2017 Session of Synod

Book 3

(Pages 301 to 488)

Bills for Ordinances
and
Proposed Policies

Standing Committee of the Synod
Anglican Church Diocese of Sydney

2017 Bills for Ordinances and Proposed Policies

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General Synod – Safe Ministry to Children Canon 2017 Adopting Ordinance 2017

Explanatory Report

Key Points

- The Bill will adopt a Canon of the General Synod which prescribes a code of conduct and minimum standards and guidelines for safe ministry to children. The legislation has been designed to promote a nationally consistent approach to minimum standards for safe ministry to children.
- Pursuant to the Canon, the prescribed standards initially will be in relation to screening, training and persons of concern. The General Synod Standing Committee will have power to amend these standards and prescribe further standards and guidelines by a two-thirds majority. These will apply automatically in a diocese that has adopted the Canon.
- Once the Canon has been adopted in a diocese (as opposed to its approval in-principle), the Diocese will be audited by General Synod to ensure that it has procedures that effectively monitor observance and provide for an appropriate response to instances of non-observance. The results of the audit will be uploaded to the General Synod website.
- There are some important issues in relation to the Canon that still need to be resolved. For this reason, it is proposed that the Bill be approved in principle in 2017 and that further consideration be deferred to the next ordinary session of Synod.

Purpose of the bill

1. The primary purpose of the bill for the *General Synod – Safe Ministry to Children Canon 2017 Adopting Ordinance 2017* ("the Bill") is to prescribe a code of conduct and minimum standards and guidelines for safe ministry to children.

Recommendations

2. That Synod receive this report.

3. That Synod approve the Bill as an ordinance of the Synod in principle and defer further consideration of the Ordinance until the next ordinary session of the Synod.

Evidence Given

Explanatory Memorandum

4. The evidence for this Bill is set out in the explanatory memorandum that was provided to the General Synod. The Explanatory Memorandum is included as an Appendix to this report. The "Standing Committee" referred to in the Appendix is the General Synod Standing Committee and not the Standing Committee of our Diocese.

5. The Explanatory Memorandum reflects the Canon in its original form. The Canon was amended 'on the floor' at General Synod. The substantive amendments were as follows:

(a) substituting a new paragraph (c) in the definition of "diocesan audit" to provide that the audit is not of whether clergy and church workers have observed the standards and followed the guidelines, but rather that the diocese has in place procedures that effectively monitor observance and provide for an appropriate response to instances of non-observance, and that these monitoring procedures have also been followed (clause 3);

(b) extending the definition of "ministry to children" to include a person who supervises a person who undertakes ministry to children (clause 3);

(c) excluding members of a diocesan synod from the definition of "safe ministry role" and also members of a diocesan council if the diocese has established a separate safe ministry authority (clause 3);

(d) inserting the word "substantial" in clauses 5(3) and 9(3) to enable the exemption for equivalent codes of conduct or standards and guidelines where the Church body has equivalents that give "substantial" effect to the code of conduct or standards and guidelines set out, or prescribed under, the canon;

(e) providing that the requirement for national register assessments of persons undertaking voluntary ministry to children not commence until a date determined by the General Synod Standing Committee (Part 5 of the Second Schedule).

Reference material

6. The Canon:

(a) prescribes a code of conduct for safe ministry to children,

(b) prescribes minimum standards and guidelines for safe ministry to children, and

(c) implements the *Protocol for the disclosure of ministry suitability information between the churches of the Anglican Communion which the Anglican Consultative Council* in relation to the "ministry suitability information" that is to be taken into account before authorising clergy and church workers to undertake ministry to children.

7. Presently the prescribed code of conduct is the standards and guidelines of *Faithfulness in Service* set out in the following sections of *Faithfulness in Service*:

(a) section 3 (Putting this Code into Practice) so far as they relate to section 5 (Children), and

(b) section 5 (Children),

when read in each case with section 1 (About this Code) and section 2 (Key Terms).

8. The relevant version of *Faithfulness in Service* is the form tabled at the "17th ordinary session of the General Synod held in 2017".

9. The minimum standards and guidelines for safe ministry to children with respect to screening, training and persons of concern that are prescribed by the Canon can be amended or supplemented with further standards and guidelines by a two-thirds majority of the General Synod Standing Committee. If the Canon is passed in our Diocese to the final stage (that is, beyond the in-principle adoption presently proposed) any such amendments or further standards and guidelines will apply automatically in our Diocese by operation of the Canon.

10. The prescribed minimum standards reference the following external material:

(a) Screening: Anglican Church of Australia *Safe Ministry Check*. There is a version for ordination candidates, clergy and paid/licensed/authorised church workers, and another version for volunteers.

(b) Training: Anglican Church of Australia *Safe Ministry Training Benchmarks*.

(c) Persons of Concern: Anglican Church of Australia *Policy for Safe Ministry with Persons of Concern*.

11. The reference material referred to in this section of the report (including the 2017 General Synod version of *Faithfulness in Service*) is available as a separate document online on the Synod this year page of SDS's website (*www.sds.asn.au*).

Approving adoption of the Canon in principle in 2017

12. The Standing Committee (of our Diocese) has recommended to the Synod that the Canon be approved in principle in 2017 and that further consideration be deferred until the next ordinary session of the Synod.

13. Standing Committee supports the in-principle approval of the Canon, because a nationally consistent approach to minimum standards will provide greater protection to children in the Anglican Church of Australia. Standing Committee is also mindful that a nationally consistent approach is the preferred approach of the Royal Commission into Institutional Responses to Child Sexual Abuse.

14. The reason for Standing Committee recommending the adoption of the Canon in-principle only at this stage, is that there are some aspects of the Canon that still need to be worked through at General Synod Standing Committee in order to implement the Canon effectively in our Diocese. These include the following:

(a) The screening standards give rise to some issues for church workers under 18 years of age who undertake ministry to children. In parishes in our Diocese, unlike in many other dioceses in the Anglican Church of Australia, teenagers are often involved in ministry to children. The issues include:

(i) Church workers under 18 years of age would be required to obtain a National Criminal Records Check since they are unable to obtain the Working with Children Check in NSW.

(ii) All clergy and church workers (including volunteers) who undertake ministry to children would be required to complete the "Safe Ministry Check". This requirement would include volunteer church workers who are themselves children. Currently there is only one form of the Safe Ministry Check for volunteers, which includes questions apparently focussed on adults like: "Have you ever engaged in any of the following conduct (personally, virtually or

by any electronic means)?

- sexual contact with a person under the age of consent
- production, sale, distribution or illegal use of child exploitation material
- conduct likely to cause harm to a child or young person, or to put them at risk of harm."

(b) The screening standards will require that all volunteers undertaking ministry to children undergo an assessment against the National Register. Based on the number of volunteers in parishes in our Diocese who have obtained Working with Children Check clearances, this may be approximately 15,000 people. Presently such a large number of assessments cannot be done efficiently. We are informed that the General Synod office is working on IT amendments to the National Register to improve its operation. However, notwithstanding the delayed commencement of this part of the Canon, it is not recommended that the Canon be adopted until this important practical issue is addressed.

Order and good government

15. The Canon is deemed by paragraph (a) of s 30 of the Constitution to affect the order and good government of the Church because it affects the "ritual, ceremonial or discipline of this Church". This means that the canon will not come into force in any diocese unless and until the diocese by ordinance adopts the canon.

For and on behalf of the Standing Committee

ROBERT WICKS
Diocesan Secretary

18 September 2017

Appendix

Safe Ministry to Children Canon 2017

General Background

Actions of the General Synod and the Standing Committee to promote a national approach to safe ministry to children

1. The General Synod and the Standing Committee have over the last 13 years adopted a series of policies and practices designed to promote a national approach to safe ministry to children and vulnerable people.

2. In 2004 the General Synod adopted the Church's **Safe Ministry Policy Statement** (33/04(b)):

   "The Anglican Church of Australia is committed to the physical, emotional and spiritual welfare and safety of all people, particularly within its own community. The Church will:

   - carefully recruit and train its clergy and church workers;
   - adopt and encourage safe ministry practices by its clergy and lay church workers;
   - respond promptly to each concern raised about the behaviour of its clergy and lay church workers;
   - offer pastoral support to any person who has suffered abuse; and
   - provide pastoral support to and supervision of any person known to have abused a child or another vulnerable person."

3. The General Synod in 2004 also adopted **Faithfulness in Service** as the national code for personal behaviour and the practice of pastoral ministry by clergy and lay church workers and as the code of conduct for observance by bishops, and authorised the revision of Faithfulness in Service by the Standing Committee (33/04(e), (f)). Faithfulness in Service has been subsequently revised by the Standing Committee (SC2005/2/040; SC2006/1/030; SC2006/2/062; SC2011/1/48; SC2011/2/33; SC2016/1/33; SC2016/2/29).

4. The General Synod in 2004 also adopted the **Safe Ministry Check** as the national applicant and referee questionnaires for the selection of ordination candidates and for the screening of clergy and church workers who have contact with children in their ministry, and authorised the revision of the Safe Ministry Check by the Standing Committee (33/04(c), (d)). The Safe Ministry Check has been subsequently revised by the Standing Committee (SC2005/2/040; SC2013/2/30; SC2017/02/52).

5. The General Synod in 2004 recommended (35/04(b), (c), (f), (k), (l)):
   (a) that each diocese adopts a system for the selection of ordination candidates that includes:
      (i) the Safe Ministry Check including the relevant diocesan or agency privacy policy;
      (ii) a medical report;
      (iii) a children's commission check or a criminal history check; and
      (iv) some form of psycho-sexual assessment;
   (b) that each diocese adopts a system for the screening of clergy that includes:
      (i) the Safe Ministry Check including the relevant diocesan or agency privacy policy; and
      (ii) a children's commission check or a criminal history check;

      and that screening is to be carried out immediately prior to:
      (iii) their ordination as a deacon and as a priest;
      (iv) the issuing of a licence or authorisation; and
      (v) their consecration as a bishop;

      or at the expiry of a children's commission check or every three years, whichever first occurs;
   (c) that each diocese adopts a system for the screening for all paid and voluntary church workers:
      (i) who have direct and regular contact with children in their ministry; or
      (ii) who supervise any such church workers;

      that includes:
      (iii) the Safe Ministry Check including the relevant diocesan or agency privacy policy; and
      (iv) a children's commission check or a criminal history check;

      and that screening is to be carried out immediately prior to their appointment or at the expiry of a children's commission check or every three years, whichever first occurs;
   (d) that each diocese ensures that all clergy, and church workers:

(i) who have direct and regular contact with children in their ministry; or

(ii) who supervise any such church workers;

satisfactorily complete safe ministry training prior to their ordination as a deacon, employment or appointment and thereafter at regular intervals;

(e) that each diocese adopts a system of pastoral support and pastoral supervision of known abusers of children or other vulnerable people within a parish or church organisation that includes:

(i) the entry into an agreement between the abuser and church leaders for the involvement of the abuser in the parish or church organisation; and

(ii) the establishment of an accountability and support group for the abuser.

6. The Standing Committee in 2005 affirmed that the effective implementation of the Safe Ministry Policy Statement adopted by the General Synod (33/04(b)) requires that there is as far as practicable **uniform safe ministry policies and procedures throughout the Church** (SC2005/3/063).

7. The General Synod in 2007 passed the **National Register Canon 2007** with the object of assisting 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.

8. The Standing Committee in 2011 approved **Safe Ministry Training Benchmarks** and recommended that each diocese and the Australian Defence Force review and if appropriate revise their safe training material to ensure that it complies with the benchmarks (SC2011/2/32).

9. The General Synod in 2014 adopted the **Charter for the Safety of People within the Churches of the Anglican Communion** which includes the commitment to adopt standards for the practice of pastoral ministry by clergy and other church personnel, to assess the suitability of persons for ordination as clergy or appointment to positions of responsibility in the church, and to promote a culture of safety in parishes and church organisations by education and training (22/14).

10. The General Synod in 2014 also recommended that each diocese implements a **professional standards audit process** (39/14).

11. The Standing Committee in 2017 recommended the **Policy for Safe Ministry in a parish where there is a risk of sexual abuse by a Person of Concern** as a resource for dioceses. Section 5 of this Policy places obligations on the bishop of the diocese or his or her delegate, the Director of Professional Standards of a diocese or his or her delegate, the minister and churchwardens, the members of the parish council, and the members of a parish accountability group, of a parish (SC2017/02/46).

Failure by dioceses of this Church, Provinces of the Anglican Communion and other denominations to disclose known or suspected abuse

12. Clergy and authorised lay persons in another Province of the Anglican Communion, who are known or suspected of having abused people, have moved to and become authorised for ministry in this Church without disclosure of this information, and continued to abuse people. The current informal disclosure system has not always ensured that accurate and complete information about such clergy and lay persons has been shared by other Provinces.

13. The Anglican Consultative Council in 2016 (ACC-16) by resolution 16.27 welcomed, and requested each member church of the Anglican Communion to implement, the **Ministry Suitability Information Protocol** which is intended to ensure that information as to the suitability for ministry of such clergy and lay persons is shared between Provinces.

14. Known or suspected abusers from another diocese or denomination have sometimes become authorised for ministry in a diocese without disclosure by the other diocese or denomination that knew of the abuse. The current informal disclosure system has not always ensured that accurate and complete information about such clergy and lay persons has been shared by other dioceses and denominations.

The Royal Commission into Institutional Responses to Child Sexual Abuse

15. The Royal Commission into Institutional Responses to Child Sexual Abuse was established in January 2013 and its terms of reference include "what institutions … should do to better protect children against child sexual abuse and related matters in institutional contexts in the future". The failure to achieve a nationally consistent approach to child protection in this Church has been highlighted by the Royal Commission at its public hearing in Case Study 52 inquiring into the current policies and procedures of Anglican Church authorities in Australia in relation to child-protection and child-safety standards, including responding to allegations of child sexual abuse, which was held between 17 and 22 March 2017.

16. Leaders of the Church appearing before the Royal Commission in Case Study 52 committed to **core national minimum standards for safe ministry to children**. This canon provides for such a national

approach.

17. Royal Commission officers have advised that this canon is unlikely to conflict with its proposed recommendations.

Object of the canon

18. The object of this canon is:
    (a) to have a code of conduct for safe ministry to children;
    (b) to have minimum standards and guidelines for safe ministry to children; and
    (c) to implement the Ministry Suitability Information Protocol so far as it provides for obtaining and taking into account Ministry Suitability Information before authorising clergy and church workers to undertake ministry.

19. Ministry to children refers to work of a kind where a person:
    (a) is required to hold a working with children check, or a working with vulnerable people check by reason that the person has contact with a child as part of engaging in a regulated activity; or
    (b) exercises a pastoral ministry which has direct, regular and not incidental contact with children; or
    (c) provides services for children that are ancillary to the exercise of a pastoral ministry within paragraph (b) which involve contact with children during an overnight activity (such as camps and similar activities), or close, personal contact with children (such as changing clothes, washing and toileting). This will include parents or guardians or other family members; or
    (d) performs a professional standards role; or
    (e) performs a safe ministry role.

20. The Ministry Suitability Information Protocol is set out in the Third Schedule to assist in understanding the requirement for a church ministry assessment that involves obtaining and taking into account Ministry Suitability Information before authorising clergy and church workers to undertake ministry.

Main provisions of the canon

21. This canon provides for:
    (a) a code of conduct, which is the parts of Faithfulness in Service that relate to children;
    (b) clergy and church workers to observe the standards of conduct, and follow the guidelines for conduct unless there are cogent reasons for not doing so, contained in the code of conduct;
    (c) standards of screening, standards of training and for safe ministry with Persons of Concern;
    (d) each diocese to have standards, and guidelines unless there are cogent reasons for not doing so, that give effect to these standards and guidelines, and clergy and church workers in a diocese to observe the standards, and guidelines unless there are cogent reasons for not doing so, applicable to them that give effect to these standards and guidelines;
    (e) the General Synod, or the Standing Committee by a two-thirds majority after consultation with the Safe Ministry Commission and diocesan safe ministry authorities, to amend the code of conduct, and amend the standards and guidelines;
    (f) the code of conduct and the standards and guidelines not to deal with or concern the faith ritual or ceremonial of this Church other than in relation to the spiritual abuse of a child or the confession of child abuse;
    (g) the code of conduct not to apply to clergy and church workers in certain Church bodies other than a diocese or a diocesan safe ministry authority (those required to have a code of conduct pursuant to legislation or government funding such as schools and some welfare agencies that provide services to children, and those determined by the Standing Committee to have an equivalent code of conduct);
    (h) the standards and guidelines not to apply to clergy and church workers in a Church bodies other than a diocese or a diocesan safe ministry authority (those which provide services to children pursuant to legislation or government funding such as schools and some welfare agencies, and those determined by the Standing Committee to have equivalent standards and guidelines);
    (i) a diocese to have a code of conduct for safe ministry to children with additional standards and guidelines that are not inconsistent with the standards and guidelines in the applicable code of conduct;
    (j) a diocese to have additional standards and guidelines for safe ministry to children that are not inconsistent with the applicable standards and guidelines;
    (k) compliance by the General Synod and its organs and officers with the requirements relating to

the code of conduct and standards and guidelines in relation to national professional standards roles and safe ministry roles, and by each diocese with the requirements relating to the code of conduct and standards and guidelines, and by its clergy and church workers with applicable diocesan standards and guidelines, to be audited by an independent person at intervals of three years and for the publication of the audit reports on the General Synod website.

Powers of the Standing Committee in relation to the code of conduct and the standards and guidelines

22. This canon gives to the Standing Committee the power to make amendments to the code of conduct or to any standards and guidelines. This is because of the paramount importance for the Church to be able to respond quickly to protect children rather than waiting three years for the next General Synod.

23. It is likely that it will be necessary to make amendments to one or both of the code of conduct, and the standards and guidelines, arising out of recommendations of the Royal Commission's final report, or a government child safe initiative. It is possible that it will also be necessary to make amendments to one or both of the code of conduct, and the standards and guidelines, to deal with the spiritual abuse of a child (as defined in the canon) or the confession of child abuse.

24. This power is limited in the following ways:

(a) the power is limited to a code of conduct for safe ministry to children and standards and guidelines for safe ministry to children;

(b) the power cannot be used to deal with, or in a manner which concerns, the faith ritual or ceremonial of the Church other than in relation to the spiritual abuse of a child (as defined in the canon) or the confession of child abuse;

(c) the Standing Committee is required to consult with the Safe Ministry Commission and diocesan safe ministry authorities prior to making amendments to the code of conduct or the standards and guidelines;

(d) the Standing Committee is required to pass a resolution making amendments to the code of conduct or the standards and guidelines, by a two-thirds majority;

(e) the General Synod can repeal any amendments to the code of conduct or the standards and guidelines by passing a resolution;

(f) a diocese can subsequently exclude the canon pursuant to section 30(d) of the Constitution.

Application of the code of conduct, and standards and guidelines in the Province of Victoria

25. In Victoria churches must observe the child safe standards under the Child Wellbeing and Safety Act 2005 (Vic).

26. The code of conduct meets the child safe standard requiring a code of conduct that establishes clear expectations for appropriate behaviour with children.

27. The standards of screening and training meet the child safe standard requiring screening, supervision, training and other human resources practices that reduce the risk of child abuse by new and existing personnel.

The relationship between the code of conduct and standards and guidelines and a diocesan ordinance dealing with the same subject matter

28. This canon will ensure there is a nationally consistent approach to safe ministry to children in all dioceses.

29. This occurs through the operation of s 30 of the Constitution, which provides that any diocesan ordinance dealing with the same subject matter as the code of conduct and the standards and guidelines will to the extent of any inconsistency have no effect.

Audits

30. This canon provides public accountability regarding safe ministry compliance through a process of audits. Independent public auditing is best practice for ensuring safe ministry compliance and minimising risk.

31. The nature of the audits is defined in the canon (section 3); and the scope of audits will be determined by the Standing Committee. Safe ministry compliance audits of all dioceses and the General Synod will be undertaken over a three year cycle or a lesser period determined by the Standing Committee. Audit reports will be provided to the diocese and the Standing Committee, and published on the General Synod website.

32. The General Synod and dioceses will only be audited in respect of their compliance with the code of conduct and the standards and guidelines under this canon, and not in relation to current practices.

33. It is intended that the cost of undertaking safe ministry compliance audits will be part of the assessment of dioceses pursuant to section 32(2)(b1) of the Constitution. This means that all dioceses will be contributing

to the cost of undertaking the audits.

Code of conduct

34. The code of conduct is set out in the First Schedule, and is limited to the parts of Faithfulness in Service dealing with children, namely the standards and guidelines in:

(a) section 3 (Putting this Code into Practice) so far as they relate to section 5 (Children), and

(b) section 5 (Children),

when read in each case with section 1 (About this Code) and section 2 (Key Terms).

Standards of screening

35. The standards of screening are set out in Part 2 of the Second Schedule, and differ according to the following categories of clergy and church workers:

(a) a person to be ordained as a deacon;

(b) licensed clergy and the bishop of the diocese;

(c) licensed, authorised and paid church workers;

(d) voluntary church workers;

(e) professional standards personnel and safe ministry personnel.

36. All categories of clergy and church workers require a national register assessment, and a safe ministry assessment.

37. Further, compliance with differing state and territory legislation for working with children is required. The following differences, which are provided for in the canon, are summarised below:

- a working with children check is required in New South Wales, Queensland, Victoria, Western Australia and the Northern Territory;
- a working with vulnerable people check is required in Tasmania and the Australian Capital Territory;
- a criminal history assessment or a risk assessment is currently required in South Australia.

38. A church ministry assessment is required for clergy and church workers, other than voluntary church workers, who were previously authorised for ministry in a Province (a member c*hurch of the* Anglican Consultative Council other than this Church) or in another diocese of this Church or another denomination.

39. For those who are to be ordained as deacons, there is the further requirement of a medical assessment, and a psychological assessment which is to include an assessment of psychosexual maturity.

40. These standards apply to all such clergy and church workers ordained, licensed, authorised, elected, or appointed, after the standards come into force. Some of these standards (compliance with differing state and territory legislation for working with children, a national register assessment, and a safe ministry assessment) apply to such clergy and church workers when the standards come into force with the assessments to be completed within three years.

Standards of training

41. The standards of training are set out in Part 3 of the Second Schedule. They consist of the satisfactory completion of accredited training by different categories of clergy and church workers within a specified time frame, and at intervals of not more than three years after prior satisfactory completion of accredited training.

42. Accredited training is training that includes the course content in the Safe Ministry Training National Benchmarks so far as it relates to ministry to children, with reasonable adjustments for cultural, linguistic and ability diversity, and is delivered by persons who are accredited, and/or online training which is accredited, by a diocesan safe ministry authority, or equivalent training of another Church body or organisation.

43. These standards apply to all clergy and church workers ordained, licensed, authorised, elected, or appointed, after the standards come into force. These standards also apply to licensed clergy and church workers when the standards come into force with the accredited training to be completed within three years.

Standards for safe ministry with Persons or Concern

44. The standards for safe ministry with Persons of Concern are set out in Part 4 of the Second Schedule. They consist of actions required to implement the process specified in section 5 of the Persons of Concern Policy.

Coming into force of particular provisions of the canon

45. To enable dioceses to prepare for this canon, the following timetable will apply:

- standards of screening and standards of training will come into force on 1 January 2018;
- provisions as to a diocesan safe ministry authority will come into force on 1 January 2018;
- standards for safe ministry with Persons of Concern will come into force on 1 January 2019; and
- provisions as to audit will come into force on 1 January 2019.

Coming into force in a diocese

46. Pursuant to section 30(a) when read with the definitions of "ceremonial" and "ritual" in section 74(1) and the definition of "discipline" in section 74(9)(a)(ii) of the Constitution this canon is deemed to affect the order and good government of the Church within a diocese because it affects the "ritual, ceremonial or discipline of this Church". This means that the canon will not come into force in any diocese unless and until the diocese by ordinance adopts the canon.

47. For any diocese adopting this canon after 1 January 2018 the standards of screening and training and provisions for a diocesan safe ministry authority will already be in force.

48. For any diocese adopting this canon after 1 January 2019 all provisions of the canon will already be in force.

Notes on Clauses

Preamble	refers to the Safe Ministry Policy Statement adopted by the General Synod in 2004 and the Charter for the Safety of People within the Churches of the Anglican Communion adopted by the General Synod in 2014.
Clause 1	states the title of the canon.
Clause 2	states the object of the canon.
Clause 3	contains definitions of the following words and expressions used in the canon: **child**, **child abuse**, **Church authority**, **Church body**, **church worker**, **clergy**, **code of conduct**, **cogent**, **contact**, **controlled by a diocese or province or the General Synod, diocesan audit**, **diocesan safe ministry authority**, **General Synod audit**, **General Synod professional standards role**, **General Synod safe ministry role**, **licence**, **ministry to children**, **pastoral ministry**, **Person of Concern**, **prescribed code of conduct**, **prescribed standards and guidelines**, **professional standards process**, **professional standards role**, **Protocol**, **Safe Ministry Commission**, **safe ministry role**, **spiritual abuse**, **standards for safe ministry with Persons of Concern**, **standards of screening**, **standards of training**, **working with children check** and **working with vulnerable people check**.
Clause 4	prescribes the code of conduct, and provides that the General Synod, or the Standing Committee by a two-thirds majority, may prescribe amendments to the prescribed code of conduct or a substituted code of conduct, and that clergy and church workers shall observe the standards of conduct, and follow the guidelines for conduct unless there are cogent reasons for not doing so, contained in the prescribed code of conduct.
Clause 5	provides that the prescribed code of conduct shall not apply to clergy and church workers in a Church body (which does not include a diocese a diocesan safe ministry authority) which has a code of conduct applicable to them pursuant to the laws of the Commonwealth or a State or Territory, a requirement or condition for registration, approval or funding to provide services for children under the laws of the Commonwealth or a State or Territory, or a contract or arrangement with the Commonwealth or a State or Territory or an agency or authority of the Commonwealth or a State or Territory. Otherwise, the prescribed code of conduct shall apply to clergy and church workers in a Church body unless the Standing Committee by a two-thirds majority, on application by a province or diocese, determines that the Church body has an equivalent code of conduct for safe ministry to children. Details of Church bodies determined by the Standing Committee to have an equivalent code of conduct are to be published on the General Synod website.
Clause 6	provides that a diocese may prescribe a code of conduct for safe ministry to children containing additional standards of conduct for observance, and additional guidelines

for conduct to be followed, by clergy and church workers to whom the prescribed code of conduct applies that are not inconsistent with the prescribed code of conduct, or by clergy and church workers to whom a code of conduct specified in clause 5(3) applies that are not inconsistent with the standards of conduct and the guidelines for conduct contained in that code of conduct. This does not apply to clergy and church workers to whom a code of conduct specified in clause 5(2) applies.

Clause 7 provides for the publication of the prescribed code of conduct on the General Synod website, and the tabling at the succeeding ordinary session of the General Synod of any amendments to the prescribed code of conduct, or any substituted code of conduct, prescribed by the Standing Committee.

Clause 8 prescribes standards of screening, standards of training and standards for safe ministry with Persons of Concern, and provides that the General Synod, or the Standing Committee by a two-thirds majority, may prescribe amendments to the prescribed standards and guidelines or substituted standards and guidelines or further standards and guidelines, and that each diocese shall have standards, and guidelines unless there are cogent reasons for not doing so, that give effect to the prescribed standards and guidelines, and clergy and church workers in a diocese shall observe the standards, and guidelines unless there are cogent reasons for not doing so, applicable to them that give effect to the prescribed standards and guidelines.

Clause 9 provides that the prescribed standards and guidelines shall not apply to clergy and church workers in a Church body (which does not include a diocese or a diocesan safe ministry authority) which is registered or approved or funded to provide services to children pursuant to legislation of the Commonwealth or a State or Territory, or provides services to children pursuant to a contract or arrangement with the Commonwealth or a State or Territory or an agency or authority of the Commonwealth or a State or Territory. Otherwise, the prescribed standards and guidelines shall apply to all clergy and church workers in a Church body unless the Standing Committee by a two-thirds majority, on application by a province or diocese, determines that the Church body has equivalent standards and guidelines. Details of Church bodies determined by the Standing Committee to have equivalent standards and guidelines are to be published on the General Synod website.

Clause 10 provides for a diocese to prescribe additional standards and guidelines for safe ministry to children other than in relation to a Church body specified in clause 9(2), that are not inconsistent with the prescribed standards and guidelines, or in the case of a Church body specified in clause 9(3) that are not inconsistent with the standards and guidelines applicable to that Church body.

Clause 11 provides for the publication of the prescribed standards and guidelines on the General Synod website, and the tabling at the succeeding ordinary session of the General Synod of any amendments to the prescribed standards and guidelines, or substituted standards and guidelines, or further standards and guidelines, prescribed by the Standing Committee.

Clause 12 provides for the audit by an independent person of the compliance by the Primate, the General Secretary, the General Synod and the Standing Committee, and each diocese, with the provisions relating to the code of conduct and the prescribed standards and guidelines, for the Primate and the General Secretary, and a diocesan safe ministry authority to provide access to records and provide information to enable the audit to be undertaken, and for the publication of the audit reports on the General Synod website.

