that the Bible is rightly understood and rightly applied to our lives. When it is wrongly understood and wrongly applied, it can damage people, destroy relationships and dishonour God. Rightly understood, the Bible condemns all forms of domestic abuse.

Mark D. Thompson

On behalf of the Diocesan Doctrine Commission

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