Clause 13 provides for each diocese to have a diocesan safe ministry authority, and for the diocesan safe ministry authority to inform the General Secretary of the of the details of the screening and training of persons from the diocese who are being considered for appointment or election for a General Synod professional standards role or a General Synod safe ministry role.

Clause 14	provides that the canon will come into force on and from the date appointed by the President, being not later than one calendar month from the date on which the canon is passed, other than the standards of screening, standards of training and standards for safe ministry with Persons of Concern prescribed under clause 8(1) which shall come into force on the date specified in the Second Schedule, clause 12 which shall come into force on 1 January 2019, and clause 13 which shall come into force on 1 January 2018.
Clause 15	provides that the canon shall not come into force in a diocese unless and until the diocese by ordinance adopts the canon.
First Schedule	specifies the code of conduct.
Second Schedule	specifies standards of screening, standards of training and standards for safe ministry with Persons of Concern, and the dates on which they shall come into force.
Third Schedule	sets out the Ministry Suitability Information Protocol.

General Synod – Safe Ministry to Children Canon 2017 Adopting Ordinance 2017

No , 2017

Long Title

An Ordinance to adopt Canon No 4, 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 – Safe Ministry to Children Canon 2017 Adopting Ordinance 2017*.

2. Adoption of Canon No 4, 2017

5 The Synod adopts Canon No 4, 2017 of the General Synod of the Anglican Church of Australia, the text of which is set out in the Schedule.

Schedule

Whereas –

A. in 2004 the General Synod adopted the Safe Ministry Policy Statement which states that this Church is committed to the physical, emotional and spiritual welfare and safety of all people, particularly within its own community, and includes the commitments to carefully recruit and train its clergy and church workers, adopt and encourage safe ministry practices by its clergy and lay church workers, and provide pastoral support to and supervision of any person known to have abused a child or another vulnerable person,

B. in 2014 the General Synod adopted the Charter for the Safety of People within the Churches of the Anglican Communion which includes the commitments to adopt standards for the practice of pastoral ministry by clergy and other church personnel, to assess the suitability of persons for ordination as clergy or appointment to positions of responsibility in the church, and to promote a culture of safety in parishes and church organisations by education and training:

now the General Synod prescribes as follows:

PART 1 - PRELIMINARY

Title

1. This canon is the Safe Ministry to Children Canon 2017.

Object

2. The object of this canon is:
   (a) to prescribe a code of conduct for safe ministry to children;
   (b) to prescribe minimum standards and guidelines for safe ministry to children; and
   (c) to implement the Protocol so far as it provides for obtaining and taking into account Ministry Suitability Information before authorising clergy and church workers to undertake ministry to children.

Interpretation

3. In this canon, unless the context otherwise requires:

   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 authority has the same meaning as in the National Register Canon 2007;

   Church body 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 undertaking any ministry to children:
   (a) who is licensed or authorised by the bishop of a diocese; or
   (b) who is employed by a Church body; or

(c) 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;

clergy means a person who is a bishop, priest or deacon in this Church;

code of conduct means a code of conduct for safe ministry to children;

cogent means clear, logical and convincing;

contact means physical contact, oral communication (whether face-to-face or by telephone), written communication or electronic communication (which includes email, instant messaging, social media and video chats);

controlled by a diocese or province or the General Synod has the same meaning as in the National Register Canon 2007;

diocesan audit means an audit as to whether:

(a) any diocesan code of conduct containing additional standards of conduct for observance, and additional guidelines for conduct to be followed, is inconsistent with the standards of conduct and the guidelines for conduct contained in the prescribed code of conduct, or an equivalent code of conduct in respect of which the Standing Committee has made a determination under section 5(3);

(b) a diocese has standards, and guidelines unless there are cogent reasons for not doing so, that give effect to the prescribed standards and guidelines;

(c) a diocese has in place procedures which:

(i) effectively monitor observance by clergy and church workers in the diocese of the standards, and guidelines unless there are cogent reasons for not doing so, applicable to them that give effect to the prescribed standards and guidelines; and

(ii) provide for an appropriate response to instances of non-observance; and

(d) the procedures in paragraph (c) have, in all material respects, been followed, and

(e) any additional standards and guidelines for safe ministry to children prescribed by a diocese are inconsistent with the prescribed standards and guidelines, or equivalent standards and guidelines applicable to a Church body in respect of which the Standing Committee has made a determination under section 9(3);

diocesan safe ministry authority means a Church body with responsibility for safe ministry to children in a diocese, and where not established is the diocesan council;

General Synod audit means an audit as to whether:

(a) any code of conduct that applies to clergy and church workers in a Church body in respect of which the Standing Committee has made a determination under section 5(3) gives substantial effect to the standards of conduct and the guidelines for conduct contained in the prescribed code of conduct as appropriately adapted to the context of the Church body;

(b) the prescribed standards have been observed, and guidelines have been followed unless there are cogent reasons for not doing so, by the person or body appointing or electing clergy and church workers to a General Synod professional standards role or a General Synod safe ministry role;

(c) any standards and guidelines for safe ministry to children that apply to clergy and church workers in a Church body in respect of which the Standing Committee has made a determination under section 9(3) give substantial effect to the applicable prescribed standards and guidelines as appropriately adapted to the context of the Church body;

General Synod professional standards role means a professional standards role to which a person is elected or appointed by the General Synod or the Standing Committee or the Primate or the General Secretary;

General Synod safe ministry role means a safe ministry role to which a person is elected or appointed by the General Synod or the Standing Committee or the Primate or the General Secretary;

licence means a licence, an authority, or a permission to officiate, issued by the bishop of a diocese;

ministry to children means work of a kind where a person:

(a) is required to hold a working with children check, or a working with vulnerable people check by reason that the person has contact with a child as part of engaging in a regulated activity; or

(b) exercises a pastoral ministry which has direct, regular and not incidental contact with children; or

(c) provides services to children that are ancillary to the exercise of a pastoral ministry within

paragraph (b) which involve:

(i) contact with children during an overnight activity (such as camps and similar activities); or

(ii) close, personal contact with children (such as changing clothes, washing and toileting); or

(d) supervises the ministry of a person within any one or more of paragraphs (a) to (c); or

(e) performs a professional standards role; or

(f) performs a safe ministry role;

pastoral ministry includes the provision of spiritual advice and support, education, counselling, medical care, and assistance in times of need;

Person of Concern is a person who is currently participating or wishes to participate in the life of a parish or congregation and whose presence constitutes a risk of harm from sexual abuse to others in the parish or congregation;

prescribed code of conduct means the code of conduct prescribed under this canon from time to time;

prescribed standards and guidelines means the standards and guidelines prescribed under this canon from time to time;

professional standards process has the same meaning as in the Episcopal Standards (Child Protection) Canon 2017;

professional standards role means a role in:

(a) recommending or determining whether an action is to be taken; or

(b) providing support to a person;

under a professional standards process;

Protocol means the Protocol for the disclosure of ministry suitability information between the churches of the Anglican Communion which the Anglican Consultative Council referred to in resolution 16.27 passed in 2016, and the text of which is set out in the Third Schedule;

Safe Ministry Commission means the Safe Ministry Commission established pursuant to the Strategic Issues, Commissions, Task Forces and Networks Canon 1998;

safe ministry role means a role:

(a) in recommending or determining standards and guidelines for safe ministry to children or with Person of Concern; or

(b) in recommending or determining or supervising safe ministry in a parish or congregation with a Person of Concern;

but excludes a role as a member of the synod of the diocese and, if a diocese has established a diocesan safe ministry authority separate from its diocesan council excludes a role as a member of the diocesan council;

spiritual abuse has the same meaning as in the National Register Canon 2007;

standards for safe ministry with Persons of Concern means the standards for safe ministry with Persons of Concern for clergy and church workers;

standards of screening means the standards of screening for clergy and church workers;

standards of training means the standards of training for clergy and church workers;

working with children check has the same meaning as in the National Register Canon 2007;

working with vulnerable people check has the same meaning as in the National Register Canon 2007.

PART 2 - CODES OF CONDUCT

Prescribed code of conduct

4. (1) The code of conduct is prescribed in the First Schedule.

(2) The General Synod, or the Standing Committee by a two-thirds majority, may by resolution amend the First Schedule by:

(a) prescribing amendments to the prescribed code of conduct or a substituted code of conduct; and

(b) determining the date on which the amendments to the prescribed code of conduct, or

the substituted code of conduct, shall come into force.

(3) The Standing Committee prior to amending the First Schedule shall consult with the Safe Ministry Commission and diocesan safe ministry authorities as to the proposed amendments to the prescribed code of conduct or the proposed substituted code of conduct, and the date on which the proposed amendments to the prescribed code of conduct, or the proposed substituted code of conduct, shall come into force.

(4) Any amendments to the prescribed code of conduct, or any substituted code of conduct, shall not deal with or concern the faith ritual or ceremonial of this Church other than in relation to the spiritual abuse of a child or the confession of child abuse.

(5) Subject to section 5, clergy and church workers shall:

(a) observe the standards of conduct, and

(b) follow the guidelines for conduct unless there are cogent reasons for not doing so,

contained in the prescribed code of conduct.

Equivalent code of conduct

5. (1) In this section **Church body** does not include a diocese or a diocesan safe ministry authority.

(2) The prescribed code of conduct shall not apply to clergy and church workers in a Church body which has a code of conduct applicable to them pursuant to:

(a) the laws of the Commonwealth or a State or Territory; or

(b) a requirement or condition for registration, approval or funding to provide services for children under the laws of the Commonwealth or a State or Territory; or

(c) a contract or arrangement with the Commonwealth or a State or Territory or an agency or authority of the Commonwealth or a State or Territory.

(3) Subject to subsection (2), the prescribed code of conduct shall apply to clergy and church workers in a Church body unless the Standing Committee by a two- thirds majority, on application by a province or diocese, determines that the Church body has a code of conduct containing equivalent standards of conduct for observance, and guidelines for conduct to be followed, by its clergy and church workers as appropriately adapted to the context of the Church body that give substantial effect to the standards of conduct and the guidelines for conduct contained in the prescribed code of conduct.

(4) The General Secretary shall publish on the General Synod website a list of all Church bodies that have been determined under subsection (3) to have an equivalent code of conduct, the date on which the determination was made, and if applicable the period during which the determination had effect.

Additional code of conduct

6. A diocese may prescribe a code of conduct containing additional standards of conduct for observance, and additional guidelines for conduct to be followed, by the following persons, other than clergy and church workers in a Church body specified in section 5(2):

(a) in the case of clergy and church workers to whom the prescribed code of conduct applies, that are not inconsistent with the standards of conduct and the guidelines for conduct contained in the prescribed code of conduct; or

(b) in the case of clergy and church workers to whom a code of conduct specified in section 5(3) applies, that are not inconsistent with the standards of conduct and the guidelines for conduct contained in that code of conduct.

Publication of prescribed code of conduct

7. (1) The General Secretary shall publish the prescribed code of conduct on the General Synod website.

(2) The General Secretary shall table at each ordinary session of the General Synod any amendments to the prescribed code of conduct, or any substituted code of conduct, prescribed by the Standing Committee since the preceding ordinary session of the General Synod.

PART 3 - STANDARDS AND GUIDELINES

Prescribed standards and guidelines

8. (1) Standards of screening, standards of training and standards for safe ministry with Persons of Concern are prescribed in the Second Schedule.

(2) The General Synod, or Standing Committee by a two-thirds majority, may by resolution amend the Second Schedule by:

(a) prescribing amendments to the prescribed standards and guidelines or substituted standards and guidelines;

(b) prescribing further minimum standards for observance, and guidelines to be followed, for safe ministry to children; and

(c) determining the date on which the amendments to the prescribed standards and guidelines, or substituted standards and guidelines, or further standards and guidelines, shall come into force.

(3) The Standing Committee prior to amending the Second Schedule shall consult with the Safe Ministry Commission and diocesan safe ministry authorities as to the proposed amendments to the prescribed standards and guidelines, or proposed substituted standards and guidelines, or proposed further standards and guidelines, and the date on which the proposed amendments to the prescribed standards and guidelines, or proposed substituted standards and guidelines, or proposed further standards and guidelines, shall come into force.

(4) Any amendments to the prescribed standards and guidelines, or any substituted standards and guidelines, or any further standards and guidelines, shall not deal with or concern the faith ritual or ceremonial of this Church other than in relation to the spiritual abuse of a child or the confession of child abuse.

(5) Subject to section 9:

(a) each diocese shall have standards, and guidelines unless there are cogent reasons for not doing so, that give effect to the prescribed standards and guidelines; and

(b) clergy and church workers in a diocese shall observe:

(i) the standards, and

(ii) the guidelines unless there are cogent reasons for not doing so, applicable to them that give effect to the prescribed standards and guidelines.

(6) The prescribed standards and guidelines apply to clergy and church workers who perform a General Synod professional standards role or a General Synod safe ministry role.

Equivalent standards and guidelines

9. (1) In this section **Church body** does not include a diocese or a diocesan safe ministry authority.

(2) The prescribed standards and guidelines shall not apply to clergy and church workers in a Church body which:

(a) is registered or approved or funded to provide services to children pursuant to the laws of the Commonwealth or a State or Territory; or

(b) provides services to children pursuant to a contract or arrangement with the Commonwealth or a State or Territory or an agency or authority of the Commonwealth or a State or Territory.

(3) Subject to subsection (2), the prescribed standards and guidelines shall apply to clergy and church workers in a Church body unless the Standing Committee by a two-thirds majority, on application by a province or diocese, determines that the Church body has equivalent standards for observance, and guidelines to be followed, by its clergy and church workers for safe ministry to children as appropriately adapted to the context of the Church body that give substantial effect to the applicable prescribed standards and guidelines.

(4) The General Secretary shall publish on the General Synod website a list of all Church bodies that have been determined under subsection (3) to have equivalent standards and guidelines, the date on which the determination was made, the applicable prescribed standards and guidelines for which the Church body has equivalent standards and guidelines, and if applicable the period during which the determination had effect.

Additional standards and guidelines

10. A diocese may prescribe additional standards and guidelines for safe ministry to children, other than for a Church body specified in section 9(2):
    (a) that are not inconsistent with the prescribed standards and guidelines; or
    (b) in the case of a Church body specified in section 9(3), that are not inconsistent with the standards and guidelines applicable to that Church body.

Publication of prescribed standards and guidelines

11. (1) The General Secretary shall publish the prescribed standards and guidelines on the General Synod website.
    (2) The General Secretary shall table at each ordinary session of the General Synod any amendments to the prescribed standards and guidelines, or substituted standards and guidelines, or further standards and guidelines, prescribed by the Standing Committee since the preceding ordinary session of the General Synod.

PART 4 – AUDIT

Audit

12. (1) In this section:

    church worker has the same meaning as in the National Register Canon 2007;

    independent person means a person who:
    (a) is not a member of the clergy or a church worker; and
    (b) has experience in undertaking audits of a similar nature to a General Synod audit and a diocesan audit.

    (2) The General Secretary shall appoint an independent person to undertake a General Synod audit and a diocesan audit of each diocese at intervals of three years or such lesser period as determined by the Standing Committee, and provide as soon as practicable after the completion of the audit:
    (a) a report of the General Synod audit to the Standing Committee; and
    (b) a report of the diocesan audit to the diocesan council of the diocese concerned, the diocesan safe ministry authority of that diocese and the Standing Committee.

    (3) The General Secretary shall consult with diocesan safe ministry authorities as to when the audit of each diocese shall be conducted.

    (4) The Standing Committee shall determine the scope of the General Synod audit and a diocesan audit.

    (5) The Primate and the General Secretary shall provide access to such of their records, the records of the General Synod and the records of the Standing Committee, and provide such information, as requested by the independent person undertaking the General Synod audit as is reasonably necessary to enable the General Synod audit to be undertaken.

    (6) Each diocesan safe ministry authority shall provide access to such of the records of the diocese, and provide such information, as requested by the independent person undertaking the diocesan audit as is reasonably necessary to enable the diocesan audit to be undertaken.

    (7) The General Secretary shall as soon as practicable after:
    (a) the report of the General Synod audit has been provided to the Standing Committee, and
    (b) the report of the diocesan audit has been provided to the diocesan council of the diocese concerned, the diocesan safe ministry authority of that diocese and the Standing Committee,

    publish the report on the General Synod website.

    (8) The General Secretary is authorised to provide:
    (a) the report of the General Synod audit to an agency or authority of the Commonwealth or a State or Territory with responsibility for child safe standards in institutions providing services for children; and

(b) the report of a diocesan audit to an agency or authority of the Commonwealth, or an agency or authority of the State or Territory in which the diocese is located, with responsibility for child safe standards in institutions providing services for children.

PART 5 – GENERAL

Diocesan safe ministry authority

13. (1) Each diocese shall have a diocesan safe ministry authority.

(2) A diocesan safe ministry authority shall at the request of General Secretary promptly inform the General Secretary of the details of the screening and training of persons from the diocese who are being considered for appointment or election for a General Synod professional standards role or a General Synod safe ministry role.

PART 6 – COMING INTO FORCE

Coming into force of particular provisions

14. (1) Subject to this section, this canon will come into force on and from the date appointed by the President, being not later than one calendar month from the date on which the canon is passed.

(2) The standards of screening, standards of training and standards for safe ministry with Persons of Concern prescribed under section 8(1) shall come into force on the date specified in the Second Schedule.

(3) Section 12 shall come into force on 1 January 2019.

(4) Section 13 shall come into force on 1 January 2018.

Coming into force in a diocese

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

FIRST SCHEDULE

Interpretation

1. In this Schedule:

Faithfulness in Service means Faithfulness in Service: A national code for personal behaviour and the practice of pastoral ministry by clergy and church workers as tabled at the 17th ordinary session of the General Synod held in 2017.

Code of conduct

2. The code of conduct is the standards and guidelines of Faithfulness in Service set out in:

(a) section 3 (Putting this Code into Practice) so far as they relate to section 5 (Children), and

(b) section 5 (Children),

when read in each case with section 1 (About this Code) and section 2 (Key Terms).

SECOND SCHEDULE

PART 1 - INTERPRETATION

Interpretation

1. In this Schedule, unless the context otherwise requires:

accredited training means:

(a) training that:

(i) includes the course content in the Safe Ministry Training National Benchmarks so far as it relates to ministry to children, with reasonable adjustments for cultural, linguistic and ability diversity; and

(ii) is delivered by persons who are accredited, and/or online training which is accredited, by a diocesan safe ministry authority; or

(b) training of another Church body or organisation that a diocesan safe ministry authority has determined is equivalent to the training in paragraph (a);

church ministry assessment means a reasonable endeavour made to obtain information about the person from the responsible authority, and if obtained consideration of that information;

criminal history assessment means consideration of a National Police History Check of the person;

denominational authority means a person or body of another denomination having authority to ordain, license, elect, appoint, dismiss or suspend a member of the clergy or a lay person of that denomination;

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

information means a written statement by a responsible authority which discloses:

(a) whether or not there has been, and

(b) if there has been, the substance of,

any untested allegation, charge, finding or admission of the commission of a criminal offence, or a breach of the rules in force in the applicable Province or diocese or denomination regarding the moral conduct of clergy and lay persons undertaking ministry, including rules relating to sexual conduct and conduct towards children and vulnerable adults;

licensed clergy means clergy issued with a licence;

medical assessment means consideration of a medical report of the person by a registered medical practitioner;

National Register means the National Register established under the National Register Canon 2007;

national register assessment means a check whether there is any information about the person entered in the National Register, and if so consideration of that information;

Persons of Concern Policy means the Policy for Safe Ministry in a parish where there is a risk of sexual abuse by a Person of Concern as tabled at the 17th ordinary session of the General Synod held in 2017;

professional standards personnel means clergy and church workers performing a professional standards role;

Province means a member church of the Anglican Consultative Council other than this Church and includes part of a Province;

provincial authority means the person or body in a Province having authority to ordain, license, elect, appoint, dismiss or suspend a member of the clergy or a lay person of that Province;

psychological assessment means consideration of a psychological report that includes an assessment of psychosexual maturity of the person by a registered psychologist;

responsible authority means:

(a) a provincial authority; or

(b) a diocesan authority; or

(c) a denominational authority;

risk assessment means a risk assessment provided by the Department for Communities and Social Inclusion Screening Unit of South Australia;

safe ministry assessment means consideration of the person's completed Safe Ministry Check, and if applicable referees' completed Safe Ministry Checks;

Safe Ministry Check means a check that includes the applicable Safe Ministry Check as tabled at the 17th ordinary session of the General Synod held in 2017;

safe ministry personnel means clergy and church workers performing a safe ministry role;

Safe Ministry Training National Benchmarks means the Safe Ministry Training National Benchmarks as tabled at the 17th ordinary session of the General Synod held in 2017;

screening authority means:

(a) in the case of a person to be ordained as a deacon, or a member of the clergy to be licensed, or a church worker to be licensed or authorised, the bishop of the diocese or his or her delegate; or

(b) in the case of a member of the clergy to be elected or appointed as the bishop of the diocese, the electing or appointing body or its delegate; or

(c) in the case of a church worker to undertake paid or voluntary ministry to children, the appointing person or body or their delegate; or

(d) in the case of a professional standards personnel and safe ministry personnel, the electing or appointing body or its delegate.

PART 2 - STANDARDS OF SCREENING

Application

2. (1) This Part applies to all persons ordained as deacons, or licensed as clergy, appointed or elected as the bishop of a diocese, or licensed or authorised or appointed as church workers, after this Part comes into force.

(2) This Part so far as it requires a working with children check, or a working with vulnerable people check by reason that the person has contact with a child as part of engaging in a regulated activity, or a criminal history assessment, or a risk assessment, applies to all persons licensed as clergy, appointed or elected as the bishop of a diocese, or licensed or authorised or appointed as church workers, when this Part comes into force.

(3) This Part so far as it requires a national register assessment and a safe ministry assessment by the screening authority applies to all persons licensed as clergy, appointed or elected as the bishop of a diocese, or licensed or authorised or appointed as church workers, when this Part comes into force, except where the screening authority is reasonably satisfied this has previously been done, and where not so satisfied provided that these assessments are undertaken by 1 January 2021.

(4) Subject to subclauses (2) and (3), this Part does not apply to persons ordained as deacons, licensed as clergy, appointed or elected as the bishop of a diocese, or licensed or authorised or appointed as church workers, when this Part comes into force.

Deacons

3. The standards of screening for a person to be ordained as a deacon are:

(1) the person holds an unconditional working with children check, or an unconditional working with vulnerable people check by reason that the person has contact with a child as part of engaging in a regulated activity, where required by the laws of the Commonwealth or a State or Territory; and

(2) the following assessments by the screening authority:

(a) where a working with children check, or a working with vulnerable people check by reason that the person has contact with a child as part of engaging in a regulated activity, is not required by the laws of the Commonwealth or a State or Territory, a criminal history assessment or a risk assessment;

(b) a national register assessment;

(c) a safe ministry assessment;

(d) a medical assessment;

(e) a psychological assessment; and

(f) where the person was previously authorised for ministry in a Province or in another diocese of this Church or another denomination, a church ministry assessment, except where reasonably satisfied this has previously been done.

Licensed clergy or the bishop of the diocese

4. The standards of screening for a member of the clergy to be licensed, or to be elected or appointed as the bishop of the diocese, are:

(1) the person holds an unconditional working with children check, or an unconditional working with vulnerable people check by reason that the person has contact with a child as part of engaging in a regulated activity, where required by the laws of the Commonwealth or a State

or Territory; and

(2) the following assessments by the screening authority:

(a) where a working with children check, or a working with vulnerable people check by reason that the person has contact with a child as part of engaging in a regulated activity, is not required by the laws of the Commonwealth or a State or Territory, a criminal history assessment or a risk assessment;

(b) a national register assessment;

(c) a safe ministry assessment; and

(d) where the person was previously authorised for ministry in a Province or in another diocese of this Church or another denomination, a church ministry assessment, except where reasonably satisfied this has previously been done.

Licensed, authorised or paid church workers

5. The standards of screening for church workers to be licensed or authorised or to undertake paid ministry to children are:

(1) the person holds an unconditional working with children check, or an unconditional working with vulnerable people check by reason that the person has contact with a child as part of engaging in a regulated activity, where required by the laws of the Commonwealth or a State or Territory; and

(2) the following assessments by the screening authority:

(a) where a working with children check, or a working with vulnerable people check by reason that the person has contact with a child as part of engaging in a regulated activity, is not required by the laws of the Commonwealth or a State or Territory, a criminal history assessment or a risk assessment;

(b) a national register assessment;

(c) a safe ministry assessment; and

(d) where the person was previously authorised for ministry in a Province or in another diocese of this Church or another denomination, a church ministry assessment, except where reasonably satisfied this has previously been done.

Voluntary church workers

6. The standards of screening for church workers, who are not professional standards personnel and safe ministry personnel, to undertake voluntary ministry to children are:

(1) the person holds:

(a) an unconditional working with children check, or

(b) an unconditional working with vulnerable people check by reason that the person has contact with a child as part of engaging in a regulated activity, or

(c) a conditional working with children check that authorises the voluntary ministry to be undertaken, or

(d) a conditional working with vulnerable people check by reason that the person has contact with a child as part of engaging in a regulated activity that authorises the voluntary ministry to be undertaken,

where required by the laws of the Commonwealth or a State or Territory; and

(2) the following assessments by the screening authority:

(a) where a working with children check, or a working with vulnerable people check by reason that the person has contact with a child as part of engaging in a regulated activity, is not required by the laws of the Commonwealth or a State or Territory, a criminal history assessment where a National Police History Check can be applied for by a volunteer or a risk assessment;

(b) a national register assessment; and

(c) a safe ministry assessment.

Professional standards personnel and safe ministry personnel

7. The standards of screening for professional standards personnel, and safe ministry personnel, who have not otherwise been screened as a deacon, a licensed member of the clergy, the bishop of the diocese, or a licensed, authorized, paid or voluntary church worker, are a national register

assessment by the screening authority.

Creation and retention of records

8. Accurate records of the screening of clergy and church workers are to be created and maintained in a secure manner.

PART 3 - STANDARDS OF TRAINING

Application

9. (1) This Part applies to all persons ordained as deacons, or licensed as clergy, appointed or elected as the bishop of a diocese, or licensed or authorised or appointed as church workers, or elected or appointed as professional standards personnel or safe ministry personnel, after this Part comes into force.

(2) This Part applies to all persons licensed as clergy, appointed or elected as the bishop of a diocese, or licensed or authorised or appointed as church workers, or elected or appointed as professional standards personnel or safe ministry personnel, when this Part comes into force, provided that accredited training is undertaken by 1 January 2021.

Accredited training

10. The standards of training for clergy and church workers are satisfactory completion of accredited training:

(1) (a) by the bishop of the diocese, within three years prior to his or her election or appointment, or in exceptional circumstances prior to his or her installation; or

(b) by deacons, licensed clergy, and licensed, authorised, paid and voluntary church workers, within three years prior to being ordained, licensed, or authorised, or appointed to undertake ministry to children, except where the bishop of the diocese or his or her delegate is satisfied there are exceptional circumstances and in such case the training is to be completed as soon as practicable but not later than three months after being ordained, licensed, or authorised, or appointed to undertake ministry to children; or

(c) by professional standards personnel, who are not a deacon, a licensed member of the clergy, the bishop of the diocese, or a licensed, authorised and paid church worker, within three years prior to election or appointment to a professional standards role; or

(d) by safe ministry personnel, who are not a deacon, a licensed member of the clergy, the bishop of the diocese, or a licensed, authorised and paid church worker, within three years prior to election or appointment to a safe ministry role; and

(2) by clergy and church workers in paragraph (a), at intervals of not more than three years after prior satisfactory completion of accredited training.

Creation and retention of records

11. Accurate records of the satisfactory completion of accredited training by clergy and church workers are to be created and maintained in a secure manner.

PART 4 - STANDARDS FOR SAFE MINISTRY WITH PERSONS OF CONCERN

Standards

12. (1) The standards for safe ministry with a Person of Concern in a parish are the actions required to implement the process specified in section 5 of the Persons of Concern Policy.

(2) The standards for safe ministry with a Person of Concern in a congregation are the actions required to implement the process specified in section 5 of the Persons of Concern Policy as adapted by a diocesan safe ministry authority to apply to a congregation.

Creation and retention of records

13. Accurate records relating to the implementation of the Persons of Concern Policy in respect of each Person of Concern are to be created and maintained in a secure manner.

PART 5 - COMING INTO FORCE OF PARTICULAR PROVISIONS

14. (1) Parts 2 (except paragraph (b) of clause 6(2)) and 3 when read with Part 1 of this Schedule shall come into force on 1 January 2018.

(2) Paragraph (b) of clause 6(2) when read with Part 1 of this Schedule shall come into force on a date determined by the Standing Committee.

(3) Part 4 when read with Part 1 of this Schedule shall come into force on 1 January 2019.

THIRD SCHEDULE

Protocol for the disclosure of ministry suitability information between the churches of the Anglican Communion

Definitions

1. In this Protocol:

Assessing Province means the Province in which a Church authority is to assess whether the Church worker should be authorised for ministry;

Authorising Province means the Province or Provinces in which the Church worker is authorised, or has previously been authorised, to undertake ministry by a Church authority;

Church authority means the person or body responsible for authorising Church workers to undertake ministry in the Authorising Province or the Assessing Province;

Church worker means a member of the clergy or a lay person who:

(a) is authorised, or has previously been authorised, to undertake ministry by a Church authority of the Authorising Province; and

(b) has applied to undertake authorised ministry, or has been nominated for appointment to a position or office involving the undertaking of authorised ministry, in the Assessing Province;

Ministry Suitability Information means a written statement by a Church authority of the Authorising Province about the Church worker that discloses:

(a) whether or not there has been; and

(b) if so, the substance of;

any allegation, charge, finding or admission of the commission of a criminal offence, or the breach of the Authorising Province's rules regarding the moral conduct of clergy and lay persons undertaking ministry, including rules relating to sexual conduct and conduct towards children and vulnerable adults;

Province includes part of a Province.

System for the disclosure of Ministry Suitability Information by the Authorising Province

2. The Authorising Province will have and maintain a system for the disclosure of Ministry Suitability Information about a Church worker of the Province to the applicable Church authority of the Assessing Province that includes the following requirements:

(a) the applicable Church authority of the Province is to promptly deal with an application by the applicable Church authority of the Assessing Province for the disclosure of Ministry Suitability Information; and

(b) the applicable Church authority of the Province is to disclose the Ministry Suitability Information to the applicable Church authority of the Assessing Province.

System for assessing the suitability of a Church worker for authorised ministry in the Assessing Province

3. The Assessing Province will have and maintain a system for the assessment of the suitability of a Church worker to undertake authorised ministry in the Province that includes the following requirements:

(a) the applicable Church authority is to make an application to the Authorising Province for Ministry Suitability Information;

(b) the applicable Church authority is not to authorise the Church worker to undertake ministry in the Province unless and until it has carried out an assessment of whether the Church worker is a risk to the physical, emotional and spiritual welfare and safety of people that takes into account the Ministry Suitability Information disclosed by the Authorising Province; and

(c) the applicable Church authority is to keep the Ministry Suitability Information confidential, except where its disclosure:

(i) is required by law; or

(ii) is reasonably believed to be necessary to protect any person from the risk of being harmed by the Church worker; or

(iii) is necessary for the purpose of undertaking the assessment of whether the Church worker is suitable to undertake authorised ministry in the Province or any disciplinary action against the Church worker.

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

Chair of Committees

I Certify that this Ordinance was passed by the Synod of the Diocese of Sydney on 2017.

Secretary

I Assent to this Ordinance.

Archbishop of Sydney

/ /2017

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

Explanatory Statement

Purpose of the bill

1. The purpose of the bill for the *General Synod – Episcopal Standards (Child Protection) Canon 2017 Adopting Ordinance 2017* ("the Bill") is to make diocesan bishops and former diocesan bishops subject to the jurisdiction of the Episcopal Standards Commission for certain child protection offences.

Recommendations

2. That Synod receive this report.

3. That Synod pass the Bill as an ordinance of the Synod.

Evidence Given

4. The evidence for this Bill is set out in the explanatory memorandum that was provided to the General Synod. The Explanatory Memorandum is included as an Appendix to this report. The "Standing Committee" and "Episcopal Standards Taskforce" referred to in the Appendix are bodies of the General Synod, not bodies of our Diocese.

5. The Canon includes a declaration in clause 4, that it affects the order and good government of the Church within a diocese and therefore does not to come into force in a diocese unless and until that diocese by ordinance adopts it.

For and on behalf of the Standing Committee

ROBERT WICKS
Diocesan Secretary

18 September 2017

Appendix

Episcopal Standards (Child Protection) Canon 2017

Explanatory Memorandum

General Background

1. There are many reasons why there is not presently uniform episcopal standards legislation across the 23 dioceses of the Anglican Church of Australia. Within the church where we are privy to the organisation of the Church on a diocesan basis, many of the reasons for lack of uniformity make sense to us. The Church exists, however, within the context of an Australian society that has turned attention to the operation of the Anglican Church of Australia and other churches, as a result of the Royal Commission into Institutional Responses to Child Sexual Abuse.

2. The public hearing in Case Study 52 heard evidence on the lack of uniformity of episcopal standards legislation across the 23 dioceses. Attached to this explanation memorandum circulated with the original Bill 20 were the documents prepared by Mr Michael Shand QC of the Diocese of Melbourne for the Royal Commission that summarised the state of episcopal standards legislation. One lesson learned from the Royal Commission is that when it comes to the protection of children from sexual abuse, there is no room for compromise on standards. That extends to episcopal standards in relation to protecting children from child sexual abuse and responding to allegations of child sexual abuse.

3. Because it was apparent that the Episcopal Standards Canon 2007 (the 2007 Canon) was unlikely to be adopted by all dioceses, the Standing Committee at its October 2010 meeting set up the Episcopal Ministry Task Force (EMTF) that reported to the 16th General Synod. The EMTF included in its report a Model Episcopal Standards Ordinance.

4. Resolution 47/14 of the 16th General Synod commended for enactment by every diocese the proposed Model Episcopal Standards Ordinance attached to the Supplementary Report of the Standing Committee concerning a Model Episcopal Standards Ordinance. That has not been taken up by at least 11 of the 23 dioceses. The reality of that together with the imminence of Case Study 52 and the decision of the Appellate Tribunal in the matter of Bishop Slater and the Diocese of Grafton prompted the Standing Committee at the February 2017 meeting to set up an Episcopal Standards Task Force (Task Force) to assist the church to move towards the implementation of a national episcopal standards process.

5. The Standing Committee asked the Task Force to:

- define the scope of the conduct to be subject to a National Episcopal Standards Scheme that is likely to receive broad national support
- give consideration to an independent body to be responsible for the investigation and prosecution of action under a National Episcopal Standards Scheme
- give consideration to the best means to implement a National Episcopal Standard Scheme including the applicability of the existing Canons – The Offences Canon 1962, the Episcopal Standards Canon 2007 and the Special Tribunal Canon 2007
- give consideration to an effective means for the discipline of bishops formerly subject to the Special Tribunal including extending the jurisdiction of the Special Tribunal

6. The members of the Task Force are: Archbishop Davies, Bishop Goldsworthy, Archdeacons Copeman and Snell, Mr Blake SC, Mr Shand QC and Justice Mullins (as convenor).

7. The Task Force (apart from Mr Shand QC's dissent in respect of the recommendation in paragraph (a)) recommended to the Standing Committee at its May 2017 meeting:

(a) enactment of the Episcopal Standards (Child Protection) Canon 2017 … that is confined to child protection matters, deals with fitness for office, and applies to both current and former diocesan bishops, but as far as the latter are concerned only in respect of conduct occurring while a diocesan bishop;

(b) amendment of s 56(6) of the Constitution to extend the jurisdiction of the Special Tribunal to former members of the House of Bishops or former bishop assistant to the Primate for offences specified by canon in respect of conduct while a member of the House of Bishops;

(c) amendment of the Offences Canon 1962 to insert a new section 2A that lists the offences that can apply to a former member of the House of Bishops or former bishop assistant to the Primate and be dealt with by the Special Tribunal and which specifically makes child abuse and failure to comply with the laws of a State or Territory requiring the reporting of child abuse to the police or other authority an offence under both sections 1 and 2 of the Offences Canon 1962."

8. At its May 2017 meeting Standing Committee received the Task Force's report and, in general terms,

endorsed the three Bills for presentation to the 17th General Synod.

9. The rationale for the Bill for Episcopal Standards (Child Protection) Canon 2017 (Episcopal Standards Bill) is that it is imperative for the reputation of the church to implement a national approach to episcopal standards at the very least in respect of child protection matters. That will require cooperation among the dioceses and a willingness for those dioceses that enacted diocesan legislation based on the Model Episcopal Standards Ordinance that covers the same subject matter as the Episcopal Standards Bill to cede the regulation of this discrete area of episcopal standards to the proposed national legislation, or at the least, when dealing with a complaint involving a child protection matter against a current or former bishop subject to section 56(6) of the Constitution, to refer the complaint for hearing to the national Episcopal Standards Board (ESB) from which time the matter would then be dealt with under the Episcopal Standards Bill.

10. It was originally proposed that the Episcopal Standards Bill proceed on the basis that it dealt with fitness for office and not discipline, so that it could take effect as a canon under section 30 of the Constitution and commence on and from a date appointed by the President within one month from the date on which the canon was passed. To facilitate the commencement of the Bill, there was therefore no clause in Bill 20 as originally circulated that declared that its provisions affect the order and good government of the Church within a diocese. This was on the basis that if all dioceses were supportive of the rationale and requirement for this Bill, then it would be unlikely that any diocese would seek to rely on paragraph (c) of s 30 of the Constitution. The feedback on the original Bill 20 suggested that, commendable though the aim was for seeking an early commencement for the Bill, integrity in applying the provisions of the Constitution in enacting canons was also important. The Bill now provides expressly that its provisions affect the order and good government of the Church within a diocese, so the Bill will not come into force in a diocese until adopted by the diocese by ordinance.

11. There will be costs associated with this proposal that will be borne by the General Synod (and ultimately the dioceses), as a result of using processes and structures set up under the 2007 Canon (and extending the jurisdiction of the Special Tribunal), but that is a consequence of endeavouring to meet the anticipated criticism from the Royal Commission of a lack of a national approach to episcopal standards in child protection matters.

12. Whether or not a diocese has adopted the 2007 Canon, it is a canon that has been passed by the General Synod, with the Episcopal Standards Commission (ESC) in place as the investigator of information about relevant conduct and the ESB set up to hear questions that are referred by the ESC. The Episcopal Standards Bill is confined to defined examinable conduct and would take advantage of the existing processes and structures under the 2007 Canon for determining fitness for office. The Bill does not require dioceses to adopt the 2007 Canon.

13. When Bill 20 was circulated originally, in order to ensure that it dealt with fitness for office and did not affect the discipline of this Church that would otherwise attract the application of proviso (a) to s 30 of the Constitution, it modified some provisions in the 2007 Canon. On that basis section 12(1) of the 2007 Canon was modified, so that the relevant bishop was not compelled to provide a detailed report to the ESC in response to an investigation, but instead was allowed to provide a detailed report. Sections 12(2), 16(c), 48(c) and 51 of the 2007 Canon could not apply. Feedback on the original draft raised concern that there remained an argument that the Bill affected discipline and attracted the operation of s 28(1) of the Constitution. To avoid a challenge to the validity of the Bill on that basis, the Bill should be enacted following the procedure for a special Bill, unless the General Synod by votes of at least three-fourths of the members present in each house decide that it need not proceed as a special Bill. It will therefore now not be necessary to exclude the provisions of the 2007 Canon that affected discipline.

14. If the Episcopal Standards Bill is passed by the Synod, it is proposed that the canon apply to a current member of the House of Bishops or a bishop assistant to the Primate in the Primate's capacity as Primate (assistant to the Primate) for any conduct that falls within examinable conduct, wherever or whenever that conduct occurred, but that examinable conduct for a former member of the House of Bishops or assistant to the Primate (former Bishop) be confined to the same categories of conduct, but further confined to that which occurred while a member of the House of Bishops or assistant to the Primate, but whether before or after the commencement of the canon, and subject to the extension of the definition of examinable conduct for a former Bishop that is covered by clause 2(2) of the Bill.

15. It is a commonly held view that bishops who were formerly the subject of section 56(6) of the Constitution are amenable to the jurisdiction of the diocesan tribunal in the diocese in which they currently reside or are licensed. Although the Appellate Tribunal in its decision dated 19 January 2017 on the appeal by Bishop Slater decided it lacked appellate jurisdiction in that matter, it did make some observations at paragraphs [115] to [123] on possible limitations on diocesan legislative authority in relation to bishops. In particular, it noted at [115], in the context that more than one diocese may have a direct concern with issues of the status or fitness of a former diocesan bishop, the appropriateness of a common approach to the issue through a canon of the General Synod, it queried at [117] the possible limitations on the power of one bishop to depose another from Holy Orders, and at [122] it sounded the need for caution when addressing the validity of a diocesan ordinance

not supported by a canon of the General Synod with respect to the deposition of a bishop from Holy Orders. That is why in the area of episcopal standards relating to child protection, it is proposed that there be a national approach in dealing with both fitness for office and discipline of bishops who are or were the subject of s 56(6) of the Constitution.

16. When the original Bill was circulated, some concern was expressed by dioceses that had enacted diocesan Episcopal Standards legislation based on the 2014 Model Episcopal Standards Ordinance and have in place structures for investigating and determining episcopal complaints that the Bill is based on the 2007 Canon. There is a benefit for those dioceses, however, if there were a General Synod canon that authorised their Episcopal Standards ordinances, at least in respect of child protection.

17. The revised Episcopal Standards Bill which is now presented to the General Synod reflects some compromises to address the various concerns that have been raised since the original Bill circulated. It is proposed to recognise that a diocese may have in place what is referred to as a "complying ordinance" relating to episcopal standards or professional standards in which examinable conduct or misconduct which may give rise to a question of fitness of a bishop be determined by the board constituted under that ordinance that includes examinable conduct as defined in the Episcopal Standards Bill and which applies to a bishop who is or was the subject of section 56(6) of the Constitution.

18. Where a complaint involving a child protection matter under a complying ordinance would have been referred to the diocesan episcopal standards board or professional standards board, it may be referred instead to the national ESB to be dealt with under the Episcopal Standards Bill together with any other complaints against the same bishop (whether relating to child protection or not) which would have otherwise been heard by the diocesan board to determine the bishop's fitness for office, and therefore avoiding bifurcation. From the date of the referral arising under the complying ordinance to the national ESB, the national ESC would then take over the matter in presenting it to the ESB and for the Episcopal Standards Bill to then apply for all processes from the referral onward.

19. The other compromise that is incorporated in this revised Episcopal Standards Bill is in respect of an appeal from the ESB. In lieu of the barrister reviewing the determination of the Board for procedural or jurisdictional error that is provided for presently in Part 8 of the 2007 Canon, the Bill now proposes modifications to the 2007 Canon for child protection matters, so that an appeal by way of rehearing to a Review Board that is constituted from the same panel that is used for constituting the ESB (and using the same process used for constituting the ESB) will be available.

20. If the President presides at the ESB hearing, then the Deputy President will preside at the Review Board hearing. Any panel member who was on the ESB for the hearing of the matter that is the subject of the appeal cannot be chosen for the Review Board hearing. As it is proposed that there will be an appeal, rather than a limited review, it is appropriate to give both the bishop and the ESC (if aggrieved by the determination) the right to appeal by giving notice to the General Secretary.

21. Under section 23(2) of the 2007 Canon the ESB consists of the President or Deputy President and "an equal number not exceeding two of the Episcopal and other members of the panel" which means that the ESB will comprise three members in total. Recognising the significance of an appeal in some instances may justify having a Review Board constituted by more than three members, it is proposed to give the President or Deputy President the power to constitute a board of either three or five members.

22. The national consistency in dealing with episcopal standards involving child protection will follow from all matters being able to be referred to the ESB and governed from that point in the process by the Episcopal Standards Bill (if enacted by the General Synod and then adopted by the diocese).

Notes on Clauses

Clause 1 provides for the title of the canon.

Clause 2 sets out in subclause (1) the definitions that apply to the canon.

The definition of **assistant to the Primate** is based on section 56(6)(b) of the Constitution.

The definition of **Bishop** covers existing and former bishops and assistants to the Primate within paragraphs (a) and (b) of section 56(6) of the Constitution.

The definitions of **child** and **child abuse** are the same as those in the National Register Canon 2007.

The definition of **complying ordinance** specifies the minimum requirements for an ordinance of a diocese relating to episcopal standards or professional standards to be treated as a complying ordinance for the purpose of the canon.

There is a definition of **examinable conduct** that applies to a Bishop who is currently covered by paragraphs (a) or (b) of section 56(6) of the Constitution.

There is a definition of **examinable conduct** that applies to a Bishop who was formerly covered by paragraphs (a) or (b) of section 56(6) of the Constitution and is limited to the specified conduct that occurred while a member of the House of Bishops or assistant to the Primate, but whether before or after the commencement of the canon.

The definition of **exempt conduct** relates to a category of conduct that would otherwise be examinable conduct if it had not been disclosed to the ordaining bishop prior to the subject Bishop's ordination as a deacon.

The definition of **former Bishop** applies to a Bishop whose conduct falls within paragraph (b) of the definition of examinable conduct.

As one of the areas of conduct that can fall within the definition of examinable conduct is the failure without reasonable excuse to perform a function under a professional standards process, there is a definition of **professional standards process**. It covers a process for determining the fitness for office of clergy or lay persons and a disciplinary process under Chapter IX of the Constitution where the conduct that is the subject of the process relates to child abuse.

There is a definition of **relevant diocesan bishop** that will be relevant where the canon applies to a former Bishop.

sets out in subclause (2) the circumstances in which the definition of examinable conduct in relation to a former Bishop could extend to other conduct that falls within subparagraphs (i) to (iv) of paragraph (b) of the definition of examinable conduct, but occurring before or after any period in which the Bishop was subject to section 56(6) of the Constitution that, together with the examinable conduct occurring while subject to section 56(6) of the Constitution, might call into question the fitness of the Bishop for office.

Clause 3 specifies in subclause (1) which provisions of the Episcopal Standards Canon 2007 are incorporated in this canon and the modifications that are made to their operation to reflect the confined scope of episcopal conduct that is regulated by this canon, that it applies to former Bishops in addition to bishops who are subject to s 56(6) of the Constitution and that there will be right of appeal from the decision of the Board to the Review Board.

clarifies in subclause (2) that the Episcopal Standards Board established by Part 6 of the 2007 Canon is the same Board that will have jurisdiction for the purpose of the canon.

Clause 4 states that the provisions of this canon affect the order and good government of this Church within a diocese and the canon requires adoption by the diocese in order to come into force in a diocese.

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

No , 2017

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*.

5 **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."

(ii) 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.

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

Chair of Committees

I Certify that this Ordinance was passed by the Synod of the Diocese of Sydney on 2017.

Secretary

I Assent to this Ordinance.

Archbishop of Sydney

/ /2017

General Synod – Constitution (Jurisdiction of Special Tribunal) Amendment Canon 2017 Assenting Ordinance 2017

Explanatory Statement

Purpose of the bill

1. The purpose of the bill for the *General Synod – Constitution (Jurisdiction of Special Tribunal) Amendment Canon 2017 Assenting Ordinance 2017* ("the Bill") is to amend the Constitution set out in the schedule to the *Anglican Church of Australia Constitution Act 1961* to confer jurisdiction on the Special Tribunal for offences that may be specified by canon in respect of the conduct of a former member of the House of Bishops or assistant to the Primate, while a member of the House of Bishops or assistant to the Primate.

Recommendations

2. That Synod receive this report.

3. That Synod pass the Bill as an ordinance of the Synod.

Evidence Given

4. The evidence for this Bill is set out in the explanatory memorandum that was provided to the General Synod. The Explanatory Memorandum is included as an Appendix to this report.

5. The Canon amends the Constitution and will not come into effect unless and until at least three-quarters of the diocesan synods, including all the metropolitan sees, have assented to the canon by ordinance and all such assents are in force at the same time.

For and on behalf of the Standing Committee

ROBERT WICKS
Diocesan Secretary

18 September 2017

Appendix

Constitution (Jurisdiction of Special Tribunal) Amendment Canon 2017

Explanatory Memorandum

General Background

1. This bill should be read with the proposed amendment to the Offences Canon 1962 to insert a new section 2A that lists the offences that can apply to a former member of the House of Bishops or bishop assistant to the Primate in the Primate's capacity as Primate (assistant to the Primate) and be dealt with by the Special Tribunal.
2. This bill amends the Constitution to confer jurisdiction on the Special Tribunal for offences that may be specified by canon in respect of the conduct of a former member of the House of Bishops or assistant to the Primate, while a member of the House of Bishops or assistant to the Primate.
3. Section 67(1)(c) of the Constitution applies to this Bill which must be passed by a vote of a majority of the members of each House and the canon will not come into effect unless and until at least three-quarters of the diocesan synods, including all the metropolitan sees, have assented to the canon by ordinance and all such assents are in force at the same time.

Notes on Clauses

Clause 1 contains the title of the canon.

Clause 2 inserts a new paragraph (c) in section 56(6) of the Constitution that will give the Special Tribunal jurisdiction in respect of a former member of the House of Bishops or assistant to the Primate for offences that are proposed to be specified in the Offences Canon 1962 and apply to the conduct of the bishop while a member of the House of Bishops or assistant to the Primate.

General Synod – Constitution (Jurisdiction of Special Tribunal) Amendment Canon 2017 Assenting Ordinance 2017

No , 2017

Long Title

An Ordinance to assent to Canon No 6, 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 – Constitution (Jurisdiction of Special Tribunal)) Amendment Canon 2017 Assenting Ordinance 2017*.

5 **2. Assent to Canon No 6, 2017**

The Synod assents to Canon No 6, 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 Constitution (Jurisdiction of Special Tribunal) Amendment Canon 2017.

Extending the jurisdiction of the Special Tribunal to former members of the House of Bishops and bishops assistant to the Primate

2. Insert at the end of subsection (6) of section 56 of the Constitution:

   "; and

   (c) any former member of the House of Bishops and any former bishop assistant to the Primate in the Primate's capacity as Primate of such offences as may be specified by canon in respect of conduct while a member of the House of Bishops or assistant to the Primate."

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

Chair of Committees

I Certify that this Ordinance was passed by the Synod of the Diocese of Sydney on 2017.

Secretary

I Assent to this Ordinance.

Archbishop of Sydney

/ /2017

General Synod – Offences Amendment Canon 2017 Adopting Ordinance 2017

Explanatory Report

Key Points

- The primary effect of the Canon is to insert a list of offences in the *Offences Canon 1962* for former diocesan bishops which can be dealt with by the Special Tribunal. The amendments are necessary due to jurisdictional limitations on the capacity for the Special Tribunal to hear charges concerning former diocesan bishops.
- The Canon also expands the current list of offences in the *Offences Canon 1962* to include child abuse and 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.
- A diocese also has power to specify offences by ordinance, which the Diocese of Sydney has done through the *Offences Ordinance 1962*. The list of offences in our Diocese is broader than those set out in the *Offences Canon 1962*.

Purpose of the bill

1. The primary purpose of the bill for the *General Synod – Offences Amendment Canon 2017 Adopting Ordinance 2017* ("the Bill") is to set out offences in the principal canon for former diocesan bishops which can be dealt with by the Special Tribunal.

Recommendations

2. That Synod receive this report.

3. That Synod pass the Bill as an ordinance of the Synod.

Evidence Given

4. The evidence for this Bill is set out in the explanatory memorandum that was provided to the General Synod. The Explanatory Memorandum is included as an Appendix to this report. The "Synod" referred to in the Appendix is the General Synod.

5. The Canon affects discipline, and would have been a special bill for the purposes of section 28 of the 1961 Constitution, except that at least three-quarters of the members of each House of General Synod otherwise determined. It has therefore taken effect as a canon of the General Synod. However the Canon is deemed by paragraph (a) of s 30 of the Constitution to affect the order and good government of the Church and therefore does not to come into force in a diocese unless and until that diocese by ordinance adopts it.

For and on behalf of the Standing Committee

ROBERT WICKS
Diocesan Secretary

18 September 2017

Appendix

Offences Amendment Canon 2017

Explanatory Memorandum

General Background

4. The primary purpose of this bill is to insert section 2A after section 2 of the Offences Canon 1962 (the principal canon) that will list the offences that can apply to a former member of the House of Bishops or former bishop assistant to the Primate in the Primate's capacity as the Primate (assistant to the Primate) and be dealt with by the Special Tribunal, when the jurisdiction of the Special Tribunal is expanded to deal with charges against such former bishops confined to conduct in relation to child protection matters that was committed while a member of the House of Bishops or assistant to the Primate.

5. Corresponding amendments to both sections 1 and 2 of the principal canon are also proposed which will insert new offences of child abuse (as defined in the National Register Canon 2007) and 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. In addition, it is proposed to add an additional offence to section 2 that in the case of a bishop who is a member of the House of Bishops or an assistant to the Primate covers failure to comply with the direction of the Episcopal Standards Board or a like Board established under an ordinance of a provincial synod or diocesan synod dealing with the fitness of the bishop for office.

6. On the basis this bill affects the discipline of the church (as defined in section 74(9)(a) of the Constitution), the procedure for a special bill set out in section 28 of the Constitution must be followed, unless the synod by votes of at least three-fourths of the members present in each house decides that it need not proceed as a special bill. Even if the Synod votes that the bill not proceed as a special bill, section 30(a) of the Constitution applies. Any canon affecting the discipline of the church is deemed pursuant to section 30(a) to affect the order and good government of the church within a diocese and will not come into force in any diocese unless and until the diocese by ordinance adopts the canon. As there will be some delay before the canon takes effect in a diocese, it is proposed the new offences apply to conduct committed after the date this canon is passed by the Synod. It will therefore only have retrospective effect to that date.

Notes on Clauses

Clause 1 contains the title of the canon.

Clause 2 provides the principal canon is the Offences Canon 1962.

Clause 3 inserts two new offences in the list of offences in section 1 of the principal canon and three new offences in the list of offences in section 2 of the principal canon. The amendment to section 1 will enable a charge of either child abuse or wilful or reckless failure to comply with the law of the Commonwealth or a State or Territory requiring the reporting of child abuse to the police or other authority to be brought in a diocesan tribunal or a provincial tribunal against a member of the clergy resident in the diocese. The amendment to section 2 will enable like charges to be brought in the Special Tribunal against any current member of the House of Bishops or assistant to the Primate, but in addition inserts an additional charge for failure to comply with the direction of the Episcopal Standards Board established under an ordinance or provincial synod or diocesan synod for dealing with the fitness of a bishop to hold office or to be or remain in Holy Orders.

Clause 4 inserts the reference to paragraphs (a) and (b) before section 56(6) where it occurs for the second time in section 2 of the principal canon to clarify that section 2 of the principal canon applies to any current member of the House of Bishops or assistant to the Primate. This amendment is essential if the Constitution (Jurisdiction of Special Tribunal) Amendment Canon 2017 is passed.

Clause 5 inserts sections 2A and 2B after section 2 of the principal canon. Section 2A provides for the jurisdiction of the Special Tribunal in respect of any former member of the House of Bishops or assistant to the Primate in respect of the offences listed in the section that relate to child protection and are limited to offences committed while a member of the House of Bishops or assistant to the Primate. Section 2B provides that in the principal canon, unless the context otherwise requires, **child abuse** has the same meaning as in the National Register Canon 2007.

Clause 6 inserts a new section 4 in the principal canon that provides that the offences added to the principal canon by this canon apply to conduct committed after the date this canon was passed.

Clause 7 states the provisions of the canon affect the order and good government of the church within a diocese and do not come into force in a diocese unless and until the diocese by ordinance adopts the canon.

General Synod – Offences Amendment Canon 2017 Adopting Ordinance 2017

No , 2017

Long Title

An Ordinance to adopt Canon No 7, 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 – Offences Amendment Canon 2017 Adopting Ordinance 2017*.

2. Adoption of Canon No 7, 2017

5 The Synod adopts Canon No 7, 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 Offences Amendment Canon 2017.

Interpretation

2. In this canon principal canon means the Offences Canon 1962.

Additional offences

3. (1) Insert at the conclusion of section 1 of the principal canon:

"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) Insert at the conclusion of section 2 of the principal canon:

"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."

Special Tribunal's jurisdiction in respect of current bishops

4. Insert "paragraphs (a) and (b) of" before "section 56(6)" where it occurs second in section 2 of the principal canon.

Special Tribunal's jurisdiction in respect of former bishops

5. Insert after section 2 of the principal canon:

"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."

Application of offences inserted by the Offences Amendment Canon 2017

6. Insert after section 3 of the principal canon:

"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."

Order and good government

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

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

Chair of Committees

I Certify that this Ordinance was passed by the Synod of the Diocese of Sydney on 2017.

Secretary

I Assent to this Ordinance.

Archbishop of Sydney

/ /2017

General Synod – Holy Orders (Removal from Exercise of Ministry) Canon 2017 Adopting Ordinance 2017

Explanatory Report

Key Points

- The Canon will replace the *Relinquishment of Holy Orders Ordinance 1994* in providing for the relinquishment of or deposition from Holy Orders.
- The Canon will allow a partial relinquishment of or deposition from orders, and thereby gives greater flexibility. For example, a person could be prohibited from functioning as a bishop but not as a presbyter or deacon, or prohibited from functioning as a presbyter but not as a deacon.

Purpose of the bill

1. The purpose of the bill for the *General Synod – Holy Orders (Removal from Exercise of Ministry) Canon 2017 Adopting Ordinance 2017* ("the Bill") is to make provision for the relinquishment of and deposition from Holy Orders.

Recommendations

2. That Synod receive this report.

3. That Synod pass the Bill as an ordinance of the Synod.

Evidence Given

4. The evidence for this Bill is set out in the explanatory memorandum that was provided to the General Synod. The Explanatory Memorandum is included as an Appendix to this report. The "Doctrine Commission" and "Standing Committee" referred to in the Appendix are bodies of the General Synod, not bodies of our Diocese.

5. The reports of the Doctrine Commission of the General Synod in relation to deposition from Holy Orders that is referred to in the explanatory memorandum can be accessed online on the Synod this year page of SDS's website (*www.sds.asn.au*).

6. In 1994, our Synod passed the *Relinquishment of Holy Orders Ordinance 1994* (the "1994 Ordinance"). Subsequently, in 2004, the General Synod passed the *Holy Orders Relinquishment and Deposition Canon 2004* ("2004 Canon"). The 2004 Canon was adopted by our Synod by ordinance in 2005 and the operation of the 1994 Ordinance was suspended. The explanatory statement for the adopting ordinance indicated that there was "merit in having national uniformity in this area". In 2011, our Synod excluded the 2004 Canon and reinstated the 1994 Ordinance.

7. The 2004 Canon was excluded because it required the Archbishop to be satisfied that the person is not the subject of any information, complaint or charge concerning their conduct or fitness to hold office. The provision would appear to have been intended to prevent a person relinquishing their Holy Orders pre-emptively in order to avoid a professional standards process in relation to their conduct. However the provision meant that relinquishment could not occur in a context where a person admitted the charges against them and was prepared to relinquish their Holy Orders as one of the agreed outcomes from a professional standards process. It meant that such a person could only be deposed from Holy Orders following a recommendation from the Diocesan Tribunal. The 1994 Ordinance was therefore reinstated, with further amendments, to enable relinquishments in the context of a professional standards process where the misconduct had been disclosed and the proceedings were at an end, but for the relinquishment.

8. The Bill includes a materially similar provision to the problematic provision in the 2004 Canon. This clause, subclause 3(2), is as follows:

> Before giving consent under sub-section (1)(e)(ii), the relevant bishop must be satisfied that the person is not currently the subject of any information, complaint or charge in this Church (including in any diocese) concerning his or her conduct or fitness to hold office.

9. An amendment was proposed to the mover of the Canon prior to General Synod to insert at the end of the subclause the words "unless the relinquishment of orders would conclude any such process". The mover did not accept the amendment. The amendment was not pursued on the floor of General Synod because there is a practical solution. Subclause 3(2) only prevents the Archbishop consenting to a relinquishment while there is an ongoing professional standards process. It does not prevent a professional standards committee (or other professional standards body) recommending that a person relinquish their Holy Orders by completing and signing the instrument of voluntary relinquishment. If the person provides the completed instrument, and also

accepts and complies with all other recommendations of the PSC (or other body), the person will at that time no longer be "currently the subject" of a professional standards process because the complaint will have been finally dealt with. The Archbishop could then sign the instrument and the relinquishment would take effect.

10. The main reason for adopting the Canon in place of the 1994 Ordinance is that it permits a partial relinquishment or deposition of orders, as opposed to all orders, and thereby allows greater flexibility. For example, a person could be prohibited from functioning as a bishop but not as a presbyter or deacon, or prohibited from functioning as a presbyter but not as a deacon.

11. The Canon affects ritual and ceremonial, and would have been a special bill for the purposes of section 28 of the 1961 Constitution, except that at least three-quarters of the members of each House of General Synod otherwise determined. It has therefore taken effect as a canon of the General Synod. However the Canon is deemed by paragraph (a) of s 30 of the Constitution to affect the order and good government of the Church and therefore does not to come into force in a diocese unless and until that diocese by ordinance adopts it.

For and on behalf of the Standing Committee

ROBERT WICKS

Diocesan Secretary

18 September 2017

Appendix

Holy Orders (Removal from Exercise of Ministry) Canon 2017

Explanatory Memorandum

General Background

1. The Doctrine Commission in a report to the Standing Committee of General Synod considered the nature and scope of what is referred to as deposition from Holy Orders.

2. As a result of that report it became clear that the Holy Orders Relinquishment and Deposition Canon 2004 needed to be reconsidered and rewritten. Three areas in particular needed to be addressed clearly and consistently.

(a) The limit of what any process can achieve is to remove a cleric from the *exercise of* Holy Orders.

(b) Deposition in English canon law (and therefore as used in our Constitution) can be only from the exercise of *all* orders; however, the Constitution also refers to prohibition from functioning, and that sentence can include prohibition from functioning in some only orders of ministry.

(c) Allowing both voluntary relinquishment and disciplinary removal to be from only some of the offices of Bishop, Priest and Deacon (although only in descending order, as it were).

3. The new bill is based on the 2004 Canon, and substantially preserves many of its provisions. The Standing Committee decided that consideration of this proposal by the General Synod would be facilitated by having it presented in the form of a new Canon rather than as an amending Bill.

4. The option of voluntary deposition in the present (2004) Canon has been removed, as there appears to be no circumstances in which it differs from voluntary relinquishment.

Status of this bill and canon

5. This canon concerns the discipline of the church and is therefore a special bill for the purposes of section 28 of the Constitution. Unless the General Synod otherwise determines, it will therefore become a provisional canon. By section 30 of the Constitution, the canon once made will not come into force in any diocese unless and until the diocese by ordinance adopts it.

Notes on Individual Clauses

Clause 1 contains the title of the Canon.

Clause 2 defines the words and expressions used in the Canon.

"**deposition**" is defined to refer to the removal of the right to exercise Holy Orders, and to refer to all of those orders.

"**national register**" has the same meaning as in the present Canon.

"**person in Holy Orders**" now means not only a person ordained in this church, but also a person received into an order of ministry of this church.

"**relevant bishop**" for a priest or deacon means the Diocesan bishop of the diocese in which the clerk is licensed, and, for a priest or deacon who is unlicensed, the Diocesan bishop of the diocese in which they reside. In the case of a person who is a bishop, the relevant bishop is the Metropolitan of the Province in which the bishop is a Diocesan bishop or resides, with special provision made for bishops in extraprovincial dioceses and for Metropolitans and the Primate.

"**relinquishment**" means the voluntary cessation of the exercise of one or more of the orders of ministry.

"**tribunal**" has the same meaning as in the present Canon, being a tribunal established under Chapter IX of the Constitution or by diocesan legislation.

Further provisions extend the meaning of Diocesan bishop to include the administrator of a Diocese pro tempore; and define "**order of ministry**" to be a reference to the Holy Order of bishop, of priest or of deacon.

Clause 3 provides that a bishop may relinquish the order of bishop, or the order of bishop and priest, or the orders of bishop, priest and deacon; a priest

may relinquish the order of priest, or the orders of priest and deacon;

and a deacon may relinquish the order of deacon. This is done by executing an instrument to that effect that is endorsed with the consent of the bishop of the last diocese in which the person held a license (if that is not the diocese in which she or he now resides) and with the consent of the relevant bishop. That consent cannot be given if the person is currently the subject of a disciplinary investigation or charge.

Clause 4 allows for relinquishment to take place in a liturgical context.

Clause 5 sets out the options available for the sentence of prohibition from functioning. This is the first time a Canon of General Synod has sought to do this.

The options allow for infinite mixing and matching, covering some or all orders of ministry, conditions, limited or unlimited periods of time, and different roles, places and circumstances. For example, a prohibition could be from the exercise of any order of ministry permanently in Diocese X, from the exercise of the order of bishop in any Diocese, and from the exercise of the order of priest as the incumbent or priest in charge of a parish for the next five years.

Sub-clause (2) makes it clear that a permanent prohibition on the exercise of all orders of ministry must be by deposition.

Sub-clause (3) provides that effect is given to such a sentence by an instrument in the form of Schedule 2.

Clause 6 provides that deposition following the sentence of a tribunal is effected by the form in Schedule 3.

Clause 7 provides that any of the instruments made under this Canon must be registered in the registry of the relevant bishop and of the diocese(s) in or for which the person was ordained, and registered in the national register.

Clause 8 provides that the bishop executing an instrument must also give notice of it, and of the reasons for it, to such persons as the bishop considers necessary.

Clause 9 provides that a prohibition from functioning has effect according to what is in it, and reinforces that by providing that the person prohibited must not act inconsistently with the prohibition.

Clause 10 provides that a person who has relinquished the exercise of some orders of ministry must not act inconsistently with the terms of that relinquishment.

Clause 11 provides that a person who has relinquished or been deposed from the exercise of all orders of ministry must not act or present himself or herself as in any way as a person in Holy Orders.

Clause 12 provides for a process by which a person who has relinquished the exercise or some or all orders of ministry may seek to have that relinquishment revoked.

Clause 13 provides that clauses 10 and 11 to not apply to a person whose relinquishment of orders has been revoked.

Clause 14 creates offences where a person who has relinquished an order of ministry holds out that the person continues to exercise that order, or where a person who has been deposed hold himself or herself out to be a member of the clergy.

Clause 15 provides that Canon 76 of the Canons of 1603 has no effect. Although it is arguable that this is unnecessary given that the 2004 Canon has already provided to that effect, it is considered helpful to carry that provision forward into the current Canon.

Clause 16 repeals the 2004 Canon.

Clause 17	states that the Canon affects the order and good government of this Church within a diocese and does not come into force in a diocese unless and until the diocese adopts this canon by ordinance of the synod of the diocese.
Schedule 1	contains the instruments relevant to the relinquishment of the exercise of one or more orders of ministry.
Schedule 2	contains the instruments necessary following the sentence of a tribunal that include prohibition from functioning.
Schedule 3	contains the instruments relevant to deposition.
Schedule 4	contains the forms of notice consequence on relinquishment, prohibition from functioning or deposition.

General Synod – Holy Orders (Removal from Exercise of Ministry) Canon 2017 Adopting Ordinance 2017

No , 2017

Long Title

An Ordinance to adopt Canon No 18, 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 – Offences Amendment Canon 2017 Adopting Ordinance 2017*.

2. Adoption of Canon No 18, 2017

The Synod adopts Canon No 18, 2017 of the General Synod of the Anglican Church of Australia, the text of which is set out in the Schedule.

3. Repeal of the Relinquishment of Holy Orders Ordinance 1994

The *Relinquishment of Holy Orders Ordinance 1994* is repealed with effect from the date determined by the Archbishop on the advice of the Chancellor. The repeal does not affect or invalidate any act done under the Ordinance.

Schedule

The General Synod prescribes as follows:

Title

1 This Canon is the Holy Orders (Removal from Exercise of Ministry) Canon 2017.

Interpretation

2 (1) In this Canon –

"**deposition**" means (without derogating from or altering the effect of section 11 of this Canon) removal of the right to the exercise of ministry in all of the Holy Orders to which a person is ordained, and "**depose**" has a similar meaning;

"**national register**" means a National Register established pursuant to a Canon of General Synod for a purpose which includes the recording of determinations of a tribunal or the recommendations or determinations of a professional standards body;

"**person in Holy Orders**" means a person who, in accordance with the Canons of the General Synod or the law of this Church applying at the relevant time has been—

(a) ordained to the order of bishop, priest or deacon by bishops, or a bishop, of this Church, or by bishops, or a bishop, of a Church in communion with this Church; or

(b) received into an order of ministry of this Church by a bishop of this Church in accordance with the Holy Orders (Reception and Ministry) Canon 2004;

"**professional standards body**" means a body established by a Canon of General Synod or the ordinance of a diocese relating to professional standards or episcopal standards that has under that Canon or that ordinance the power to recommend or determine that a person in Holy Orders be deposed;

"**relevant bishop**" means –

(a) in relation to a priest or deacon who is licensed, the Diocesan bishop of the diocese in which he or she is licensed or the Primate, or the Metropolitan of the Province in which that diocese is situated, authorized by that bishop to act in that behalf;

(b) in relation to a priest or deacon who is not licensed, the Diocesan bishop of the diocese in which he or she resides or the Primate, or the Metropolitan of the Province in which that diocese is situated, authorized by that bishop to act in that behalf;

(c) in relation to a person who is a bishop, the bishop other than that person who is –

(i) the Metropolitan of the Province in which that person is a Diocesan bishop, is licensed by a Diocesan bishop or (if neither a Diocesan bishop nor licensed) resides; or

(ii) where that person –

A. is the Diocesan bishop of; or

B. is licensed by the Diocesan bishop of; or

C. resides in –

an extra-provincial diocese, the Primate; or

(iii) where the person is a Metropolitan, the Primate; or

(iv) where the person is the Primate, the most senior Metropolitan by date of consecration;

"**relinquishment**" means (without derogating from or altering the effect of section 11 of this Canon) voluntary cessation of the right to the exercise of ministry in one or more of the orders of ministry to which a person is ordained, and "**relinquish**" has a similar meaning;

"**tribunal**" means a tribunal established in accordance with the provisions of Chapter IX of the Constitution and includes a body established by canon or by an ordinance of a diocese.

(2) For the purposes of this Canon, a person who, during any vacancy in the office of, or during the incapacity of, a Diocesan bishop or during that bishop's absence from the diocese for a period exceeding thirty days has been appointed by or under the constitution of that diocese to administer the affairs of the diocese, is to be taken to be the Diocesan bishop of that diocese.

(3) In this Canon a reference to an "**order of ministry**" is a reference to the Holy Order of bishop, the Holy Order of priest or the Holy Order of deacon.

Relinquishment of Holy Orders

3 (1) A person in Holy Orders –

(a) if a bishop, may relinquish the order of bishop, or the orders of bishop and priest, or the orders of bishop, priest and deacon; or

(b) if a priest but not a bishop, may relinquish the order of priest, or the orders of priest and deacon; or

(c) if a deacon but not a bishop or priest, may relinquish the order of deacon –

by–

(d) resigning all clerical licences and appointments held by that person as a person in the order or orders to be relinquished; and

(e) executing an instrument of relinquishment in or to the effect of the form in Schedule 1 endorsed with the consent, if given, of both –

(i) the bishop of the diocese in which the person last held a clerical licence or appointment, if that is a diocese other than the diocese in which the person resides; and

(ii) the relevant bishop.

(2) Before giving consent under sub-section (1)(e)(ii), the relevant bishop must be satisfied that the person is not currently the subject of any information, complaint or charge in this Church (including in any diocese) concerning his or her conduct or fitness to hold office.

Liturgical context

4 The relinquishment under section 3 may, with the consent of the person, be set in a liturgical context by the bishop.

Prohibition from functioning after sentence of a tribunal

5 (1) A sentence of prohibition from functioning –

(a) in relation to a bishop may concern only functioning –

(i) as a bishop, or

(ii) as a bishop and priest; or

(iii) as a bishop, priest and deacon;

(b) in relation to a priest, may concern only functioning as a priest or as a priest and deacon;

(c) may be limited or not limited by reference to place, office, role or function, time or circumstance;

(d) subject to sub-section (2), may be permanent, indefinite or for a period of time, and may be permanent, indefinite or for a period of time in different respects in relation to different functions or different limitations.

(2) A sentence of prohibition from functioning may not be permanent in respect of all the orders of ministry to which a person has been ordained.

Note: The proper sentence for a person who is to be prohibited permanently from all orders of ministry is deposition.

(3) A relevant bishop gives effect to a sentence of prohibition by a tribunal or a recommendation or determination of prohibition by a professional standards body by executing an instrument of prohibition in or to the effect of Schedule 2.

Deposition

6 The deposition of a person by a bishop pursuant to the sentence of a tribunal or following the recommendation or determination of a professional standards body shall be effected by the execution by the relevant bishop of an instrument of deposition in or to the effect of the form in Schedule 3.

Registration

7 (1) In this section –

"instrument" means–

(a) an instrument of relinquishment in accordance with section 3; or

(b) an instrument of deposition or prohibition from functioning executed pursuant to sections 5 or 6.

(2) Upon executing an instrument, the relevant bishop must forthwith–

(a) cause the instrument to be registered in the register of that bishop;

(b) deliver a copy of the instrument to the bishop of the diocese in or for which the person who is the subject of the instrument was ordained; and

(c) cause a copy of the instrument to be registered in the national register.

Giving notice of an instrument

8 (1) A bishop who executes an instrument under section 7 must give notice of that instrument and of the effect of that instrument in the form of Schedule 4 to the Primate, the General Secretary and such other persons as the bishop considers necessary.

(2) The bishop may include in or with the notice under subsection (1) a statement of any circumstances relevant to the relinquishment, prohibition or deposition.

(3) The General Secretary must as soon as reasonably practicable make available to the public the information contained in a notice executed under sub-section (1).

Effect of prohibition from functioning

9 (1) A prohibition from functioning has effect according to its terms.

(2) Where a person is prohibited from functioning in an order of ministry, that person—

(a) must not act in contravention of or inconsistently with that prohibition by—

(i) officiating or acting in any manner that is reserved to that order of ministry; or

(ii) accepting or holding any office in this Church capable of being held only by a person in that order of ministry;

(b) ceases to have any right, privilege or advantage attached to that order of ministry; and

(c) must not hold himself or herself out as being in that order of ministry.

Effect of relinquishment of fewer than all Holy Orders

10 A person who has relinquished one or more but not all orders of ministry in respect of any order of ministry relinquished –

(a) may not officiate or act in any manner that is reserved for that order or those orders;

(b) may not accept or hold any office in this Church capable of being held only by a person in that order or those orders;

(c) ceases to have any right, privilege or advantage attached to that order or those orders; and

(d) must not hold himself or herself out as being in that order or those orders.

Effect of relinquishment of all Holy Orders and of deposition

11 A person who has relinquished all Holy Orders or who has been deposed in accordance with this or another Canon or following the sentence of a tribunal or the recommendation or determination of a

professional standards body—

(a) may not:

(i) officiate or act in any manner as a bishop, priest or deacon of this Church; or

(ii) accept or hold any office in this Church capable of being held only by a person in Holy Orders;

(b) ceases to have any right, privilege or advantage attached to the order of bishop, priest or deacon;

(c) must not hold himself or herself out to be a member of the clergy;

(d) may not hold an office in a diocese which may be held by a lay person without the consent of the bishop of the diocese; and

(e) shall be considered to be a lay person for the purposes of all laws, canons, rules, ordinances and regulations of the Church except for any provision enacted under Chapter IX of the Constitution.

Revocation

12 (1) A person who has relinquished one or more orders of ministry in accordance with this Canon may petition the Metropolitan of the Province in which he or she resides or, if the person resides in an extraprovincial diocese, the Primate, to issue a certificate of revocation of the instrument of relinquishment.

(2) The petition must include a statement of –

(a) the circumstances and reasons in and for which the petitioner executed the instrument of relinquishment;

(b) the nature of the work or employment upon or in which the petitioner has been engaged, and the place or places in which the petitioner has resided since executing the instrument of relinquishment; and

(c) the circumstances in which and the reasons for which the revocation is sought.

(3) The Metropolitan or the Primate, as the case requires, must confer with the bishop of the diocese in which the petitioner last held a clerical licence or appointment and the bishop of the diocese in which the person resides and may make such other enquiries as seem appropriate.

(4) The Metropolitan or the Primate, as the case requires, may by writing under seal certify that, for all purposes, the instrument of relinquishment ceases to have any force or effect.

(5) A certificate under sub-section (4) must be registered in—

(a) the register of the bishop of the diocese in which the instrument of relinquishment or the instrument of deposition was registered;

(b) the register of the Primate; and

(c) the national register—

and a copy of the certificate must be delivered to the bishop of the diocese in or for which the petitioner was ordained.

Effect of revocation

13 The provisions of sections 10 and 11 do not apply to a person whose relinquishment has been revoked in accordance with this Canon.

Offences under this Canon

14 (1) It is an offence for a person who has relinquished an order of ministry to hold out that the person continues to exercise that order, except for the purposes of any provision enacted under Chapter IX of the Constitution.

(2) It is an offence for a person who has been deposed to act contrary to section 11(c), except for the purposes of any provision enacted under Chapter IX of the Constitution.

Canon 76 of the Canons of 1603 to have no effect

15 The Canon numbered 76 of the Canons of 1603, insofar as it may have any force, shall have no operation or effect in a diocese of this Church which adopts this canon.

Repeal and consequential amendment

16 (1) The Holy Orders Relinquishment and Deposition Canon 2004 is repealed.

(2) In –

(a) section 17(3) of the Episcopal Standards Canon 2007; and

(b) section 23(3) of the Special Tribunal Canon 2007 –

for "Holy Orders, Relinquishment and Deposition Canon 2004" substitute "Holy Orders (Removal from Exercise of Ministry) Canon 2017".

Coming into force by adoption

17 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.

SCHEDULES

SCHEDULE 1

VOLUNTARY RELINQUISHMENT OF ONE OR MORE ORDERS OF MINISTRY

KNOW ALL PERSONS BY THESE PRESENTS THAT I, ,
a person in Holy Orders in the Anglican Church of Australia (particulars of which are set out in the Schedule)
DECLARE that I have resigned the clerical licences and appointments and positions held by me as (*bishop, priest or deacon*) and **RELINQUISH** all rights and privileges as attached to the order/s of (*bishop, priest or deacon*) set out in the Schedule to this instrument in accordance with the Constitution and Canons of the Anglican Church of Australia and FURTHER DECLARE that I shall at all times from the date of this instrument conduct myself accordingly.

SCHEDULE

PARTICULARS OF HOLY ORDERS SUBJECT TO THIS DECLARATION

FULL NAME AND ADDRESS

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

DATED:
EXECUTED BY
in the presence of:
(Bishop or Archdeacon or legal practitioner)

CONSENT OF BISHOP OF DIOCESE IN WHICH DECLARANT LAST HELD A CLERICAL LICENCE OR APPOINTMENT

I, by Divine Providence Bishop (Archbishop) of
consent to the above relinquishment.

DATED:
EXECUTED BY:
in the presence of:

CONSENT OF BISHOP OF DIOCESE IN WHICH DECLARANT RESIDES:

I, by Divine Providence Bishop (Archbishop) of
……. declare that I am the relevant bishop for the purposes of the Holy Orders (Removal from Exercise of Ministry) Canon 2017 and consent to the above relinquishment.

DATED:
EXECUTED BY:
in the presence of:

SCHEDULE 2

PROHIBITION FROM FUNCTIONING FOLLOWING THE SENTENCE OF A TRIBUNAL

I, by Divine Providence Bishop (or Archbishop) of

To

GREETINGS

I declare that I am the relevant bishop for the purposes of the Holy Orders (Removal from Exercise of Ministry) Canon 2017 and I by these presents **prohibit you from functioning in the exercise of Holy Orders** in the Anglican Church of Australia (as set out in the Schedule) in accordance with the Constitution and Canons of the Anglican Church of Australia following the sentence of a duly constituted tribunal.

SCHEDULE

PARTICULARS OF HOLY ORDERS SUBJECT TO PROHIBITION

FULL NAME AND ADDRESS

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

PARTICULARS OF PROHIBITION FROM FUNCTIONING

……

DATED

SEALED

_____

SCHEDULE 3

DEPOSITION

I, by Divine Providence Bishop (or Archbishop) of

To

GREETINGS

I declare that I am the relevant bishop for the purposes of the Holy Orders (Removal from Exercise of Ministry) Canon 2017 and by these presents **depose you** in accordance with the Constitution and Canons of the Anglican Church of Australia following the sentence of a duly constituted tribunal *or* following the recommendation or determination of a professional standards body [delete as applicable] from the Holy Orders set out in the Schedule.

SCHEDULE

PARTICULARS OF HOLY ORDERS

FULL NAME AND ADDRESS

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

DATED

SEALED

_____

SCHEDULE 4

NOTICE OF AN INSTRUMENT UNDER THE HOLY ORDERS (REMOVAL FROM THE EXERCISE OF MINISTRY) CANON 2017

I, by Divine Providence Bishop (or Archbishop) of

GIVE NOTICE of the instrument dated …… that concerns ……..… [*name*] and that is now attached being

* an instrument of relinquishment
* a prohibition from functioning pursuant to the sentence of a tribunal
* an instrument of deposition.

**delete as applicable*

STATEMENT AS TO CIRCUMSTANCES

ATTACHMENT

DATED

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

Chair of Committees

I Certify that this Ordinance was passed by the Synod of the Diocese of Sydney on 2017.

Secretary

I Assent to this Ordinance.

Archbishop of Sydney

/ /2017

General Synod – Canon Concerning Services Amendment Canon 2017 Adopting Ordinance 2017

Explanatory Report

Key Points
• The Bill will provide a mechanism where services may be authorized without the need for a Canon of the General Synod.
• Services will only be able to be approved with the agreement of all metropolitans. This includes the Archbishop of Sydney.

Purpose of the bill

1. The purpose of the bill for the *General Synod – Canon Concerning Services Amendment Canon 2017 Adopting Ordinance 2017* ("the Bill") is to amend the *Canon Concerning Services 1992* to provide a mechanism where services may be authorised without the need for a Canon of the General Synod.

Recommendations

2. That Synod receive this report.

3. That Synod pass the Bill as an ordinance of the Synod.

Evidence Given

4. The evidence for this Bill is set out in the explanatory memorandum that was provided to the General Synod. The Explanatory Memorandum is included as an Appendix to this report. The "Liturgy Commission" and "Doctrine Commission" referred to in the Appendix are commissions of the General Synod, not bodies of our Diocese.

5. There was concern among Sydney representatives on the General Synod, that the Canon could allow the authorisation of services for use throughout the Anglican Church of Australia without the approval of our Diocese. The Bill was amended 'on the floor' to require that a decision to approve a form of service must include the agreement of all Metropolitans. On this basis no form of service can be approved for use in a diocese without the agreement of the Archbishop of Sydney.

6. The Canon affects ritual and ceremonial, and would have been a special bill for the purposes of section 28 of the 1961 Constitution, except that at least three-quarters of the members of each House of General Synod otherwise determined. It has therefore taken effect as a canon of the General Synod. However the Canon is deemed by paragraph (a) of s 30 of the Constitution to affect the order and good government of the Church and therefore does not to come into force in a diocese unless and until that diocese by ordinance adopts it.

For and on behalf of the Standing Committee

ROBERT WICKS
Diocesan Secretary

18 September 2017

Appendix

Canon Concerning Services Amendment Canon 2017

Explanatory Memorandum

General Background

1. The Canon Concerning Services 1992 includes provisions relating to the forms of service authorised for use within the Anglican Church of Australia.

2. Section 4(2) of that canon provides that every minister must use only the authorised forms of service, except so far as the minister may exercise the discretion allowed by section 5. (Section 5 in turn provides for a limited range of variations which are either not of substantial importance for particular occasions for which no provision is made in the authorised forms of service.)

3. Section 4(1) provides for two forms only of authorised service, those in the Book of Common Prayer, and those authorised, as regards a parish, pursuant to the Constitution or a canon of the General Synod in force in that parish's diocese.

4. The church, through the leadership and insight of the Liturgy Commission, will continue to develop fresh language, metaphors and forms for services used in public worship, and some diocese and ministers will want to use them. It is improbable that these will be published in the form of a new prayer book, and even if a new prayer book were being considered (which it is not) there is a category of liturgical resource that falls between what needs to be authorised by canon and what is covered by section 5 of the Canon Concerning Services.

5. The amendment is directed to materials in that space. The ambition is to find a mechanism that retains the principle of church authority over liturgy and the authentication of properly considered and high quality materials, while at the same time allowing for such materials to be disseminated and used within the church without the need for a canon of General Synod in every case.

6. The proposed amendments require five forms of approval before any form of service can be used in reliance on this section of the canon: recommendation by the Liturgy Commission, concurrence in that recommendation by the Doctrine Commission, approval by two-thirds of diocesan bishops (including all Metropolitans), and approval for use within any diocese by the diocesan council of that diocese.

Status of this Bill and Canon

7. As this bill affects ritual and ceremonial, it will be a special bill for the purposes of section 28 of the Constitution unless three-quarters of the members of each House otherwise determine. In addition, it is deemed by paragraph (a) of s 30 of the Constitution to affect the order and good government of the Church and therefore not to come into force in a diocese unless and until that diocese by ordinance adopts it.

Notes on Clauses

Clause 1 provides for the short title of the canon.

Clause 2 provides that the term "principal canon" means the Canon Concerning Services 1992.

Clause 3 amends clause 4 of the Canon Concerning Services 1992 by authorising additional forms of service for use by Anglican ministers in Australia. To be used in a parish, a form must satisfy five criteria:

a. it has been recommended by the Liturgy Commission;
b. the Doctrine Commission has concurred in that recommendation;
c. it has been approved by a decision of at least two-thirds of the Diocesan bishops;
d. it has been approved by a majority of Metropolitans;
e. it has been approved for use within that parish's diocese by its diocesan council.

It is noted that the first, second and fifth criteria recognize lay as well as clerical involvement in the approval process.

Clause 4 provides that the canon affects the ritual, ceremonial or discipline of this Church.

General Synod – Canon Concerning Services Amendment Canon 2017 Adopting Ordinance 2017

No , 2017

Long Title

An Ordinance to adopt Canon No 19, 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 – Canon Concerning Services Amendment Canon 2017 Adopting Ordinance 2017*.

5 **2. Adoption of Canon No 19, 2017**

The Synod adopts Canon No 19, 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 Canon Concerning Services Amendment Canon 2017.

Interpretation

2. In this canon principal canon means the Canon Concerning Services 1992.

Additional Forms of Service Authorised

3. In the principal canon—
   (a) in section 4(1)(b) for "part." substitute "part;"; and
   (b) after paragraph 4(1)(b) insert:
      "(c) for use within a diocese, any other form that has been -
         (i) approved for use, on the recommendation of the Liturgy Commission with the concurrence of the Doctrine Commission, by a decision of at least two-thirds of the diocesan bishops including all of the Metropolitans; and
         (ii) approved for use within the diocese by the diocesan council of that diocese."

Canon affects the ritual, ceremonial or discipline of this Church

4. The provisions of this canon affect the ritual, ceremonial or discipline of this Church.

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

Chair of Committees

I Certify that this Ordinance was passed by the Synod of the Diocese of Sydney on 2017.

Secretary

I Assent to this Ordinance.

Archbishop of Sydney

/ /2017

Ministry Standards Ordinance 2017
Diocesan Tribunal Ordinance 2017
Professional Standards Transition Ordinance 2017

Explanatory Report

Key Points

- The Ministry Standards Bill will –
  - (a) provide an administrative process for the resolution of complaints concerning the fitness of church workers to hold an office or position, to remain in Holy Orders, to exercise ministry or perform any duties or functions, whether or not subject to any conditions or restrictions, and
  - (b) establish a Professional Standards Board to be the determining body under the complaints process instead of the Diocesan Tribunal or a Disciplinary Tribunal.
- The Diocesan Tribunal Bill provides for the administration and operation of the Diocesan Tribunal, which by the 1961 Constitution, has jurisdiction to hear and determine charges of breaches of faith, ritual, ceremonial or discipline and offences as may be specified in the Constitution or by canon, ordinance or rule in respect of a person licensed by the Archbishop, or any other person in holy orders resident in the diocese.
- The Transition Bill sets out transitional arrangements for the commencement of the *Ministry Standards Ordinance 2017* and the *Diocesan Council Ordinance 2017*.

Purpose of the bills

1. The purpose of the bill for the *Ministry Standards Ordinance 2017* ("the Ministry Standards Bill") is to make provision for resolving complaints concerning the fitness of church workers.

2. The purpose of the bill for the *Diocesan Tribunal Ordinance 2017* ("the Diocesan Tribunal Bill") is to provide for the administration and operation of the Diocesan Tribunal.

3. The purpose of the bill for the *Professional Standards Transition Ordinance 2017* ("the Transition Bill") is to set out transitional arrangements for the commencement of the *Ministry Standards Ordinance 2017* and the *Diocesan Council Ordinance 2017*.

4. The bills are collectively referred to in this report as "the Bills".

Recommendations

5. That Synod receive this report.

6. That Synod pass the Bills as ordinances of the Synod.

7. That Synod request the Standing Committee to undertake a review of the operation of the *Ministry Standards Ordinance 2017* prior to the 2018 session of Synod.

Evidence Given

8. In 2014, the Synod requested the Standing Committee to appoint a committee consisting of three lay people and three members of clergy, together with a person appointed by the Archbishop, with terms of reference that included reviewing the *Discipline Ordinance 2006* (the "2006 Ordinance") and related ordinances.

9. Subsequently the Standing Committee appointed a committee comprising Mr Michael Easton, Mr Garth Blake, Mr Lachlan Bryant, the Rev Michael Kellahan, the Rev Mark Charleston and the Rev Dr Hugh Cox. The Archbishop appointed Mr Doug Marr.

10. This report concerns the Committee's review of the 2006 Ordinance. The Bills are recommended by the Committee to replace the 2006 Ordinance. This proposal is explained in more detail below.

Discipline Ordinance 2006

11. The Committee considers that, in general, the 2006 Ordinance has operated effectively in dealing with complaints concerning offences alleged to have been committed by church workers in the Diocese.

12. However the 2006 Ordinance has weaknesses:

    (a) It is complex and the complexity has grown over the last decade as amendments have been made to widen the scope of offences covered by the ordinance and address practical difficulties in the

complaints process. It is apparent that complainants and respondents (and their lawyers) find it difficult to understand the process.

(b) The process set out in the 2006 Ordinance is linear. A more flexible process is needed for dealing with complaints to ensure they are dealt with in the most beneficial, efficient and cost effective manner.

(c) The 2006 Ordinance is disciplinary in nature. It involves charging church workers with offences and imposing disciplinary measures or sanctions for wrongdoing. Most professions have moved away from upholding standards through disciplinary processes and have adopted administrative processes that examine a person's fitness to practise the profession.

In substance the 2006 Ordinance has also moved in this direction over time. The list of offences and potential recommendations in dealing with those offences has expanded. The recommendations presently available to determining bodies under the 2006 Ordinance are not all disciplinary in nature. Many appear more relevant to the question of a church worker's fitness to practice ministry, whether this be at all, in a limited way or only with conditions or restrictions. Yet the 2006 Ordinance does not set out the question that a determining body must ask itself concerning a church worker – is it to impose a sentence for wrongdoing or to assess fitness based on conduct and make appropriate recommendations? This needs to be made clear since the outcome will vary depending on which question is being asked.

(d) The range of conduct that can be dealt with under the 2006 is limited. There is conduct which, if committed by a church worker, would call into question their fitness to practice ministry, but is not presently examinable under the 2006 Ordinance (unless it was so grievous as to amount to the offence of disgraceful conduct). In some cases there is a legal obligation to address these matters, for example bullying where it gives rise to risks to health and safety in a workplace, but presently there is little capacity to enforce compliance in relation to some church workers. The Royal Commission has also highlighted the need for processes to hold church workers accountable in investigating and dealing with allegations of child abuse. Presently under the 2006 Ordinance there are few options for dealing with a person who fails to discharge their responsibilities in handling such claims.

Ministry Standards Ordinance 2017

13. The Committee has considered an array of Ordinances used in other dioceses across Australia to assess the available options. The Committee has formed the view that neither substantially amending the 2006 Ordinance nor adopting the Model Professional Standards Ordinance endorsed by the General Synod will meet the needs of the Diocese.

14. The Ministry Standards Bill is based on retaining the best parts of the 2006 Ordinance, while borrowing from some of the ordinances from other dioceses to update, improve and simplify the complaints process, and to align the complaints processes to an overriding purpose.

15. The most significant changes are:

(a) adopting a complaints process that has the purpose of examining a church worker's fitness for office in place of a process that imposes sentences for the commission of wrongdoing, and

(b) constituting a Professional Standards Board as the body to make determinations on complaints that are contested by respondents.

16. The complaints process under the Ministry Standards Bill is summarised in the diagram in Appendix 1. A summary of the effects of the provisions of the Ministry Standards Bill is set out in Appendix 2.

Diocesan Tribunal Ordinance 2017

17. The recent Appellate Tribunal decision concerning the Diocese of Grafton and Bishop Keith Slater has highlighted the need to distinguish between discipline and fitness for office. There is a place for a disciplinary process, for example when dealing with the commission of past offences by church workers who are no longer active in ministry. One of the difficulties identified by the Appellate Tribunal in that matter was where a diocese purports to have a professional standards regime but is fundamentally dealing with questions of discipline.

18. A Diocesan Tribunal operates in each diocese pursuant to Chapter IX of the 1961 Constitution and may hear charges that are promoted to it concerning alleged offences committed by clergy under the *Offences Canon 1962*. This Canon also authorises dioceses to prescribe other offences by ordinance.

19. The Ministry Standards Bill provides for the PSC and the Board to have capacity to recommend to the Archbishop that he appoint a person to promote a charge to the Tribunal in relation to a complaint. It is expected that this recommendation would be made if the relevant body considers that the complaint gives rise to issues

of discipline as opposed to questions about fitness, and that the Tribunal is therefore a more appropriate forum for the complaint.

20. The Diocesan Tribunal Bill replicates the existing provisions in the 2006 Ordinance with respect to the Tribunal, with appropriate modification.

Professional Standards Transition Ordinance 2017

21. The Transition Bill will provide that complaints made before the commencement of the Ministry Standards Bill as an ordinance but not yet finally dealt with will continue to be subject to the 2006 Ordinance. The Ministry Standards Bill and Diocesan Tribunal Bill will apply to complaints made after their commencement

22. The Transition Bill also provides for certain persons holding office under the 2006 Ordinance to also hold the equivalent office under the Professional Standards Ordinance and Diocesan Tribunal Ordinance. This provision will apply in relation to:

(a) the Director of Professional Standards,

(b) the persons holding office as the members of the Professional Standards Committee,

(c) the persons holding office as the members of the Diocesan Tribunal, and

(d) the persons holding office as the members of the Board of Enquiry.

23. The Transition Bill also requires the Archbishop-in-Council to appoint members of the new body, the Professional Standards Board, as soon as practical after commencement of the Bills.

24. The Transition Bill provides for the 2006 Ordinance to be repealed on a date determined by the Archbishop on the advice of the Chancellor. It is anticipated that the 2006 Ordinance will be repealed once all complaints made prior to commencement of the Ministry Standards Bill and Diocesan Tribunal Bill have been finally dealt with.

Review

25. If the Ministry Standards Bill is passed, it is recommended that the Synod request the Standing Committee to review the new ordinance prior to the 2018 session of Synod with a view to any amending legislation being brought to Synod in 2018. There are several reasons for this recommendation.

26. There will inevitably be some matters identified in the next 12 months as the Ministry Standards Bill is put into operation that will require amendments to be made to improve the complaints process.

27. The General Synod also passed canons concerning safe ministry matters at its recent session. Some canons will be considered by our Synod in 2017. If these canons are adopted, modifications will likely be needed to the Ministry Standards Bill to accommodate the requirements in these canons. There may also be areas of inconsistency between the professional standards regime applying to diocesan bishops and other clergy if the *Episcopal Standards (Child Protection) Canon 2017* is adopted in our Diocese.

28. Finally, the Committee is aware of the work that has been undertaken by the Domestic Violence Response Taskforce at the request of the Synod and is also aware of Synod resolution 24/16, by which Synod requested the 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".

29. The Committee considers that if the Guidelines prepared by the Taskforce are adopted by the Synod, a period of time should be allowed for church workers to become familiar with these Guidelines before inserting such a ground of misconduct. The Committee has considered what may be appropriate in this regard and suggests a ground of misconduct in or to the effect of the following be inserted in the Ordinance by Synod in 2018 –

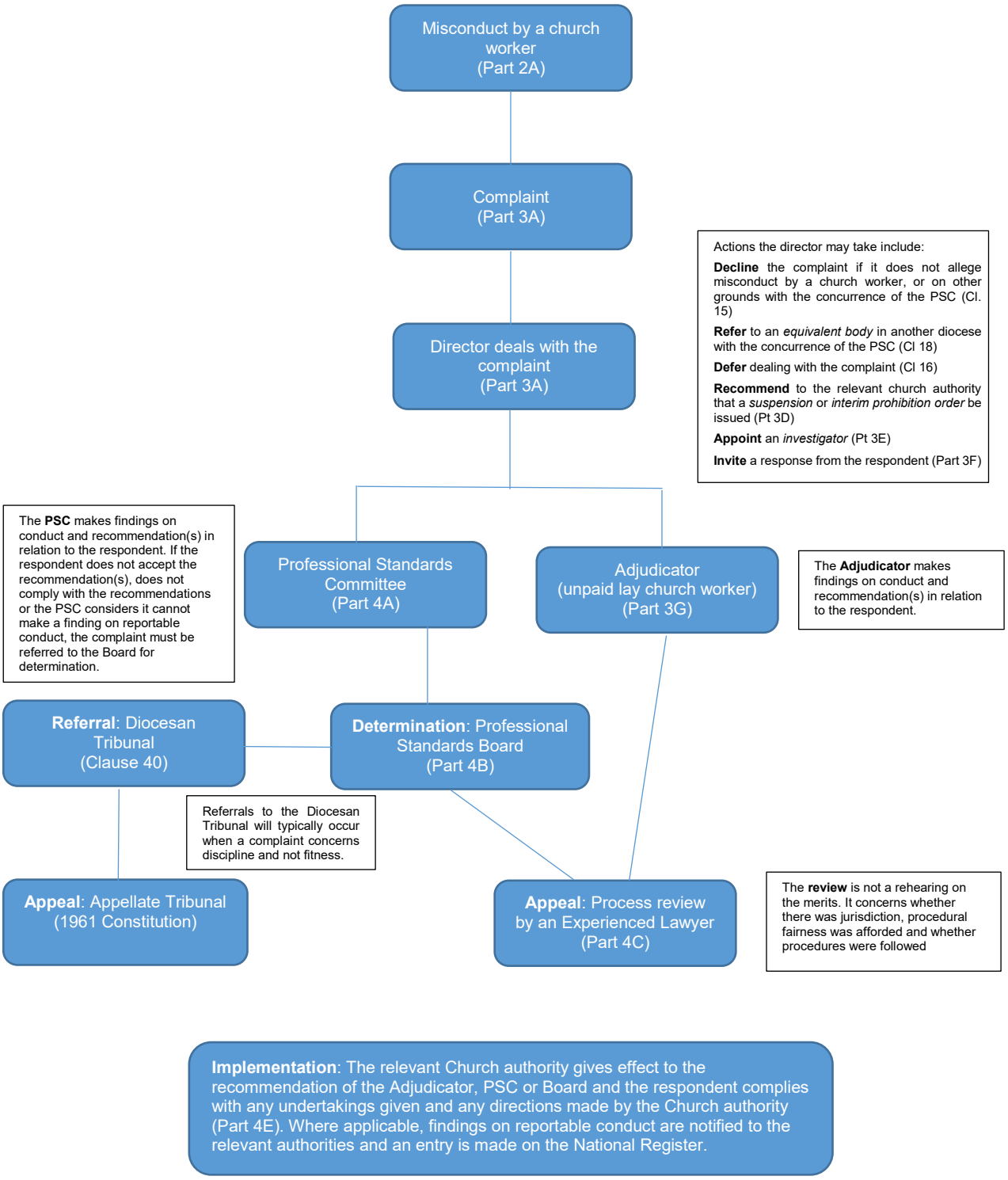
> "**inappropriate pastoral care to a victim of domestic abuse**, which means providing pastoral care in a manner that puts the safety of a victim or their family at risk and demonstrates wilful or reckless disregard with the Synod's *Responding Well to Domestic Abuse: Policy and Good Practice Guidelines*".

For and on behalf of the Standing Committee

ROBERT WICKS
Diocesan Secretary 18 September 2017

APPENDIX 1

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.*

APPENDIX 2

Clause Notes

Ministry Standards Ordinance 2017

Chapter 1 - Preliminary

Part 1A – Purpose and Application

Clause 1 names the Ordinance.

Clause 2 outlines the purposes of the Ordinance. These operate as an interpretive guide to the provisions of the Ordinance.

Clause 3 limits the application of the ordinance to alleged misconduct by church workers resident, licensed or authorised in the Diocese, or engaged by a Church authority either at the time a complaint is received or at the time misconduct was alleged to have occurred. Misconduct by such a church worker can be dealt with under the Ordinance regardless of where or when it occurred.

Part 1B – Interpretation

Clause 4 contains a general list of terms that are defined for the purposes of the Ordinance. Many of these replicate definitions in the 2006 Ordinance. Definitions which are incorporated from *Faithfulness in Service* are based on the most recent version of the Code authorised by the General Synod Standing Committee in anticipation that the Sydney Synod will adopt those changes to the Code at its 2018 session.

Chapter 2 – Scope of the Ordinance

Part 2A – church workers and misconduct

Clause 5 defines "church worker". This definition, in conjunction with clause 3, determines the persons who can be the subject of complaints under the Ordinance. The definition is identical to the definition of "church worker" in the 2006 Ordinance, except that it has been expanded to include a person who is a member of a body corporate by virtue of election or appointment by the Synod, Standing Committee, the Archbishop or a Church body.

The definition continues to exclude a bishop who is subject to the jurisdiction of the Special Tribunal, namely a sitting diocesan bishop. Legislation for episcopal standards was passed by the General Synod and will be considered at our Synod.

Clause 6 defines "misconduct", being the conduct alleged to have been committed by a church worker that can be dealt with under the Ordinance. The conduct must be of such a nature that if it were found to have occurred, it would call into question the fitness of the church worker to hold office or position, to remain in Holy Orders, to exercise ministry or perform any duties or functions, or whether any conditions or restrictions should be imposed.

The definition includes two lists of conduct. First, a list of conduct that is excluded from being construed as misconduct. Second, a list of conduct that misconduct may include. Note that this second list is not exhaustive. It includes conduct that is presently examinable under the 2006 Ordinance but also includes other forms of conduct, such as bullying and harassment (as defined in *Faithfulness in Service*). It also includes certain process failures in relation to abuse where a church worker has an obligation to report or to deal with or investigate abuse.

Clause 7 defines "reportable conduct". The *Child Protection (Working With Children) Act 2012* requires that a finding that a child-related worker has engaged in 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 must be reported to the NSW Office of the Children's Guardian. This definition, and the use of the term "reportable conduct" throughout the Ordinance, ensures that findings are made as to whether such conduct the subject of a complaint did or did not occur.

Part 2B – Exempt Conduct

Clause 8 outlines a procedure for certain conduct to be declared exempt from being dealt with under the Ordinance by the Archbishop with the concurrence of the Professional Standards Committee ("PSC"). The conduct must be disclosed prior to ordination as a deacon or the issue of a licence or authority. The clause reflects the procedure in Chapter 7 of the 2006 Ordinance. The clause interacts with the list of excluded conduct in definition of "misconduct" in clause 6.

Chapter 3 – Processing of Complaints

Part 3A- Making Complaints

Clause 9 provides that anyone can make a complaint, including the Director. That the Director can make a complaint means that although the process is complaints-based, the Ordinance is not solely reliant on a third-party being willing to make a complaint. The Director can act on information known to him concerning a church worker. The 2006 Ordinance provides similarly.

Clause 10 sets out how complaints are to be made, what details they should contain and the forms in which they can be made.

Clause 11 requires the Director to use reasonable endeavours to explain the complaints process to a complainant prior to investigating the complaint. This is to ensure complainants understand the process that will be undertaken before it commences. A complainant can withdraw their complaint under clause 13 if they do not wish to proceed (other than a complaint alleging reportable conduct).

Clause 12 requires a church worker to report to the Director any knowledge of certain conduct engaged in by another church worker constituting child abuse and related forms of misconduct. The same requirement is contained in the 2006 Ordinance.

Clause 13 outlines how a complaint can be withdrawn. A complaint alleging reportable conduct cannot be withdrawn. The nature of reportable conduct means that such a complaint must be assessed notwithstanding that a complainant may want to withdraw their complaint.

Part 3B – Handling of complaints by the Director

Clause 14 sets out the courses of action available to the Director when dealing with a complaint. This provision moves away from the linear progression found in the 2006 Ordinance and gives the Director flexibility and discretion to take different courses of action if appropriate, such as referring matters back to the complainant, or seeking further responses from a respondent and the like.

Part 3C – Declining, deferring or referring complaints

Clause 15 provides for the Director to decline complaints that do not allege misconduct which can be the subject of a complaint under the Ordinance.

Clause 16 provides for complaints (other than those alleging reportable conduct) to be declined or deferred on other grounds by the Director with the concurrence of the PSC. In summary these are complaints that: lack sufficient detail or evidence, are false etc or trivial, can properly be dealt with by other means, are under investigation or the subject of other proceedings or dealing with the complaint lacks utility.

Clause 17 provides for the notification of decisions to decline or defer complaints. Subclause (2) of this clause gives the Director discretion as to whether to notify the respondent of the decision if the Director understands that the respondent is not aware of the complaint. There is a balance here. One on level transparency suggests disclosure should be made. On the other hand disclosing a complaint that has been declined may cause considerable but unnecessary distress to a respondent.

Clause 18 sets out the circumstances in which a complaint can be referred to an equivalent body in another diocese, and how decisions for referral are to be made. Usually referrals will be made because the church worker resides in another diocese or holds a licence or authority in another diocese.

Part 3D – Suspension and prohibition orders

Clauses 19 to 21 regulate suspension and prohibition orders. The clauses reflect the equivalent provisions in the 2006 Ordinance.

Part 3E – Investigation of complaints

Clause 22 provides for the Director to appoint a person to investigate a complaint, and to revoke that appointment in certain circumstances.

Clause 23 sets out the powers of the Investigator. These are similar to the equivalent provisions in the 2006 Ordinance, except that an additional requirement has been inserted that the Investigator must record interviews, subject to the consent of the interviewee.

Clause 24 provides for the Investigator to report the results of the investigation and provide all records to the Director.

Part 3F – Notification of and response to the complaint

Clause 25 sets out the notification that the Director must provide to the respondent concerning the complaint. Consistent with the 2006 Ordinance, the Director may decide to notify the substance of the complaint to the

respondent prior to investigation. If the respondent admits the complaint or its substance it may not be necessary to appoint an investigator.

Clause 26 sets out the responses that may be given by a respondent, and how the response is to be given. If the complaint is denied and has not been investigated, the Director may at that time appoint an investigator.

Part 3G – Special procedure for unpaid lay church workers (Adjudicators)

Clauses 27 to 33 outline a procedure for the consideration of complaints about unpaid lay church workers by Adjudicators. An Adjudicator is a person appointed by the Registrar who is a judge or justice of an Australian court or (more commonly) a legal practitioner with at least 10 years' experience. The Adjudicator fulfils the role of both the PSC and the Board in relation to a complaint. The Adjudicator has the same powers as the Board in making recommendations. The procedure is intended to be efficient, inexpensive and procedurally fair to respondents. Respondents who are subject to a determination and recommendation by an Adjudicator will have similar review entitlements to any other church worker. The procedure is much the same as that presently provided for in the 2006 Ordinance for complaints about unpaid lay church workers.

Chapter 4 – Resolving complaints

Part 4A – Consideration by the PSC

Clause 34 provides for the Director to refer complaints to the PSC and sets out the particulars and material that must be provided to the PSC. The clause provides for the respondent to be notified that the complaint has been referred to the PSC and provided with the same particulars and material. The respondent has 28 days to provide further material, information or written representations to the PSC in relation to the complaint. The Director can grant extensions.

Clause 35 sets out the courses of action that the PSC may take in dealing with a complaint and the matters that the PSC must consider in deciding on those courses of action.

Clause 36 sets out that the PSC is to recommend that no further action be taken with respect to a complaint if it is satisfied of certain matters.

Clause 37 requires a recommendation of no further action and a dismissal of the complaint if the PSC is satisfied that the respondent did not engage in any of the misconduct the substance of the complaint.

Clause 38 provides for the termination of suspension of prohibition orders at the direction of the PSC.

Clause 39 sets out the circumstances in which the PSC must refer a complaint to the Board. In summary these circumstances are where: the complaint alleges reportable conduct and the PSC considers it is unable to make a finding, the respondent does not accept the PSC's recommendations, or the respondent does accept the recommendations but fails to comply with them to the satisfaction of the PSC. The clause also sets out the manner for the PSC to make referrals to the Board.

Clause 40 provides for the PSC to recommend that the Archbishop appoint a person to promote a charge against the respondent before the Diocesan Tribunal. The Archbishop must comply with such a recommendation. At this point the complaint will cease to be dealt with under the Ordinance and will be dealt with in accordance with the Diocesan Tribunal Ordinance 2017 instead. A bill for this Ordinance will also be considered by the Synod at its 2017 session.

Clause 41 sets out the recommendations that can be made by the PSC in relation to the respondent. These reflect the available recommendations under the 2006 Ordinance.

Clause 42 outlines who must be given notice of the PSC's recommendations. The PSC is not required to include a statement of reasons unless it makes recommendations that include (in summary): the respondent resigning, undertaking not to seek appointment or undertake specified functions for a period of time, requesting voluntary relinquishment or deposition from holy orders, or consenting to a prohibition order (paragraphs 41(1)(e),(f) or (g)). The respondent will have 14 days to decide whether to accept and comply with the recommendations (or such longer period determined by the Director).

Clause 43 provides that no further action is to be taken with respect to the complaint if the respondent accepts and complies with the recommendation(s). The clause also provides for the PSC making findings on reportable conduct if this is relevant to the complaint.

Part 4B – Determination of complaints by the Board

Clause 44 provides for the application of Part 4B to referrals to the Board from the PSC.

Clause 45 provides for determination of the membership of the Board for a complaint and convening the Board to give directions.

Clause 46 sets out the course of action that the Board make take upon the referral of a complaint.

Clause 47 provides for the Board making findings on reportable conduct.

Clause 48 provides for when the Board must dismiss a complaint or take no further action.

Clause 49 sets out the recommendations that the Board may make to the Archbishop or the relevant Church authority. These recommendations may only be made if the Board is satisfied that the church worker is not fit (in summary): to hold a role, office or position or remain in Holy Orders, exercise ministry or perform any duty or function, or should be subject to conditions or restrictions.

Clause 50 provides for notification of the Board's determination and recommendation(s).

Clause 51 enables the Board to defer making recommendations and adjourn for a period not exceeding 12 months on terms that the church worker will undertake certain specified acts or omissions. If the Board considers the church worker is unfit to hold office etc the undertaking must include the church worker's standing down or not undertaking certain duties. If the church worker declines to give the undertaking or does not comply with an undertaking, the Board is to then make a final recommendation on the complaint. Non-compliance with an undertaking may be taken into account in making recommendations.

Clause 52 clarifies the effect of prohibition orders.

Part 4C – Review of Board determinations

The process for review is modelled on the existing review process in Chapter 5, Part 2 of the 2006 Ordinance.

Clause 53 provides a means for a church worker to apply to the Registrar for a review of the Board's decision. The review is to be conducted by an "experienced lawyer" (as defined in the Ordinance) appointed by the Registrar.

Clause 54 sets out the grounds for review. In summary these are a breach of procedural fairness, a failure to observe the Ordinance, a lack of jurisdiction or unreasonableness.

Clause 55 provides that the application for review has the effect of staying the Board's decision pending the outcome of the review.

Clause 56 provides for the appointment of the experienced lawyer by the Chancellor via the Registrar to conduct the review. The respondent is required to pay half the estimated fee of the fees to be charged by the experienced lawyer.

Clause 57 sets out how the review is to be conducted and clarifies that the review is not to involve a rehearing on the merits or a new hearing. The experienced lawyer may make orders as to costs.

Clause 58 sets out what determinations the experienced lawyer may make on the review.

Part 4D – Procedural matter for the PSC and the Board

Clauses 59 to 79 make general provision for the conduct of proceedings by the PSC and the Board. The clauses provide detail on how the two bodies are to undertake their respective functions under the Ordinance.

Part 4E – Church authorities and compliance

Clause 80 requires and empowers a Church authority to give effect to a recommendation of the Director, an Adjudicator, the PSC or the Board. The Church authority may vary, modify or temporarily suspend the implementation of a recommendation consistent with the findings of the body making the recommendation and with its agreement that the substance of the recommendation is preserved.

Clause 81 requires a church worker to comply with an undertaking and a direction given by a Church authority to give effect to a recommendation.

Chapter 5 – Persons or bodies performing functions under this Ordinance

Part 5A – The Director

Clause 82 to 86 provide for the appointment of the Director, the functions of the Director, the relationship between the Director and the Archbishop, the Director's entitlement to information and the Director's reporting obligations.

Part 5B – The PSC

Clauses 87 to 94 set out the constitution of the PSC, its functions, and power to delegate, among other matters.

Part 5C – The Board

Clauses 95 to 103 set out the constitution of the Board, its functions, and how the Board is constituted from the panel for a particular complaint, among other matters.

Chapter 6 – Miscellaneous

Part 6A – Confidentiality and Publication

Clauses 104 to 107 set out the duty of confidentiality of persons performing functions under the Ordinance and how and for what purposes information may be released.

Part 6B – Indemnity

Clause 108 provides for the indemnity of persons performing functions under the Ordinance out of funds under the control of the Synod.

Part 6C – Regulations

Clause 109 empowers the Standing Committee to make regulations not inconsistent with the provisions of the Ordinance for the purposes of administration of the Ordinance or to carry out the overriding purposes of the Ordinance.

Part 6D – Other

Clause 110 clarifies that the Ordinance does not affect the rights of employers to terminate employment.

Clause 111 provides for the findings of an equivalent body, a court, tribunal or commission of inquiry to be treated as conclusive if not overturned on appeal.

Clause 112 makes provision for the service of documents.

Clause 113 provides that the Ordinance will commence on a date to be determined by the Archbishop on the advice of the Chancellor.

Ministry Standards Ordinance 2017

No , 2017

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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;

(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, expedient and efficient resolution of complaints.

(2) The Director, the PSC, 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);

"Appellate Tribunal" means the Appellate Tribunal constituted by and under Chapter IX of the Constitution;

"Board" means the Professional 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 in 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 Professional Standards appointed under Part 5A;

"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 PSC 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;

"**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;

"Professional Standards Committee" or **"PSC"** means the Professional Standards Committee established under Part 5B;

"**Professional Standards Unit**" means the Professional Standards Unit of the Diocese;

"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;

"**Registrar**" means the person appointed by the Archbishop under his hand and seal to be Registrar of the Diocese or in his absence the person appointed by the Archbishop to perform the duties of the Registrar either in his absence or as his deputy;

"**reportable conduct**" has the meaning given in Part 2A;

"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 Ordinance 2005*;

"**safety plan**" means the form of agreement developed by the Professional Standards Unit to regulate a person's participation in the ministry activities of a church of the Diocese;

"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 3G, references to the PSC 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) 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 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?

(1) 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 <u>not mean</u> –

(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 reportable 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]

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[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;

(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 emotional harm or lead to serious behavioural or cognitive disorders;

(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;

(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;

(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;

(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) 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) 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;

(ii) 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) **sexual misconduct** which has the same meaning as in the *Child Protection (Working with Children) Act 2012 (NSW)*;

(h) 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;

(i) failure without reasonable excuse by a respondent to cooperate with the investigation of a complaint under the Ordinance;

(j) failure without reasonable excuse to comply with a condition imposed by a Church authority under this Ordinance;

(k) failure without reasonable excuse to comply with an undertaking given to an Adjudicator, the PSC, Board or a Church authority; or

(l) 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 reportable conduct?[2]

Reportable conduct means 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:

(a) when engaged in child-related work in the Diocese; or

(b) who –

(i) is in child-related work in the Diocese at the time a complaint concerning their conduct is made, or

[2] *Section 35(1) of the Child Protection (Working With Children) Act 2012 (NSW) imposes a duty on a reporting-body (which includes the Anglican Church in New South Wales, including organisations of dioceses) to notify the Children's Guardian of the name and other identifying particulars of any child-related worker against whom the reporting body has made a finding that the worker has engaged in 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.*

(ii) 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.

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 PSC, 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*.[3]; or

(b) if the person has been refused a declaration in relation to the same or similar conduct in the 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 PSC 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 PSC, determines that the whole of the conduct that is the subject of the complaint is exempt conduct.

[3] *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.*

CHAPTER 3 – PROCESSING OF COMPLAINTS

PART 3A – MAKING COMPLAINTS

9. Who may make a complaint?

Any person, including the Director, may make a complaint of misconduct in relation to a church worker.

10. 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.

(6) Non-compliance with this clause does not invalidate a complaint unless the Board determines otherwise.

11. Director to explain the complaints process

The Director must use reasonable endeavours to explain the processes set out in this Ordinance to the complainant prior to any investigation of the complaint.

12. 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.

13. Withdrawal of complaint

(1) Subject to subclause (2), a complaint is taken to have been withdrawn if the complaint does not allege reportable 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 PSC at the time the notice of withdrawal is received by the Director, the complaint will only be taken to be withdrawn if the PSC consents to the withdrawal.

PART 3B - HANDLING OF COMPLAINTS BY THE DIRECTOR

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

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) decline to deal with the complaint under clause 15;

(b) refer to the matter directly to the PSC and seek the concurrence of the PSC that the complaint be declined or deferred under clause 16;

(c) ask the complainant to verify the complaint by statutory declaration;

(d) ask the complainant to provide further details of the conduct that is the subject of the complaint;

(e) 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;

(f) if the respondent is an unpaid lay church worker, refer the matter to an Adjudicator under Part 3G;

(g) investigate, or appoint a person to investigate the complaint under Part 3E;

(h) invite a response from the respondent under Part 3F.

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.

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

(1) Apart from complaints about reportable conduct, the Director may at any time, with the concurrence of the PSC, 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, including but not limited to alternative dispute resolution, whether through the process set out in the *Diocesan policy for dealing with allegations of unacceptable behaviour* or otherwise, and there is a reasonable likelihood that it will be dealt with by those other means;

(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.

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 PSC, 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 PSC 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 PSC 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 PSC must refer the disagreement for decision by an independent person agreed upon by the PSC 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 PSC 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 PSC 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.

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; and

(iv) the likely effect on the respondent and on the relevant Church body.

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 a period of suspension, 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 whatever stipend, salary, allowances and other benefits that he or she would otherwise have received and which are to be met or reimbursed from funds under the control of the Synod;

(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 PSC, or

(ii) upon any direction to that effect given by the PSC, or

(iii) upon the Church authority or the respondent (as the case may be) giving effect to the recommendation(s) of the Adjudicator, PSC 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 whatever stipend, salary, allowances and other benefits that he or she would otherwise have received and which are to be met or reimbursed from funds under the control of the Synod.

(3) An Interim Prohibition Order ceases to have effect:

(a) if the Director terminates the investigation without referring the matter to the PSC, or

(b) upon any direction to that effect given by the PSC, or

(c) upon –

(i) the respondent complying with all recommendation(s) (if any) of the PSC 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, PSC or the Board.

(d) if the Archbishop suspends the respondent under section 61 of the 1961 Constitution.

PART 3E - 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.[4]

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 3F - NOTIFICATION OF AND RESPONSE TO THE COMPLAINT

25. What notification must the Director provide to the respondent?[5]

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

(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.

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

[5] *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.*

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.

(2) 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 3E.

PART 3G – 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 PSC, the Director may instead refer the complaint to the PSC to be dealt with under Chapter 4.

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 Registrar to appoint an experienced lawyer 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 Registrar must promptly appoint an experienced lawyer following a request from the Director under subclause (1)(a).

(3) 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 must apply the rules of procedural fairness and otherwise determine a procedure for resolution of the complaint before proceeding to make recommendations under clause 30 or findings under clause 31.

30. Recommendations by the Adjudicator

(1) The Adjudicator may make recommendations in relation to the respondent and for this purpose may make recommendations to:

(a) the respondent, or

(b) the relevant Church authority.

(2) Prior to making any recommendations under subclause (1), the Adjudicator must 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.

(3) In making recommendations the Adjudicator has the same powers as the Board.

(4) For the avoidance of doubt, if the Adjudicator makes a recommendation under clause 30(1)(a), the Adjudicator is not precluded from making further recommendations in relation to the respondent under clause 30(1)(b).

31. Making findings on Reportable Conduct

If the complaint alleges that the respondent has committed reportable 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 PSC in Part 4C are taken to be references to the Adjudicator.

CHAPTER 4 – RESOLVING COMPLAINTS

PART 4A – CONSIDERATION BY THE PSC

34. Referral to the PSC

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 PSC of the identity of the person against whom the complaint is made, and

(b) furnish the PSC 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 PSC, 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 PSC, relating to the complaint, within 28 days or such longer period as may be agreed to by the Director.

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

(1) The PSC 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 PSC 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;

(n) such other matters as the PSC considers relevant.

36. No further action

If the PSC 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 PSC is to recommend that no further action be taken with respect to the complaint.[6]

37. Findings on conduct

If the PSC 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 PSC 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 PSC must refer to the complaint to the Board if:

(a) the complaint alleges reportable conduct, and the PSC 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 PSC makes a recommendation under clause 41 and the respondent does not accept the recommendation of the PSC 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 PSC, 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 PSC 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 PSC 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 PSC must cause to be delivered to the secretary of the Board any documents and material relevant to the reference; and

(b) the PSC, 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 PSC 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]

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[6] *If the PSC 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 –*

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

(b) the PSC 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 PSC is of the opinion that there is a reasonable likelihood that the complaint will be sustained before the relevant Tribunal.

(2) If the PSC 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 PSC make?

The PSC 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 PSC;

(b) that the respondent make reparation as specified by the PSC for the conduct the subject of the complaint;

(c) that the respondent undertake training, or retraining, of a nature specified by the PSC;

(d) that the respondent receive counselling of a nature specified by the PSC;

(e) that the respondent undertake to the Director, in such terms as are specified by the PSC, 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 PSC 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.

42. Notice of the recommendations

(1) The PSC 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 PSC makes a recommendation under paragraph 41(e),(f) or (g), the PSC must include a statement of the reasons for the recommendation(s).

(3) In respect of any other recommendation(s) made by the PSC (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 PSC'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

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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.*

indicate whether acceptance of and compliance with the PSC'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 PSC 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 reportable 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 PSC;

and the PSC is satisfied that the respondent has engaged in any or all of the conduct which is the subject of the complaint, the PSC 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 PSC 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 Reportable Conduct under clause 47;

(c) dismiss the matter or take no further action under clause 48;

(c) make a recommendation under clause 49.

47. Making findings on Reportable Conduct

(1) If the complaint alleges that the respondent has committed reportable 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 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 may recommend to the Archbishop or relevant Church authority 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;

(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 PSC; and

(e) the Director.

(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;

(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 Registrar for a review of the decision.

(2) If the PSC is aggrieved by a decision of the Board, the PSC may apply to the Registrar 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 Registrar 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 Registrar must notify the Chancellor.

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

(3) Upon the appointment of an experienced lawyer, the Registrar 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 Registrar 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 Registrar or a person nominated by the Registrar.

(5) If the applicant does not pay half of the estimated fee within 21 days after receipt of the Registrar'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 Registrar 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 PSC AND THE BOARD

59. Conduct of proceedings

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

(a) must act with fairness and according to equity, good conscience, natural justice 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 PSC 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 PSC.

(2) The Board must give the PSC 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 PSC 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 PSC

The Board may at any time, and from time to time, give directions to the Director or the PSC as to any further inquiries or investigation it requires to be carried out for the purposes of the reference and the Director or the PSC, 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 PSC 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.

69. Members of Board not to meet with parties

No member of the PSC 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 personal interest

(1) Where a member of the PSC or the Board has a personal interest in a matter before it the member shall be disqualified from participating in the matter.

(2) The opinion of the chair of the PSC or the presiding member of the Board, as the case may be, shall be conclusive as to whether any other member of the PSC or the Board has a personal interest in a matter.

71. Medical examination

(1) The PSC 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 PSC 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 PSC 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 PSC or the Board is satisfied that there is no reasonable likelihood that the Diocesan Tribunal would

find the respondent guilty of any offence, the PSC or the Board shall not recommend that a charge be promoted against the respondent in the Diocesan Tribunal.

74. Costs

(1) Neither the PSC 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.

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, PSC 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, PSC 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, PSC 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. Appointment

(1) There shall be a Director of Professional Standards.

(2) The Director shall be appointed by the Archbishop.

(3) The Director shall hold office on such terms and conditions as may be determined from time to time by the Archbishop.

(4) If, for any reason, the Director is unable or unwilling to exercise or perform any power, authority, duty or function of the Director under this Ordinance, the Archbishop may appoint another suitably qualified person to exercise or perform the power, authority, duty or function.

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 PSC;

(e) to attend meetings of the PSC 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 provide input into education and vocational training programs for church workers;

(i) to keep proper records of complaints, decisions, meetings, employment screening details, police checks and people affected by any allegation of misconduct;

(j) to consult and co-operate with other persons and bodies in the Church with responsibility for professional standards;

(j) to support complainants in making a report to police or child protection authorities;

(k) to report to the PSC on any recommended changes to processes, structures and education programs that would reduce the risk of misconduct; and

(l) such specific functions and duties, consistent with this Ordinance, as may be determined from time to time by the PSC.

(2) The Director must act in all things as expeditiously as possible.

84. Relationship between the Director and the Archbishop

(1) The Director is to 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 is to provide the Archbishop with such further information as the Archbishop may reasonably require.

(3) The Archbishop is to provide the Director with such information as the Director may reasonably require.

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 Director to report annually to the Standing Committee

Before 1 August each year, the Director 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 and provide a copy of the report to the Safe Ministry Board.

PART 5B – THE PROFESSIONAL STANDARDS COMMITTEE

87. Establishment of the PSC

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

88. Functions of the PSC

The PSC 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 PSC

(1) The members of the PSC shall be appointed by the Archbishop-in-Council.

(2) The members of the PSC shall hold office on such terms and conditions as may be determined from time to time by the Archbishop-in-Council.

(3) The PSC must have at least three members including the chair.

(4) The persons appointed as members of the PSC 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 PSC, such as child protection, social work or psychiatry.

(5) The PSC 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 PSC must be appointed by the Archbishop.

(7) A member of the PSC 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 PSC 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 PSC 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 PSC.

92. Conduct of business

(1) The PSC 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 PSC at the request of the Director.

(3) The procedures of the PSC shall be determined by the PSC.

(4) A majority of the members shall constitute a quorum.

(5) A decision taken other than at a meeting of the PSC, if supported by a majority of members of the PSC, constitutes a decision of the PSC.

(6) The PSC must act in all things as expeditiously as possible.

93. Validity of proceedings

An act or proceeding of the PSC 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 PSC may delegate, upon such terms and conditions as the PSC may approve, any of its functions under this Ordinance to any person.

(2) The PSC 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 PSC pursuant to a resolution of the PSC.

PART 5C – THE PROFESSIONAL STANDARDS BOARD

95. Establishment of the Board

There shall be a Professional 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 PSC 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 PSC, a member of the Board and a person employed or engaged on work related to the affairs of the PSC, 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) as may be required by law; or

(f) 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 PSC 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 PSC

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

106. Church authority may release information

The relevant Church authority may release to any person such material as the Church authority may determine with respect to any information, complaint or finding.

107. PSC reports

(1) Without disclosing the identity of any complainant or the details of any complaint, the PSC must report annually to the Synod on the operation this Ordinance and its activities for that calendar year.

(2) Notwithstanding subclause (1), the report of the PSC pursuant to that subclause may identify a church worker who has been exonerated from an allegation the 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 PSC must, in respect of every complaint with which it is dealing under this Ordinance, report either orally or in writing to the Archbishop with such frequency and as fully as the Archbishop may reasonably require.

PART 6B – INDEMNITY

108. 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 PSC;

(c) any delegate of the PSC;

(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

109. 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

110. Rights of employers

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

111. 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.

112. Service of documents

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.

113. Commencement

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

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

Chair of Committees

I Certify that this Ordinance was passed by the Synod of the Diocese of Sydney on 2017.

Secretary

I Assent to this Ordinance.

Archbishop of Sydney

/ /2017

Diocesan Tribunal Ordinance 2017

No , 2017

Long Title

An Ordinance to make provision for the Diocesan Tribunal.

The Synod of the Diocese of Sydney ordains as follows.

CHAPTER 1

PRELIMINARY

Note: *This Chapter is made under and for the purposes of the Anglican Church of Australia Constitution Act 1961 and, in particular, Chapter IX (The Tribunals) of the Schedule to that Act. In order to understand more easily the disciplinary scheme that is found partly in that Act and partly in this Ordinance, summaries of the relevant provisions of that Act are included as notes at appropriate places in this Ordinance. As the notes do not necessarily reproduce the exact text of that Act, reference should, where necessary, be made directly to that Act.*

1. Name

This Ordinance is the *Diocesan Tribunal Ordinance 2017*.

PART 1 INTERPRETATION

2. Definitions

In this Ordinance,

Tribunal means the Diocesan Tribunal.

Reportable Conduct means 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.

sexual misconduct has the same meaning as in the *Child Protection (Working with Children) Act 2012*.

3. Notes

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

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

PART 2 JURISDICTION OF THE TRIBUNAL

What is the nature of the Tribunal?

Note*: Section 54(1) of the 1961 Constitution provides that the Diocesan Tribunal is the court of the Archbishop.*

What is the jurisdiction of the Tribunal?

Note*: Section 54(2) of the 1961 Constitution 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 –*

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

Offences specified in the Offences Ordinance 1962 are –

(a) unchastity,

(b) drunkenness,

(c) habitual and wilful neglect of ministerial duty after written admonition in respect thereof by the Bishop of the Diocese,

(d) wilful failure to pay just debts,

(e) conduct, whenever occurring –

(i) which would be disgraceful if committed by a member of the clergy, and

(ii) which at the time the charge is preferred is productive, or if known publicly would be productive, of scandal or evil report,

(f) sexual abuse,

(g) child abuse,

(h) 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,

(i) grooming,

(j) inappropriate pastoral conduct involving a child, and

(k) possession, production or distribution of child exploitation material.

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.*

PART 3 CHARGES

Note: *Section 54(3) of the 1961 Constitution provides that a person appointed by the bishop of a diocese or any five adult communicant members of this Church resident within the diocese may promote a charge against any person licensed by the bishop of the diocese or against any other person in holy orders resident in the diocese in respect of breach of faith ritual or ceremonial either before the diocesan tribunal or before the provincial tribunal in its original jurisdiction. A charge be preferred against a rector of a parish with reference to an offence alleged to have been committed within that parish the promotors must be parishioners of that parish.*

Any charge relating to faith ritual or ceremonial to be heard by the tribunal must first be referred to a board of enquiry appointed by ordinance of the diocesan synod and may proceed to a hearing if the said board allows it as a charge proper to be heard.

By clause 29 of this Ordinance, Parts 2 and 3 of this Chapter apply to a charge in respect of a breach of faith, ritual or ceremonial in the same way as these Parts apply to a charge for other wrongdoing except as provided by Chapter 2.

4. Archbishop's appointee

(1) The appointment by the Archbishop of a person to make a charge is to be in writing signed by the Archbishop.

(2) The appointment continues until it is revoked in writing by the Archbishop, unless the appointment is expressed to be for the purpose of making a particular charge or charges or for a specified period of time.

5. What is the form of a charge?

(1) A charge must state –

(a) the wrongdoing that it is alleged the person has committed, and

(b) particulars of the acts or omissions alleged to constitute the wrongdoing.

(2) A charge may allege more than one wrongdoing.

(3) The allegations in the charge must be verified by statutory declaration made by the person or persons making the charge or by any other person or persons.

(4) A charge must be signed by the person or persons making the charge.

(5) A charge must include an address within the Diocese for service of documents on the person or persons making the charge.

(6) A charge may be, but does not have to be, in the form of Schedule 1, Schedule 2 or Schedule 3, to this Ordinance.

6. How is a charge made?

A charge is made by lodging a copy of the charge at the Registrar's office together with the statutory declaration or declarations verifying the allegations in the charge.

7. Is there a time limit to the making of a charge?

(1) Subject to clause 30, there is no time limit to the making of a charge.

(2) However, the Tribunal, under clause 20, may dismiss a charge for delay in making the charge.

8. Can a charge be withdrawn?

(1) The person who has or the persons who have made a charge may, with the consent of the person charged, withdraw the charge at any time before it has been referred to the Tribunal by the Registrar.

(2) The person who has or the persons who have made a charge may, with the consent of the person charged and of the Tribunal, withdraw the charge at any time after it has been referred to the Tribunal by the Registrar.

(3) In granting its consent, the Tribunal may direct that a specified person or persons be substituted for the person or persons who made the charge.

(4) A charge is withdrawn by lodging a copy of the notice of withdrawal at the office of the Registrar.

(5) The notice of withdrawal is to be signed by the person or persons making the charge and the person charged.

(6) If a charge is withdrawn, no further proceedings may be taken under this Ordinance in relation to the charge by the person or persons who made the charge.

(7) However, the withdrawal of a charge does not prevent another person or other persons from making the same or a different charge against the person named in the charge that is withdrawn.

9. Notice of the charge

As soon as practicable after a charge is made against a person, the Registrar must serve a copy of the charge on the person.

Circumstances in which the Archbishop may suspend a person from office

***Notes**:*

(1) Suspension before promotion of charge –

Section 61(2) of the 1961 Constitution provides that the Archbishop may suspend a person licensed by the Archbishop, or a person in holy orders resident in the Diocese, from the duties of office where –

(a) a charge is proposed to be promoted under this Ordinance, and

(b) the charge will not allege a breach of faith, ritual or ceremonial, and

(c) the charge relates to an offence that is punishable by imprisonment for 12 months or more of which the person has been charged or convicted or in respect of which the Archbishop has received a report from an experienced lawyer stating that there is a prima facie case of the person having committed the offence.

Section 61(3) – (6) of the 1961 Constitution provide that the period of suspension must not exceed 28 days from the date of service of the Archbishop's notice of suspension on the person unless the charge is promoted within the period of suspension, in which case the period of suspension continues until the first meeting of the Standing Committee thereafter. The Archbishop may revoke a suspension at any time during its currency. Suspension from the duties of office does not deprive a person from the benefits appertaining to the office.

(2) Suspension following promotion of charge –

Section 61(1) of the 1961 Constitution provides that where a charge has been promoted before the Diocesan Tribunal against a person licensed by the Archbishop, the Archbishop, with the concurrence of the Standing Committee, may suspend the person from the duties of his or her office until determination of the charge, or a lesser time. The Archbishop 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 Archbishop deems proper.

10. Request for answer to the charge

(1) The Registrar must serve, with the copy of the charge –

(a) a request that the person charged lodge an answer to the charge at the Registrar's office within a period of not less than 21 days specified in the Registrar's request, and

(b) general information concerning the processes under this Ordinance, the possible sanctions that might follow if the charge is proven, and the opportunities for their mitigation or suspension (all of which may be done by providing the person charged with a copy of this Ordinance), and

(c) a caution not to make any admissions without the benefit of legal advice.

(2) The Registrar may from time to time by notice in writing to the person charged extend the period specified for lodging the person's answer even though the period originally specified or any previous extension has elapsed.

11. Answer to the charge

(1) An answer to a charge must be signed by the person charged.

(2) In an answer, the person charged may do either or both of the following –

(a) admit all or any of the allegations in the charge,

(b) deny all or any of the allegations in the charge and verify such denial by way of statutory declaration lodged with the answer.

(3) The answer, together with any statutory declaration verifying the denial of all or any of the allegations in the charge, is to be lodged at the Registrar's office.

(4) The Registrar is to send a copy of the answer and any statutory declaration lodged with the answer to the person or persons making the charge.

(5) The Registrar is to notify the person or persons making the charge if the person against whom the charge is made fails to lodge an answer within the requisite period.

(6) A failure by the person against whom the charge is made –

(a) to admit in an answer any allegation in the charge, or

(b) to deny in an answer any allegation in the charge and to verify such denial by way of statutory declaration lodged with the answer,

within the requisite period for lodging an answer to a charge is taken to be a denial of the allegation within the requisite period.

12. What procedure applies if a charge (not relating to faith, ritual or ceremonial) is admitted?

(1) If any wrongdoing alleged in a charge, or part of a charge, that does not relate to faith, ritual or ceremonial, is admitted within the requisite period for lodging an answer to the charge, the Registrar is to refer the charge, or part, to the Tribunal.

(2) The Diocesan Tribunal is to make a recommendation to the Archbishop concerning the wrongdoing admitted, in accordance with section 60(1) of the 1961 Constitution.

(3) A recommendation for disciplinary action must not be made without giving the person against whom the recommendation is proposed to be made an opportunity to be heard in relation to the recommendation.

13. What procedure applies if a charge (not relating to faith, ritual or ceremonial) is denied?

If any wrongdoing alleged in a charge, or part of a charge, that does not relate to faith, ritual or ceremonial, is denied within the requisite period for lodging an answer to the charge, the charge or part must be referred by the Registrar to the Tribunal.

PART 4 PROCEEDINGS BEFORE THE TRIBUNAL

14. Right of appearance

The person charged is entitled to appear before the Tribunal personally or by a legal practitioner.

***Note**: As to the payment of the costs of legal representatives, see clause 25.*

15. Prosecution of charges by person appointed by the Director

(1) A charge is to be prosecuted by a person appointed by the Director.

(2) The person appointed by the Director has a right of appearance before the Tribunal.

16. Directions hearing

(1) If any allegation in a charge is denied, the Tribunal may hold a preliminary hearing in order to give directions concerning the conduct of the proceedings and the hearing of the charge.

(2) At a preliminary hearing, the Tribunal may be constituted by the President or a Deputy President sitting alone.

17. What happens if the person against whom the charge is made does not appear before the Tribunal?

If the person against whom a charge is made does not appear before the Tribunal, the Tribunal may hear the charge in the person's absence.

18. Public hearing

(1) A charge is to be heard in public.

(2) However, the President or, in the absence of the President, the Deputy President –

(a) may, at any time, order that a charge, or a specified part of the proceedings before the Tribunal concerning a charge, is to be heard in private, and

(b) must order that a charge, or a specified part of the proceedings before the Tribunal concerning a charge, is to be heard in private if requested to do so by 2 other members of the Tribunal.

19. Suppression of names

(1) The Tribunal may order that the name of, or other information that could lead to the identification of the person charged, or a person who appears, or is reasonably likely to appear, before the Tribunal is not to be published or broadcast, except in such circumstances as the Tribunal may authorise.

(2) An order of the Tribunal does not apply to the publication of a report authorised or required under this Ordinance.

20. Dismissal of charge

The Tribunal may dismiss a charge if it is of the opinion that the delay in making the charge causes unfairness to the person against whom the charge is made.

21. Amendment of charge

(1) The Tribunal may permit or direct an amendment to the charge, the particulars of the charge or the answer to the charge.

(2) If an amendment is made to the charge, the particulars of the charge or the answer to the charge, the Registrar is to give notice of the amendment, as soon as practicable after it is made, to the person appointed under clause 15(1), the person charged and the person or persons making the charge.

22. Onus of proof

A charge is required to be proved on the balance of probabilities.

What are the powers of the Diocesan Tribunal concerning the production of evidence?

***Note**: Section 9 of the Anglican Church of Australia Constitution Act 1961 and section 62 of the 1961 Constitution provide that, for the purpose of securing the attendance of witnesses and the production of documents and for the examination of witnesses on oath or otherwise, the Diocesan Tribunal is taken to be an arbitrator as referred to in the Commercial Arbitration Act 2010 (NSW) and has power to administer an oath or to take an affirmation from any witness and for the same purpose any party to a proceeding before it or any person permitted by it to submit evidence to it is taken to be a party to a reference or submission to arbitration within the meaning of the Commercial Arbitration Act 2010 (NSW).*

23. Other determinations in relation to complaints

(1) In dealing with a charge which contains any allegation of Reportable Conduct, the Tribunal must before making any other determination or recommendation it is empowered to make, make a finding as to whether the person engaged in any or all of the conduct the subject of each such allegation.

(2) In dealing with a complaint in respect of which information has been included on the National Register, the Tribunal must, after making any other declaration or recommendation that it is empowered to make, determine whether the complaint is false, vexatious or misconceived, or whether it is more likely than not that the subject-matter of the complaint did not occur.

Notes:

(1) Section 35(1) of the Child Protection (Working With Children) Act 2012 imposes a duty on a reporting-body (which includes the Anglican Church in New South Wales, including organisations of dioceses) to notify the Children's Guardian of the name and other identifying particulars of any child-related worker against whom the reporting body has made a finding that the worker has engaged in 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.

(2) If the Tribunal determines 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.

What recommendations may the Diocesan Tribunal make?

***Note**: Section 60(1) of the 1961 Constitution provides that the Diocesan 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 –*

- *deposition from orders,*
- *prohibition from functioning*
- *removal from office*
- *rebuke.*

The Diocesan Tribunal's recommendation is made to the Archbishop.

What action may be taken by the Archbishop concerning the Diocesan Tribunal's recommendation?

***Note**: Section 60(2) of the 1961 Constitution provides that the Archbishop is to give effect to the Diocesan Tribunal's recommendation. However, if disciplinary action is recommended, the Archbishop may consult with the Diocesan Tribunal and in the exercise of his prerogative of mercy –*

- *mitigate the disciplinary action, or*
- *suspend its operation, or*
- *mitigate the disciplinary action and suspend its operation.*

In each case, the Archbishop is to pronounce the disciplinary action recommended even though he mitigates or suspends it.

If disciplinary action or mitigated disciplinary action has been suspended and remains suspended for 2 years, the disciplinary action has no operation after the 2-year period.

24. Report of finding

(1) A determination of the Tribunal, and any recommendation made by the Tribunal, is to be contained in a report –

(a) that sets out the Tribunal's findings on material questions of fact, and

(b) that refers to any evidence or other material on which the Tribunal's findings were based, and

(c) that gives the reasons for the Tribunal's determination.

(2) The Tribunal's report is to be given to the Archbishop, any other relevant church authority, the person or persons making the charge, the person charged and, subject to subclause (3), the Standing Committee.

(3) In making a report to the Standing Committee where the charge was not found to be proven, the Tribunal should not disclose the name of, or other information that could lead to the identification of, the person charged or a person who appeared before it.

25. Costs

(1) If the person against whom the complaint is made is represented by a legal practitioner, the Tribunal may order that the person's costs of the proceedings before the Tribunal are to be paid.

(2) If the Tribunal makes such an order, the person's costs are to be paid by the Synod in accordance with the scale of costs approved for the time being by the Standing Committee on the recommendation of the Director.

26. Recommendation as to payment of witnesses expenses

The Tribunal may make a recommendation to the Director for the payment of the expenses, in an amount determined by the Tribunal, of any person who appeared as a witness before the Tribunal.

27. Tribunal procedures

The Tribunal may, subject to this Ordinance, the rules of procedural fairness and any rules made under clause 80, determine the procedures applicable for the hearing of a charge.

28. Rules

The Archbishop-in-Council may make rules for the conduct of the business of the Tribunal.

PART 5 REVIEW OF THE DECISION OF A TRIBUNAL

Can there be an appeal from a determination of the Diocesan Tribunal?

Note: *Section 59(4) of the 1961 Constitution provides that –*

- *the person who brings a charge before the Diocesan Tribunal, if dissatisfied with its determination or recommendation, or*
- *the person against whom the charge is brought, if dissatisfied with the recommendation or the disciplinary action imposed on that recommendation,*

may appeal to the Appellate Tribunal within 28 days after the making of the determination or recommendation, or the imposing of the disciplinary action, or within such further time as the President of the Appellate Tribunal may in writing allow. In the case of disciplinary action comprising the deprivation of or suspension from office, the Archbishop may, on the lodging of the notice of appeal, if he sees fit, intermit the operation of the disciplinary action.

Section 60(4) of the 1961 Constitution provides that the provisions of the Constitution with respect to an appeal from a determination of the Diocesan Tribunal extend to and authorise an appeal from a recommendation or the imposition of disciplinary action but do not extend to a ruling of the Diocesan Tribunal of an interlocutory nature.

Section 57(2) of the 1961 Constitution provides that an appeal to the Appellate Tribunal is by way of re-hearing.

CHAPTER 2

BREACHES OF FAITH, RITUAL AND CEREMONIAL

PART 1 CHARGES

Against whom may a charge be made?

***Notes**:*

(1) 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) Clause 3(3)(c) of the Church Ministry Ordinance 1993 makes the failure by a member of this Church (as provided in the 1902 Constitutions) to act in accordance with a provision of a Schedule to that Ordinance an offence. Clause 3(3)(b) of that Ordinance states that, for the purposes of section 54(2) of the 1961 Constitution, the provisions of each Schedule are each a matter of ritual, ceremonial or discipline (as the case may be).

Who may make a charge?

***Note**: Section 54(3) of the 1961 Constitution provides that a charge in respect of a breach of faith, ritual or ceremonial may be made by –*

- *a person appointed by the Archbishop, or*
- *5 adult communicant members of this Church resident within the Diocese.*

However, if the charge is made against the incumbent of a parish with respect to a breach alleged to have been committed in the parish, the 5 adult communicant members must be bona fide parishioners of the parish.

29. Making of charges generally

Except as provided by this Chapter, Parts 3 and 4 of Chapter 1 apply to a charge in respect of a breach of faith, ritual or ceremonial in the same way as those Parts apply to a charge for other wrongdoing.

30. Is there a time limit to the making of a charge?

A charge in respect of a breach of faith, ritual or ceremonial must be made within one year after the alleged commission of the breach.

PART 2 THE BOARD OF ENQUIRY

Reference of charges to the Board of Enquiry

***Note**: Section 54(3) of the 1961 Constitution provides that, before any charge relating to faith, ritual or ceremonial is heard by the Diocesan Tribunal, it must be referred to the Board of Enquiry appointed by this Ordinance. The charge may proceed to a hearing if the Board allows it as a charge that is proper to be heard.*

31. The role of the Board of Enquiry

(1) The Board of Enquiry is to inquire into a charge or part referred to it in order to determine if the charge or part is one that is proper to be heard by the Diocesan Tribunal.

(2) Evidence and representations before the Board of Enquiry are to be given by means of written statements or statutory declarations.

(3) For the purpose of enabling the Board of Enquiry to exercise its functions under this clause it, may –

(a) require the person or persons making the charge or invite the person charged to provide, by statutory declaration, information concerning the charge, and

(b) permit or direct an amendment to the charge or the particulars of the charge or the answer to the charge.

(4) A person who provides a statutory declaration may consent to it being given to any other party. If consent is not given, the Board of Enquiry may disregard the contents of the statutory declaration.

(5) If an amendment is made to the charge, the particulars of the charge, or the answer to the charge, the Registrar is to give notice of the amendment, as soon as practicable after it is made, to the person charged and to the person or persons making the charge.

(6) The Board of Enquiry may dismiss a charge if it is of the opinion that the delay in making the charge causes unfairness to the person charged.

32. Report of the Board of Enquiry

After inquiring into a charge or part of a charge referred to it, the Board of Enquiry is to report in writing to the Registrar whether or not it is of the opinion that the charge or part thereof is a charge that is proper to be heard by the Diocesan Tribunal.

33. Finding that the charge is a charge that is proper to be heard

(1) If a majority of the members of the Board of Enquiry report to the Registrar that they are of the opinion that the charge or part thereof the charge is a charge that is proper to be heard by the Diocesan Tribunal, the Registrar is –

(a) to forward the documents relating to the charge and the reports of the members of the Board of Enquiry to the Diocesan Tribunal, and

(b) to fix a date, time and place for the hearing of the charge or part thereof, and

(c) to serve notice of the date, time and place fixed for the hearing on the person or persons making the charge and the person charged –

(i) personally, or

(ii) by posting it in a letter addressed to the person or persons at the residential address of the person or persons last known to the Registrar.

(2) The date fixed for the hearing of a charge or part of a charge must not be less than 30 days after the date of the Registrar's notice.

34. Finding that the charge is not a charge that is proper to be heard

(1) If a majority of the members of the Board of Enquiry report to the Registrar that they are of the opinion that the charge or part of the charge is not a charge that is proper to be heard by the Diocesan Tribunal, the Registrar is to send a copy of the reports of the members of the Board of Enquiry to the person or persons who made the charge and the person charged.

(2) No further proceedings may be taken in relation to a charge or part of a charge to which this clause applies.

(3) However, this clause does not prevent another charge being made against the same person.

35. Report to Archbishop

The Registrar is to provide a copy of each report made to the Registrar under this Part to the Archbishop.

Can there be an appeal from a determination of the Diocesan Tribunal?

***Note**: Section 54(4) of the 1961 Constitution provides that in matters involving any question of faith, ritual, ceremonial or discipline an appeal lies from the determination of the Diocesan Tribunal to the Appellate Tribunal.*

Section 59(4) of the 1961 Constitution provides that –

- *the person who brings a charge before the Diocesan Tribunal, if dissatisfied with its determination or recommendation, or*
- *the person against whom the charge is brought, if dissatisfied with the recommendation or the disciplinary action imposed on that recommendation,*

may appeal to the Appellate Tribunal within 28 days after the making of the determination or recommendation, or the imposing of the disciplinary action, or within such further time as the President of the Appellate Tribunal may in writing allow. In the case of disciplinary action comprising the deprivation of or suspension from office, the Archbishop may, on the lodging of the notice of appeal, if he sees fit, intermit the operation of the disciplinary action.

Section 60(4) of the 1961 Constitution provides that the provisions of the Constitution with respect to an appeal from a determination of the Diocesan Tribunal extend to and authorise an appeal from a recommendation or the imposition of disciplinary action but do not extend to a ruling of the Diocesan Tribunal of an interlocutory nature.

Section 57(2) of the 1961 Constitution provides that an appeal to the Appellate Tribunal is by way of re-hearing.

CHAPTER 3

ADMINISTRATION

PART 1 TRIBUNAL

Who are the members of the Tribunal?

***Note**: Section 54(1) of the 1961 Constitution provides that the Diocesan Tribunal is to consist of –*

- *a president (who is to be the Archbishop) or a deputy president appointed by the Archbishop, and*
- *not less than 2 other members as may be prescribed by ordinance of the Synod of the Diocese.*

35. Archbishop's appointment of the Deputy President

(1) A person is qualified for appointment as the Deputy President if the person is an experienced lawyer.

(2) The appointment by the Archbishop of the Deputy President is to be in writing signed by the Archbishop.

(3) The appointment continues until it is revoked in writing by the Archbishop unless the appointment is expressed to be for the purpose of hearing a particular charge or charges or for a specified period of time.

36. Constitution of the Tribunal for the purpose of hearing and determining a charge

(1) Subject to subclauses (2) and (3), for the purpose of hearing and determining a charge the Tribunal is to be constituted by –

(a) the President or the Deputy President, and

(b) one member of the Tribunal who is a member of the clergy appointed by the Registrar, and

(c) one member of the Tribunal who is a lay person appointed by the Registrar.

(2) For the purpose of hearing and determining a charge alleging an offence of child abuse or sexual abuse or an offence under clause 10, the Tribunal is to include at least one man and one woman.

(3) For the purpose of hearing and determining a charge alleging a breach of faith, ritual or ceremonial, the Tribunal may be constituted by all its members.

(4) Nothing in this clause affects clause 16.

37. Election of members

(1) During the first session of each Synod, the members of Synod voting collectively are to elect 5 members of the clergy, each of whom has been a member of the clergy for not less than 10 years, and 5 lay persons to be members of the Tribunal.

(2) The members of the Tribunal elected by the Synod must include at least two experienced lawyers and at least two men and two women.

38. Term of office

(1) An elected member of the Tribunal holds office until the member's successor is elected or until the office is vacated.

(2) However, if a member's successor is elected after the Tribunal has commenced hearing a charge and before the Tribunal's recommendation concerning the charge is made, the member continues to hold office until the recommendation is made.

39. Casual vacancies

The office of an elected member of the Tribunal is vacated if –

(a) the member –

(i) dies, or

(ii) resigns by notice in writing given 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 Standing Committee declares, by resolution with a majority of not less than two-thirds of the members of the Standing Committee present and entitled to vote, the member's office to be vacated because of the member's refusal, neglect or inability to perform functions as a member or because of any other reason so declared.

40. How are casual vacancies filled?

(1) The Standing Committee is to appoint a member of the clergy or a lay person (as the case requires) to fill a casual vacancy in the office of an elected member of the Tribunal.

(2) A person appointed under this clause holds office for the balance of his or her predecessor's term of office, subject to clauses 38(2) and 39.

41. Ineligibility of members of the Board of Enquiry

A person who is a member of the Board of Enquiry is not eligible to be a member of the Tribunal.

42. Disqualification of certain members from hearing charges

(1) An elected member is disqualified from hearing a charge that concerns the member or where the member is the person or a person who has made a charge.

(2) If an elected member is disqualified under this clause, a person is to be appointed for the purpose only of hearing the particular charge in the same way as if the disqualified member had vacated office.

43. Decision of the Tribunal

A decision supported by a majority of the votes of the members who constitute the Tribunal is a decision of the Tribunal.

44. Voting on certain questions of evidence or procedure

The President or, in the absence of the President, the Deputy President has a casting vote as well as a deliberative vote if voting on a question of evidence or procedure is equal.

PART 2 BOARD OF ENQUIRY

45. Election of members

During the first session of each Synod, the members of Synod voting collectively are to elect 1 member of the clergy and 2 lay persons to be members of the Board of Enquiry.

46. Appointment of members

(1) The Archbishop is to appoint 1 member of the clergy and 1 layperson to be members of the Board of Enquiry.

(2) Each appointment is to continue until revoked in writing by the Archbishop unless the appointment is expressed to be for the purpose of hearing a particular charge or charges or for a specified period of time.

47. Term of office

(1) A member of the Board of Enquiry holds office until the member's successor is appointed or elected or until the office is vacated.

(2) However, if a member's successor is appointed or elected after the Board of Enquiry has commenced an inquiry into a charge or part of a charge and before the Board of Enquiry's report of its inquiry is made, the member continues to hold office until the report is made.

48. Casual vacancies

The office of a member of the Board of Enquiry 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) in the case of a member elected by Synod, the Standing Committee declares, by resolution with a majority of not less than two-thirds of the members of the Standing Committee present and entitled to vote, the member's office to be vacated because of the member's refusal, neglect or inability to perform functions as a member or because of any other reason so declared, or

(c) in the case of a member appointed by the Archbishop, the Archbishop revokes the appointment.

49. How are casual vacancies filled?

(1) In the case of a person elected by Synod, the Standing Committee is to appoint a member of the clergy or a lay person (as the case requires) to fill a casual vacancy in the office of a member of the Board of Enquiry.

(2) A person appointed under this clause holds office for the balance of his or her predecessor's term of office, subject to clauses 48(2) and 49.

50. Disqualification of certain members from inquiring into charges

(1) A member is disqualified from inquiring into a charge or part of a charge that concerns the member or where the member is the person or a person who has made the charge.

(2) If a member is disqualified under this clause, a person is to be appointed for the purpose only of inquiring into the particular charge or part of the charge in the same way as if the disqualified member had vacated office.

51. Quorum

The quorum for a meeting of the Board of Enquiry is 3 members, one of whom is a member of the clergy and two of whom are lay persons.

52. Commencement

Except for this clause, this Ordinance commences on the date determined under clause 113 of the *Ministry Standards Ordinance 2017*.

SCHEDULE 1

Diocesan Tribunal
Charge
(Made by a person appointed by the Archbishop)

I, of , having been appointed by the Archbishop of Sydney under clause 4 of the *Diocesan Tribunal Ordinance 2017*, claim that
of ,
being one or more of the following:

* a person licensed by the Archbishop of Sydney
* a person in holy orders resident in the Diocese of Sydney
* a member of the clergy, the act of whom which gave rise to this charge occurred in the Diocese of Sydney
* a member of the clergy who was licensed by the Archbishop of Sydney or was resident in the Diocese of Sydney within 2 years before this charge was laid
* a member of the clergy who is in prison as a convicted person at the time this charge is laid, but within 2 years before such imprisonment was licensed by the Archbishop of Sydney or was ordinarily resident in the Diocese of Sydney,

has committed

* the following offence, namely
* a breach of faith/ritual/ceremonial/discipline

(* *delete whichever are not applicable*)

particulars of which are:

Signed:

Date:

The address at which documents may be served on the person making this charge is:

SCHEDULE 2

Diocesan Tribunal

Charge

(Made by 5 adult communicant members of the Church resident within the Diocese except where the charge is against an incumbent of a parish and relates to a breach of faith, ritual or ceremonial alleged to have been committed in the parish)

We,

1. of
2. of
3. of
4. of
5. of

being adult communicant members of the Anglican Church of Australia (within the meaning of the Anglican Church of Australia Constitution Act 1961) resident within the Diocese of Sydney claim that

of , being

* a person licensed by the Archbishop
* a person in holy orders resident in the Diocese of Sydney

has committed a breach of faith/ritual/ceremonial/discipline (**delete whichever is not applicable*) particulars of which are:

Signed:

Date:

The address at which documents may be served on the persons making this charge is:

SCHEDULE 3

Diocesan Tribunal

Charge

(Made by 5 adult communicant members of the Church resident within the Diocese where the charge is against a rector of a parish and relates to a breach of faith, ritual or ceremonial alleged to have been committed in the parish and where such members are bona fide parishioners of that parish)

We,

1. of
2. of
3. of
4. of
5. of

being adult communicant members of the Anglican Church of Australia (within the meaning of the *Anglican Church of Australia Constitution Act 1961*) resident within the Diocese of Sydney and being bona fide parishioners (within the meaning of that Act) of the parochial unit consisting of the Parish/Provisional Parish/Recognised Church of

claim that of

, being

- a person licensed by the Archbishop,
- a person in holy orders resident in the Diocese of Sydney

has committed in and while the rector of the pastoral division a breach of faith/ritual/ceremonial particulars of which are:

Signed:

Date:

The address at which documents may be served on the persons making this charge is:

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

Chair of Committees

I Certify that this Ordinance was passed by the Synod of the Diocese of Sydney on 2017.

Secretary

I Assent to this Ordinance.

Archbishop of Sydney

/ /2017

Professional Standards Transition Ordinance 2017

No , 2017

Long Title

An Ordinance to make transitional arrangements for the *Ministry Standards Ordinance 2017* and the *Diocesan Tribunal Ordinance 2017*.

The Synod of the Diocese of Sydney ordains as follows.

1. Name

This Ordinance is the *Professional Standards Transition Ordinance 2017*.

2. Interpretation

For the purposes of this Ordinance:

"Commencement Date" means the date determined under clause 113 of the Ministry Standards Ordinance;

"Complaint" means:

(a) prior to the Commencement Date – a complaint under the Discipline Ordinance, and

(b) after the Commencement Date – a complaint under the Ministry Standards Ordinance;

"Diocesan Tribunal Ordinance" means the *Diocesan Tribunal Ordinance 2017;*

"Director" means the Director of Professional Standards of the Diocese of Sydney;

"Discipline Ordinance" means the *Discipline Ordinance 2006; and*

"Ministry Standards Ordinance" means the *Ministry Standards Ordinance 2017.*

3. Transitional provisions – complaints

(1) The Discipline Ordinance continues to apply to complaints received by the Director prior to the Commencement Date which have not been finally dealt with under the Discipline Ordinance.

(2) Notwithstanding the provisions of the Discipline Ordinance or any other ordinance, a person may not make a new complaint under the Discipline Ordinance on or after the Commencement Date.

(3) The Ministry Standards Ordinance and the Diocesan Tribunal Ordinance apply to complaints received by the Director on or after the Commencement Date.

4. Transitional provisions – office holders

(1) The person holding office as the Director under the Discipline Ordinance immediately before the Commencement Date is taken to have also been appointed as the Director under Ministry Standards Ordinance and hold office on the same terms and conditions as those which applied under the Discipline Ordinance immediately before the Commencement Date.

(2) The persons holding office as the members of the Professional Standards Committee immediately before the Commencement Date are taken to have also been appointed as the members of the Professional Standards Committee under Ministry Standards Ordinance and hold office on the same terms and conditions as those which applied under the Discipline Ordinance immediately before the Commencement Date.

(3) The persons holding office as the members of the Diocesan Tribunal under the Discipline Ordinance immediately before the commencement of the Ministry Standards Ordinance are taken to have also been appointed as the members of the Diocesan Tribunal under the Diocesan Tribunal Ordinance and hold office on the same terms and conditions as those which applied under the Discipline Ordinance immediately before the Commencement Date.

(4) The persons holding office as the members of the Board of Enquiry under the Discipline Ordinance immediately before the commencement of the Ministry Standards Ordinance are taken to have also been appointed as the members of the Board of Enquiry under the Diocesan Tribunal Ordinance and hold office on the same terms and conditions as those which applied under the Discipline Ordinance immediately before the Commencement Date.

5. Appointment of the Panel for the Professional Standards Board

As soon as practicable after the Commencement Date, the Archbishop-in-Council is to appoint persons to be members of the panel for the Professional Standards Board.

6. Repeal of the Discipline Ordinance 2006

The Discipline Ordinance is repealed with effect from the date determined by the Archbishop on the advice of the Chancellor. The repeal does not affect or invalidate any act done under the Discipline Ordinance.

7. Commencement

5 Except for this clause, this Ordinance commences on the Commencement Date.

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

Chair of Committees

I Certify that this Ordinance was passed by the Synod of the Diocese of Sydney on 2017.

Secretary

I Assent to this Ordinance.

Archbishop of Sydney

/ /2017

Synod and Standing Committee Membership Amendment Ordinance 2017

Explanatory Report

Key Points

- It is proposed to increase from 5 to 7 the number of organisations the Standing Committee may declare as Nominated Organisations under Part 6 of the *Synod Membership Ordinance 1995*(the "1995 Ordinance").
- It is proposed to remove the CEO of the Sydney Diocesan Secretariat ("SDS") as an ex-officio member of the Standing Committee under the *Standing Committee Ordinance 1897* (the "1897 Ordinance") and enable the Standing Committee to appoint as a member of the Standing Committee one CEO of an organisation eligible to be declared a Nominated Organisation under Part 6 and who is a member of the Synod.

Purpose of the bill

1. The purpose of the bill for the *Synod and Standing Committee Membership Amendment Ordinance 2017* (the "bill") is to amend the 1995 Ordinance and the 1897 Ordinance with respect to the membership of the Synod and the Standing Committee.

Recommendations

2. That Synod receive this report.

3. That Synod pass the bill as an ordinance of the Synod.

Background

4. At its meeting on 29 May 2017, the Standing Committee considered the nomination of organisations for the 51st Synod under Part 6 of the 1995 Ordinance. Currently, Part 6 provides for a maximum of five organisations that can be nominated.

5. At that meeting, the Standing Committee deferred the declaration of any nominated organisations and appointed a committee ("the Committee") comprising Archdeacon Kara Hartley, Mr Doug Marr, the Rev Gavin Poole, Dr Laurie Scandrett and Dr Robert Tong, to review the number of nominated organisations to be summoned to the Synod under Part 6, and the desirability of including the CEO of SDS under Part 9 of the 1995 Ordinance.

6. The Standing Committee considered the Committee's recommendations at its meetings on 31 July and 28 August 2017.

7. During its consideration of the Committee's recommendations, the Standing Committee declared the following five organisations to be nominated organisations for the 51st Synod –

Anglican Community Services (Anglicare)

Anglican Media

Anglican Schools Corporation

Anglican Youth and Education Diocese of Sydney (Youthworks)

Evangelism and New Churches

Membership of Synod under Part 6 of the 1995 Ordinance

8. The Committee spent time considering Part 6 membership of the Synod (Nominated Organisations). The 1995 Ordinance does not currently specify the purpose of membership of Synod under Part 6. The Committee agreed that the following two characteristics are logically desirable for any organisation nominated under Part 6 –

(a) the organisation is established by ordinance of the Synod, and

(b) the organisation makes a distinctive contribution to the work of the Diocese.

9. The Committee took the view that, in accordance with these desirable characteristics, nominated organisations would typically have staff and would not usually be individual schools.

10. The Committee noted that apart from Moore Theological College whose Principal is an ex officio member of Synod under Part 9, there are currently nine Diocesan organisations with staff, excluding schools, listed in the Diocesan Year Book which may be nominated under Part 6. These 9 organisations are shown in

the following table, which also indicates the current Synod membership status of the person likely to be nominated as CEO for the purposes of Part 6 –

Organisation	Person who is expected to be nominated as CEO for Synod membership purposes
The Archbishop of Sydney's Anglican Aid	The Rev David Mansfield *Nominated under Part 7*
Anglican Education Commission	Vacant (Acting CEO Dr Julie Matthews)
Anglican Community Services (Anglicare)	Mr Grant Millard
Anglican Media	Mr Russell Powell
Anglican Schools Corporation	Mr Ross Smith
Anglican Youth and Education (Youthworks)	From 2018: The Rev Craig Roberts (Interim CEO Dr Laurie Scandrett, *currently appointed under Part 5*)
Evangelism and New Churches	The Rev Philip Wheeler
Ministry Training and Development	The Rev Gary O'Brien *Nominated under Part 7*
Sydney Diocesan Secretariat	Vacant (Acting CEO Mr Robert Wicks, *a member under Part 9 as Diocesan Secretary*)

11. Of the nine organisations, four currently rely on representation from membership of Synod other than membership under Part 6. Two of those organisations are in turn represented on Synod by Interim or Acting CEOs and it is reasonable to assume that the relevant appointments will shortly be made to these organisations and as a consequence, they may not be represented on Synod.

12. Noting that since 2003 and up until 2016, seven organisations could be nominated under Part 6, the committee agreed on the desirability of providing a mechanism where each of the nine organisations that meet the characteristics outlined in paragraph 8 could be provided membership. Ultimately, however, the Committee determined that in most circumstances allowing up to 7 organisations to be nominated under Part 6 should allow all 9 organisations appropriate representation given the likelihood that at least two will have representatives who are members of Synod other than by Part 6.

13. The Committee recommended to the Standing Committee that Part 6 be modified as follows –

(a) insert the text "established by ordinance" in clauses 23 and 24, following the first occurrence of "organisation" in each clause, and

(b) amend 25(1) to read, "Standing Committee may only make a declaration under clause 24 for up to 7 diocesan boards, departments, or organisations for the same Synod in respect of which the Standing Committee proposes making the declaration."

Appointment of the CEO of SDS as ex-officio member of Standing Committee

14. The Committee also considered the membership of the CEO of SDS on Standing Committee. The CEO of SDS is the only ex-officio member of Standing Committee who is not also an ex-officio member of Synod. SDS has been a nominated member of Synod under Part 6 of the Ordinance since 1996, however it seems inconsistent that the CEO of SDS is a member of Standing Committee, but is not necessarily also a member of Synod.

15. The CEO of SDS is the head of the Synod's service organisation, and can provide important information in relation to matters for which SDS is responsible, including managing the investments of the GAB. Accordingly, it seems likely that any CEO of SDS would continue as a valuable contributor to the work of the Standing Committee. However, noting –

(a) the recent separation of the Glebe Administration Board from the Board of the SDS,

(b) the possibility that the CEO of SDS may also be the Diocesan Secretary (and therefore a member of Standing Committee by virtue of that office), and

(c) that a valuable contribution to Standing Committee may in future be made by the CEO of another Diocesan Organisation,

the Committee recommended to Standing Committee that the 1897 Ordinance be amended to –

(i) remove the ex-officio membership of the CEO of Sydney Diocesan Secretariat,

(ii) provide that the Standing Committee may appoint by resolution one CEO of an organisation eligible for election under Part 6, who is a member of Synod, as a member of Standing Committee for the duration of a Synod, and

(iii) provide that the Standing Committee may revoke this membership by resolution.

16. Such a modification to the membership of Standing Committee does not increase membership, while allowing greater flexibility. This amendment also ensures that the CEO appointed in this position is necessarily also a member of Synod representing a Diocesan Organisation.

For and on behalf of the Standing Committee

ROBERT WICKS
Diocesan Secretary

31 August 2017

Synod and Standing Committee Membership Amendment Ordinance 2017

No , 2017

Long Title

An Ordinance to amend the Synod Membership Ordinance 1995 and the Standing Committee Ordinance 1897.

The Synod of the Diocese of Sydney Ordains as follows.

1. Name

This Ordinance is the Synod and Standing Committee Membership Amendment Ordinance 2017.

2. Amendment of the Synod Membership Ordinance 1995

The Synod Membership Ordinance 1995 is amended as follows –

(a) delete the first occurrence of the words "board, department or organisation" in clause 23 and insert the words "organisation established by ordinance",

(b) delete each occurrence of the words "board, department or" in clause 23(a), clauses 24, 26, 29 and in the definitions for "Chief Executive Officer" and "Nominated Organisation" in the Dictionary,

(c) delete the word "boards" in the heading for Division 2 of Part 6 and insert instead "organisations",

(d) delete the word "board" in the headings for clauses 24 and 26 and insert instead "organisation", and

(e) delete subclause 25(1) and insert instead the following –

"(1) Standing Committee may only make a declaration under clause 24 for up to 7 diocesan organisations for the same Synod in respect of which the Standing Committee proposes making the declaration.".

3. Amendment of the Standing Committee Ordinance 1897

The Standing Committee Ordinance 1897 is amended as follows –

(a) delete the matter ", the Chief Executive Officer of Sydney Diocesan Secretariat" from paragraph 1A(1)(a),

(b) insert a new paragraph 1A(1)(g) as follows –

"(g) 1 Chief Executive Officer of a board, department or organisation eligible to be declared a Nominated Organisation under Part 6 of the Synod Membership Ordinance 1995, who is a member of Synod, appointed by resolution of the Standing Committee."

(c) insert a new subclause 1A(4) as follows, with consequential renumbering –

"(4) The member appointed under paragraph 1(g) holds office until the first day of the first session of the next Synod.", and

(d) insert a new subclause 1A(5) as follows, with consequential renumbering –

"(5) The Standing Committee may revoke the membership of the member appointed under paragraph 1(g) by resolution at any time."

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

Chair of Committees

I Certify that this Ordinance was passed by the Synod of the Diocese of Sydney on 2017.

Secretary of Synod

I Assent to this Ordinance.

Archbishop of Sydney

/ /2017

Assistant Ministers Ordinance 2017

Explanatory Report

Key Points

- The Bill sets out terms for the appointment of deacons and presbyters to assist rectors of parishes.
- The Bill will provide for rectors, with the concurrence of the wardens, to issue notices terminating the appointment of and the payment of stipends/entitlements to assistant ministers and senior assistant ministers.
- The Bill sets out a process that must be followed before such a notice of termination may be issued.
- The Bill will not continue the practice whereby an assistant minister's ceases to hold office 90 days after the appointment of a new rector to the parish if the new rector does not apply to the Archbishop for a continuation of the licence in that period.

Purpose of the bill

1. The purpose of the bill for the *Assistant Ministers Ordinance 2017* ("the Bill") is to replace the existing ordinance on the same subject matter and to make changes to the process for issuing notices of termination to assistant ministers and senior assistant ministers.

Recommendations

2. That Synod receive this report.

3. That Synod pass the bill as an ordinance of the Synod.

Evidence Given

4. The Bill sets out terms for the appointment of deacons and presbyters to assist rectors of parishes. If passed, it will replace the existing *Assistant Ministers Ordinance 1990 (the* "Existing Ordinance").

Clause 2 - Definition of terms

5. The Existing Ordinance defines certain terms by reference to the *Deaconess, Readers and Other Lay Persons Ordinance 1981.* That ordinance has been replaced by the *Authorisation of Lay Ministry Ordinance 2015* (the "2015 Ordinance"). There are no definitions in this 2015 Ordinance that need to be incorporated in the Bill. The reference to the *Interpretation Ordinance 1985* in clause 2(2) is not necessary, except to draw attention to the application of this ordinance.

6. References to "authorisations" in the definitions of "assistant minister" and "senior assistant minister" (and throughout the ordinance) will be deleted to accord with the 2015 Ordinance and the present practice to issue 'licences' to clergy and 'authorities' to lay people.

Subclause 3(1) and 3(2) – Issuing notices to terminate an appointment

<u>The Existing Ordinance</u>

7. Under clause 3(1) of the Existing Ordinance, an assistant minister and senior assistant minister holds office subject to:

(a) the term of his or her licence, and

(b) written notice of the termination of any stipend, emolument or perquisite to which the minister is entitled "given by or on behalf of the persons who pay or provide the same."

8. Interpreting the effect of clause 3(1) is not straightforward.

9. Under rule 3.7(1)(e) of Schedule 1 of the *Parish Administration Ordinance 2008*, the wardens who have the function:

> "…to pay or provide to the persons entitled to receive them all such stipends, salaries, allowances and benefits as are authorised by the parish council to be paid or provided in accordance with the powers conferred by this or any other ordinance,".

10. This rule adopts the same language as clause 20(1)(j) of the *Church Administration Ordinance 1990* (now repealed).

11. Clause 3(2)(b)(iii)(D) of the Existing Ordinance may evidence an assumption that it is the rector or the parish council of a parish that ordinarily pays or provides stipends etc to assistant ministers. However it is difficult to read clause 3(1) as empowering rectors or parish councils to issue notices of termination given the clear language of the *Parish Administration Ordinance 2008* that wardens "pay or provide" stipends etc.

Rectors also do not have any role in paying or providing stipends etc to assistant ministers under the present ordinances and rules of the Diocese.

12. One reading could be that the wardens act as the representative of the parish council in that it is the parish council that authorises the payment or provision of stipends etc. However such an interpretation overlooks clause 3(4) of the Existing Ordinance which requires the parish council to be consulted before a notice of termination is issued to a senior assistant minister. This suggests it is not the parish council that issues the notice.

13. All told, the most reasonable interpretation is that the wardens of the principal or only church of a parish are empowered to issue notices under clause 3(1) of the Existing Ordinance, subject to consulting the parish council in the case of a senior assistant minister. It is expected that in practice, the wardens would tend to consult more widely, if not seek the approval of the rector and the parish council, but it is not presently a requirement that wardens do so.

14. There have been some situations where there has been significant conflict between the rector, parish council, wardens and assistant minister in relation to who can issue notices of termination and the procedures to be followed before doing so. The indirect manner in which clause 3(1) of the Existing Ordinance is drafted does not assist.

The Bill

15. Presently assistant ministers and senior assistant ministers are issued licences that are not subject to any time limit. This means that once a rector nominates an assistant minister or senior assistant minister and that licence is granted, the appointment will only come to an end if the assistant minister or senior assistant minister dies or resigns, a notice of termination is issued by the wardens under the Existing Ordinance, the office ceases 90 days following a new rector being appointed, or the licence is revoked pursuant to an ordinance of the Diocese (such as in the case of a recommendation under a professional standards process). Arguably, rectors should have more direct say in the continued appointment of the clergy who assist them in their parish ministry.

16. Clause 3(1) of the Bill will provide that notices of termination are issued by the rector with the concurrence of the wardens of the principal or only church of the parish, irrespective of whether or not the member of clergy is an assistant minister or a senior assistant minister. This means that the rector will be able to initiate a termination but needs to convince the wardens that termination is appropriate in the circumstances. The parish council could also be involved, though this would not be a requirement.

17. It could be considered that this exposes the wardens and the parish council to financial vulnerability given they are responsible for meeting the cost of paying the parish clergy, and yet would have no direct way of ensuring that the staffing levels of the parish are financially sustainable. However the parish council has other options available to it in such circumstances given its function of setting stipends, authorising payments and setting the budget.

Subclause 3(2) – The process for issuing notices to terminate an appointment

18. Clause 3(3) of the Bill sets out a process that must be followed before a notice of termination can be issued. The core requirements of the clause are to ensure that –

(a) there is a valid reason for the notice being issued (namely, unsatisfactory conduct, performance or capacity; that the position will no longer be funded; or the ministry needs of the parish as determined by the rector);

(b) assistant ministers and senior assistant ministers are given a formal opportunity to understand any grounds or reasons for the proposal and that a notice may be issued under the Ordinance if they are not addressed; and

(c) assistant ministers and senior assistant ministers are given a reasonable opportunity to provide a response and have that response taken into account in the rector and wardens reaching a decision.

19. Termination of the appointment of an assistant minister can result in conflict between the rector and the assistant minister. Often this is because the assistant minister is unaware their appointment is to be terminated, or insufficiently aware of the grounds for termination. This Bill seeks to provide some help to all parties by providing a clearer process that demonstrates the reasonableness of the actions being taken.

20. This Bill provides opportunity for assistant ministers to improve their performance. This may mean giving the assistant minister specific direction as to what is expected from them in terms of performance in future or providing them with particular training.

21. The Bill will require the regional bishop to be notified before a notice of termination is issued (clause 3(3)(a)). This will provide an opportunity for the regional bishop to confer with the rector in relation to the

decision. It will also mean that the bishop can provide informed support and guidance to the assistant minister or senior assistant minister following any termination.

22. The provision in the Existing Ordinance (clause 3(3)) that a notice must not be given to a senior assistant minister within 3 months of being licensed or appointed is not replicated in the Bill. The process outlined above replaces the need for a qualifying period before a termination can arise.

Clause 4 – Responsibility of the parish council

23. This clause replicates the equivalent clause in the Existing Ordinance, except that the requirement for the parish council to "raise funds" has been replaced with responsibility to "set and pay" the stipend etc.

Clause 5 – Undertaking by rector

24. This clause replicates the equivalent clause in the Existing Ordinance.

Clause 6 – Procedure on occurrence of a vacancy

25. Under the Existing Ordinance (clause 6) an assistant minister (but not a senior assistant minister) ceases to hold office 90 days after a new rector is licensed to the parish unless the assistant minister has resigned earlier or the new rector applies to the Archbishop for continuation of the licence before the 90 days elapse. If the continuance is not sought, the assistant minister's licence ceases, the assistant minister is then unlicensed.

26. The equivalent clause in the Bill reverses this provision so that an assistant minister continues to hold office after a new rector is licenced to the parish and any obligations set out in the licence of the assistant minister or agreements with the prior rector, the Archbishop and the parish council continue to apply. This is subject to the other provisions of the Bill. The rector will be able to initiate a termination process under clause 3(3) at any time based on unsatisfactory performance, conduct or capacity, or that the assistant minster position is no longer required, or will no longer be funded, or the ministry needs of the parish as determined by the rector no longer require the assistant minister.

27. It is understood that rectors very rarely (if ever) use the existing 90 day provision to terminate the appointment of an assistant minister. The changes provided in the Bill align more with our practice, while still recognising the fact that a rector may not work effectively with a particular individual and may choose to terminate their appointment subject to having a valid reason and following a proper process.

Clause 7 - Guidelines

28. Clause 7 provides for the Archbishop-in-Council to issue guidelines with respect to the termination of appointments under the Bill.

29. Subclause 3(3) sets out broad parameters for a termination process. There may be a need for non-binding guidelines to assist rectors and parish councils in determining the most appropriate practices to follow in a given circumstance. Clause 3(3)(f) will require the rector and parish council to have due regard to any guidelines issued by the Archbishop-in-Council concerning the termination of appointments (also see clause 7). Guidelines are yet to be drafted.

Clause 8 –Commencement, repeal and transitional

30. Clause 8 commences the Bill on 1 January 2018. It also repeals the Existing Ordinance with effect from the same date, subject to a transitional arrangement that provides for the Existing Ordinance to continue to apply in the case of:

(a) a notice of termination issued prior to 1 January 2018, and

(b) a new rector being appointed in a parish prior to 1 January 2018.

For and on behalf of the Standing Committee

ROBERT WICKS
Diocesan Secretary

18 September 2017

Assistant Ministers Ordinance 2017

No , 2017

Long Title

An Ordinance to provide terms for the appointment of deacons and presbyters to assist rectors of parishes.

Preamble

Whereas it is expedient to make further provision for the terms of appointment of deacons and presbyters appointed to assist rectors of parishes.

The Synod of the Diocese of Sydney ordains as follows.

1. Name

This Ordinance is the *Assistant Ministers Ordinance 2017*.

2. Definition of terms

(1) In this Ordinance -

"assistant minister" means a deacon or presbyter licensed by the Archbishop to the office of assistant minister in a parish and does not include a senior assistant minister;

"senior assistant minister" means:

(a) a deacon or presbyter who has served:

(i) as an assistant minister in the Diocese; or

(ii) in an equivalent office in another Diocese,

for a period of at least 4 years or periods, which in aggregate total at least 4 years, and who is licensed by the Archbishop, at the request of the rector and the parish council of the parish, to the office of senior assistant minister in the parish; or

(b) a presbyter who has served:

(i) as a rector in the Diocese; or

(ii) in an equivalent office in another Diocese,

who is licensed by the Archbishop, at the request of the minister and the parish council of the parish, to the office of senior assistant minister in the parish.

(2) Any terms appearing in the Schedule to the *Interpretation Ordinance 1985* are defined by reference to the meaning set out in that Ordinance.

3. Term of Appointment

(1) An assistant minister or a senior assistant minister holds office subject to:

(a) the terms of his or her licence; and

(b) where the assistant minister or the senior assistant minister is paid a stipend or is entitled to any other benefit or allowance, written notice of the termination of the appointment and the payment of such stipend and provision of such entitlement given by the rector with the concurrence of the wardens of the principal or only church of the parish in which the assistant minister or senior assistant minister holds office.

(2) For the purposes of clause 3(1)(b), notice is due notice if:

(a) in the case of an assistant minister, the period of notice is at least 3 months; and

(b) in the case of a senior assistant minister, the period of notice is the longest of:

(i) 3 months; or

(ii) the period of notice, to a maximum period of 9 months, calculated at the rate of one month's notice for each year (or part thereof) of continuous service as assistant minister or senior assistant minister, or both, in that parish; or

(iii) such other period of notice, if any, which, at the time the senior assistant minister was licensed as senior assistant minister, was agreed for the purposes of this clause between the senior assistant minister and -

(A) the Archbishop; and

(B) the rector of the parish; and

(C) the parish council.

(3) Notice must not be given under clause 3(1)(b), unless:

(a) the regional bishop of the region within which the parish is situated has been notified of the proposal to issue the notice; and

(b) the notice is proposed to be given due to -

(i) unsatisfactory conduct, performance or capacity on the part of the assistant minister or senior assistant minister;

(ii) the parish council determining that the office held by the assistant minister or senior assistant minister will no longer be funded; or

(iii) other reasons determined by the rector having regard to the ministry needs of the parish; and

(c) the assistant minister or senior assistant minister has been given a written statement containing –

(i) particulars of the grounds or reasons under clause 3(3)(b), and

(ii) in the case of unsatisfactory conduct, performance or capacity that is not serious misconduct: a warning that a notice may be issued under clause 3(1)(b) if the relevant conduct is not addressed; and

(d) the assistant minister or senior assistant minister has been given a reasonable period in which to provide a written response to the statement of particulars; and

(e) the rector and wardens have considered any response given by or on behalf of the assistant minister or senior assistant minister within the period; and

(f) the rector and wardens have given due regard to any guidelines issued by the Archbishop-in-Council under clause 7.

4. Responsibility of parish council

Where an assistant minister or senior assistant minister is appointed to assist the rector in a parish with the assent of the parish council thereof, it is the responsibility of that parish council to set and pay the stipend and provide any other benefits or allowances, to be paid to or provided for the assistant minister or senior assistant minister until the appointment is terminated.

5. Undertaking by rector

Nothing in this Ordinance prevents the Archbishop from requiring an undertaking of the rector whom the assistant minister or senior assistant minister will assist concerning the work to be undertaken by the assistant minister or the senior assistant minister, as the case may be, or any other matter relating to the office to be exercised by the assistant minister or the senior assistant minister, as the case may be.

6. Procedure on occurrence of vacancy

(1) Should a vacancy occur in a parish an assistant minister continues to hold office in that parish after the new rector is licensed to that parish subject to the provisions of this Ordinance.

(2) Subject to clause 3, the term of office of a senior assistant minister does not cease by reason only of a vacancy occurring in the parish or upon a new minister being appointed to the parish and, in accepting an appointment to the parish, the new rector is taken to have:

(a) adopted any obligation on the part of a former rector of the parish expressed in the senior assistant minister's licence as if the new rector was named in the licence as the person subject to that obligation; and

(b) adopted any agreement in relation to the office of the senior assistant minister made between the former rector and the senior assistant minister with the approval of:

(i) the Archbishop; and

(ii) the parish council of the parish.

7. Guidelines

The Archbishop-in-Council may issue guidelines with respect to the termination of appointments under this Ordinance.

8. Commencement, repeal and transitional

(1) Except for this clause, this Ordinance commences on 1 January 2018.

(2) The *Assistant Ministers Ordinance 1990* is repealed on 1 January 2018.

(3) Notwithstanding subclause (2) and subject to subclause (4), an assistant minister or a senior assistant minister will cease to hold office in accordance with the provisions of the *Assistant Ministers Ordinance 1990* as if that Ordinance had not been repealed if, before 1 January 2018:

(a) a valid notice was issued under clause 3(1) of the *Assistant Ministers Ordinance 1990*, or

(b) a new rector was licensed to the same parish to which the assistant minster was also licensed at the time and 90 days have not elapsed since the licence was issued to the rector.

(4) For the purposes of subclause (3), "office" means the office of assistant minister or senior assistant minister in a parish that was held by the member of clergy on 1 January 2018.

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

Chair of Committees

I Certify that this Ordinance was passed by the Synod of the Diocese of Sydney on 2017.

Secretary

I Assent to this Ordinance.

Archbishop of Sydney

/ /2017

24/16 Domestic Violence

(A report from the Domestic Violence Task Force.)

Purpose

1. The purpose of this report is to inform the Synod about progress in the work of the Domestic Violence Task Force, and to recommend adoption of a Provisional Domestic Abuse Policy and Good Practice Guidelines.

Recommendations

2. Synod receive this report and the accompanying *Responding to Domestic Abuse: Provisional Policy and Good Practice Guidelines* (the "Domestic Abuse Response").

3. Synod pass the *Provisional Sydney Anglican Policy on Responding to Domestic Abuse* (set out in Section 1 of the Domestic Abuse Response) (the "Provisional Policy") as a policy of the Synod.

4. If the Provisional Policy is passed as a policy of the Synod, that Synod consider passing the following motion to be moved "by request of Standing Committee" –

"Synod, noting –

(i) the report *24/16 Domestic Violence* (the "Report"), and

(ii) the accompanying document *Responding to Domestic Abuse: Provisional Policy and Good Practice Guidelines* (the "Domestic Abuse Response"), and

(iii) the *Provisional Sydney Anglican Policy on Responding to Domestic Abuse* (set out in Section 1 of the Domestic Abuse Response) (the "Provisional Policy") –

(a) commends the Provisional Policy to all clergy and parish councils for use in churches,

(b) invites clergy and church members to provide comments and feedback on the Domestic Abuse Response (including the Provisional Policy) to Standing Committee by 30 April 2018,

(c) requests that the Standing Committee bring to the Synod session in 2018 proposed amendments to the Provisional Policy, and

(d) requests the Standing Committee to consider and, if thought fit, act on the recommendations referred to in the Report."

Background

5. In 2013, the Synod passed resolution 33/13 Domestic violence and educating clergy in the following terms –

"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, as 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 or 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."

6. Moore College and Ministry Training and Development provided a progress report to the Synod at its session in 2015.

7. At its meeting on 25 May 2015, the Standing Committee appointed a Task Force to further develop a diocesan response to domestic violence with the following membership and terms of reference –

'Further to resolution 33/13 "Domestic Violence and Educating Clergy", and noting the reports received from Moore Theological College and Ministry Training and Development in response, Standing Committee appoints a Task Force to further develop a diocesan response to domestic violence. The Task Force is to comprise Mrs Kate Bradford, Ms Michelle England, Canon Sandy Grant, Archdeacon Kara Hartley, the Rev Martin Kemp, Mrs Nicky Lock, the Rev David O'Mara, the Rev Rob Smith and Dr Jill Wheeler, subject to their consent. The Task Force must consult with domestic violence victims or their representatives and with the Diocesan Doctrine Commission, Moore Theological College and Ministry, Training and

Development. The Task Force shall consider the following matters and report back to the Standing Committee with recommendations –

(a) about developing, adopting and communicating a diocesan domestic violence policy statement, along with advice for good pastoral practice,

(b) about facilitating education of lay membership of our churches on the issue (e.g., via preparation of suitable resources),

(c) about educating our youth in regards to the recognition and prevention of domestic violence, and

(d) about encouraging further developments in our education of clergy and church workers in this area (e.g., recognising warning signs in marriage preparation).'

8. The Rev Catherine Wynn Jones was subsequently appointed as an additional member of the Task Force. Ms Michelle England resigned as a member in July 2016.

9. The Task Force commenced meeting in November 2015 and, as by the date of its interim report had met on 6 occasions. Its interim report, received by Synod in 2016, reported, among other matters, on the following –

(a) an agreed headline definition and expansive description of domestic violence,

(b) consultations with domestic violence victims, particularly the design,

(c) a surveying of rectors concerning domestic violence, and

(d) a collation of information from diocesan organisations concerning their response to domestic abuse.

10. In 2016, the Synod passed resolution 24/16 Domestic Violence in the following terms –

"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."

11. Following the Synod session in 2016, the Task Force, as at the date of this report, has met on an additional 6 occasions, taking the total meetings to 12.

12. The Task Force invited representatives from Anglicare to attend its meetings, and has greatly benefited from the input of Glenda Devlin, Head of Strategy and Service Development, Community Services, and Jacqui Leonard, Family and Relationship Services Manager, Nowra.

13. The Task Force, in considering its terminology, has chosen ordinarily to use the expression "domestic abuse" (rather than "domestic violence"). This is to avoid the damaging misapprehension not uncommon in our contexts that only physical abuse counts as domestic violence. We have also chosen to refer to "victims" of domestic abuse, but acknowledge many victims go on to become survivors.

14. The Task Force has prioritised the following areas, in which it is required to make recommendations –

(a) completing its consultation with domestic abuse victims,

(b) developing a draft domestic abuse policy,

(c) developing draft good practice pastoral guidelines for responding to domestic abuse,

(d) preparing further resources on domestic abuse,

(e) monitoring the delivery of education and professional development in the area of domestic abuse by diocesan organisations, including Moore Theological College, Youthworks College, Ministry Training and Development, Mary Andrews College, and the Professional Standards Unit, and

(f) developing further recommendations regarding our response to domestic abuse.

15. The Task Force or its members have also been involved in additional areas of consultation and liaison –

(a) liaison with Anglicare in appointment of a Domestic Violence Adviser,

(b) liaison with members of General Synod and other dioceses regarding matters associated with domestic abuse, including assistance in drafting motions for General Synod in September 2017,

(c) consultation with the Doctrine Commission,

(d) liaison with journalists, especially the ABC, including the supply of detailed answers to questions, and

(e) participation in the inter-faith round table discussion with the NSW Minister for the Prevention of Domestic Violence.

16. These areas of work are described further below.

Consultation with domestic abuse victims

17. As part of understanding the particular issues of those experiencing domestic abuse within church contexts, the Task Force continued to consult formally with a small number of victims.

18. A detailed protocol was developed by the Task Force for conducting the consultations, management of records and use of data gathered. It was reviewed by Professor Michael Martin, Chair, ANU Human Research Ethics Committee.

19. The primary purpose of the consultation is to hear from, and speak with, those living within the Anglican Diocese of Sydney that have had experience of domestic abuse in church settings, with a view to understanding how our churches have responded to them. As such our consultations were as a listening exercise first and foremost, sensitising Task Force members personally to examples of domestic abuse, outside and additional to their previous personal pastoral or professional experience.

20. As at the date of this report, there have been 6 interviews conducted with 5 female victims and 1 male victim. Unsurprisingly, the testimony is often harrowing. In terms of church responses, there were both good and bad experiences.

21. It should be noted that our protocol meant we could not formally consult with persons who were experiencing current or recent issues with domestic abuse or who were currently involved in court proceedings related to domestic violence.

22. The Task Force notes that its ethical constraints also prevent use of the consultation material to prepare qualitative research for publication in conjunction with its report, since there was no provision in the protocol for disclosing data to other parties, even in de-identified ways.

23. However, the Task Force was also provided with de-identified and redacted victim reports and reflections collated by an advocate. Members of the Task Force also consulted further with victim advocates, and conversed informally with other victims, including some ministry spouses who had survived abuse at the hands of perpetrators who were clergy or lay ministers.

24. The Task Force considers that further quantitative and/or qualitative research in relation to domestic abuse in church contexts should be undertaken, with appropriate independence and academic rigour. Preferably such research should involve the Anglican Church of Australia as a whole, perhaps alongside other denominations. However the Task Force determined that this matter requires detailed consideration before a specific recommendation in this regard could be formulated.

Developing a draft domestic abuse policy and guidelines

25. With the assistance of the Diocesan Researcher, we have been able to compile and review a wide range of church, faith-based and secular resources, literature, and research in the area of responding to domestic abuse.

26. The Task Force eventually determined to use the Church of England's document "Responding Well to Domestic Abuse: Policy and Practice Guidance" as a framework, adopting considerable detail from this document. This document built helpfully on an earlier version of the Church of England's guidelines first published in 2006, which we had already considered favourably in many respects, though it reflected the breadth of its theological context. It came highly recommended by several advocates for domestic violence victims, and compared well to other alternatives.

27. We acknowledge with gratitude the work and experience represented in this Church of England resource.

28. Of course, although many similarities remain, at numerous points the framing, theological understanding, emphasis and detail in our policy and guidelines had to be adapted to our local context, both the external legal and social context in NSW Australia, and to the internal evangelical Anglican context of the Diocese of Sydney.

29. Additional input was drawn from many other sources and individual experts consulted, along with some original material prepared by members of the Task Force.

30. Recently, the Task Force asked its chair, Canon Sandy Grant, to take leave from his parish work to complete the drafting of policy, guidelines and additional resources. The parish of St Michael's Cathedral, Wollongong, graciously released him to work on this matter, and by agreement, will be reimbursed for no more than 80 hours of his time, upon supply of timesheets, at reasonable rate, from funding Standing Committee supplied to the Task Force in 2015. Canon Grant did not vote on any matters affecting the finances of the Task Force and the parish he serves.

Policy statement

31. The policy statement has several sections –

- The actual policy statement
- Thinking Theologically: 10 statements about domestic abuse
- What you need to do in a church
- A Flow Chart for responding
- A list of key phone numbers and websites

32. The actual policy statement begins with the key statement that "**All forms of domestic abuse are wrong and must stop.**" It then includes our definition of domestic abuse. In its specific policy statements it addresses the following areas in turn –

(a) It speaks in general of the safer environment we want to promote.

(b) It then recognises that we already have 'high level' policy guidance regarding domestic abuse from *Faithfulness in Service* (although it does not currently use that specific term).

(c) It then recognises certain basic facts about domestic abuse.

(d) Finally it moves to our response, addressing policy actions in the following contexts –

(i) in all our activities;
(ii) in our public statements;
(iii) when concerns are raised; and
(iv) for those in our care.

33. The Task Force spent considerable time thinking theologically about domestic abuse. This resulted in preparation of '10 statements about domestic abuse'. This theological thinking is designed to accompany the proposed policy statement in publication. The Task Force consulted members of the Doctrine Commission particularly over this matter, and is grateful for feedback received which strengthened our thinking.

34. There is a short section that follows in the policy section outlining things a church or parish needs to do as part of a good basic response to domestic abuse, for its prevention, as well as for care of victims. It begins with the position that a victim's safety is our highest priority, before attending to other matters that Christians sometimes, and understandably, hurry towards, such as reconciliation.

35. In response to frequent requests from clergy and others, a Flow Chart outlining a basic overview for responding to disclosures of domestic abuse has been prepared.

36. The Flow Chart will be accompanied by a one page listing of key organisations' phone numbers and websites with information for responding to the possibility of domestic abuse in various contexts.

37. We envisage that the Flow Chart and listing of phone numbers and websites should be published as a stand alone, double-sided reference sheet. We also recommend that the policy statement, theological thinking and what a church needs to do sections should be published in a small booklet.

38. The Task Force recommends that monies should be spent on proper layout, graphic design and printing for these publications. Such funding could be taken from the balance of funding allocated to the Task Force in 2015, and if insufficient, by application to current Synod Fund contingencies.

39. In considering the policy, the Standing Committee felt it would be appropriate to label it "provisional" in order to elicit on-going feedback on the policy from clergy and church members. The Standing Committee proposes reviewing the Provisional Policy in light of the feedback with a view to bringing to the Synod session in 2018 proposed amendments.

Good Practice Guidelines

40. The Good Practice Guidelines are also substantially based on the Church of England document mentioned above. Along with the policy section, they have been thoroughly reviewed by representatives of Anglicare and by an independent clinical psychologist, all with expertise in the area of domestic abuse, and also by the Director and Chaplain of the PSU, and by the Safe Ministry Board.

41. The Good Practice Guidelines are fairly comprehensive, as our research suggests that clergy and church workers are often naïve, under-educated and under-resourced in this area. Perpetrators of domestic abuse can sometimes present very well in public, and are often very deceptive and manipulative.

42. The structure of the Guidelines is as follows –

(a) Responding to victims
  (i) Initial disclosure
  (ii) Immediate action
  (iii) Your response to disclosure
  (iv) Record keeping and follow up
(b) Responding to alleged or known perpetrators
  (i) Record keeping and follow up
(c) Additional guidance for clergy and licensed lay ministers
  (i) Responding to victims
  (ii) Responding to perpetrators
  (iii) Perpetrator programs
(d) Pastoral Issues (i.e. within a congregation or parish)
(e) Clergy and domestic abuse
  (i) Alleged perpetrator who is a member of the clergy
(f) Mediation

43. The Guidelines conclude with a case study.

Appendices and other resources

44. The Policy and Good Practice Guidelines are supplemented by a series of 11 Appendices, which provide extensive additional background information and advice.

45. The Appendices are as follows –

(a) An expansive description of Domestic Abuse

(b) Domestic Abuse Facts

(i) Who experiences domestic abuse?

(ii) Domestic Abuse Statistics for Australia

(iii) Challenging misconceptions about domestic abuse

(iv) Recognising domestic abuse in adult victims

(v) Recognising domestic abuse in children

(vi) Who are the perpetrators of domestic abuse?

(vii) Recognising perpetrators of domestic abuse

(viii) Particular Types of Domestic abuse

(c) Legal Framework

(d) Domestic Abuse: Policy Guidance from *Faithfulness in Service*

(e) Suggested Parish Policy on Domestic Abuse

(f) Draft Safety and Exit plan

(g) Marriage Preparation: Recommended good practice

(h) Synod Resolutions related to Domestic Abuse

(i) Timeline of Public Statements by Diocesan Leadership addressing Domestic Abuse

(j) "Walking Through It: A Family Violence Survivor's Reflection"

(k) Doctrine Commission on Divorce and Remarriage

46. The Appendices again draw on the Church of England document and also on entirely new work provided by the Diocesan Researcher and the SDS Legal Counsel.

47. Additional resources have been prepared in part or full. These have not been included in the Appendices but could be published in other contexts. These include –

(a) a Review the Research Base on Domestic Violence and Religion (noting recent public discussion about this matter);

(b) a reflection on Domestic Abuse and Pathological Thinking, that might expand to explore the significance of personality disorders and other psychological conditions;

(c) an essay on Domestic Abuse and the Language of Submission and Headship;

(d) material further expressing perspectives from victims and survivors, useful to church leaders and members, for example, "Things I Wish You Understood: An Open Letter to Ministers From a Family Violence Survivor," recently published anonymously on The Gospel Coalition Australia website; and

(e) an annotated bibliography of helpful books and articles.

48. Other possible material is under consideration for development either as future additional appendices to the Policy and Guidelines, or as independent resources. This includes –

(a) Some standard diagrams adapted to our context, such as the "cycle of violence", the "power and control wheel" and/or the "8 Signs of Abuse" infographic. These more visual presentations of the varieties and patterns of abuse may help some victims and those supporting them, identify the pattern of abuse and manipulation and exploitation of power more easily than merely verbal descriptions sometimes permit.

(b) Advice for those who want to date on how to avoid those likely to be abusers. (Proverbs 22:24-25 says "Do not make friends with a hot-tempered man, do not associate with one easily angered, or you may learn his ways and get yourself ensnared.")

(c) Advice for clergy and church workers where abuse evident in a relationship appears to be of lower significance and does not reach any level requiring reporting to Police (or child protection authorities). E.g. What if it's non-physical, lower level emotional and verbal abuse in one or both directions? What is good practice then? What if one or both parties want to explore reconciliation? There are common questions from clergy.

Monitoring the delivery of education and professional development

49. The Task Force has continued to monitoring the delivery of education and professional development in the area of domestic abuse by diocesan organisations, including Moore Theological College, Youthworks College, Ministry Training and Development, Mary Andrews College, and the Professional Standards Unit.

50. In 2017, Moore Theological College has reported that –

(a) the College maintains its domestic violence policy, which is prominently displayed in several places on its website,

(b) a clear statement of the College's position on domestic violence is delivered during the First Year Orientation program,

(c) year 1 and year 3 have formal class input provided by Anglicare on the topic, accompanied by the invitation to speak to the Dean of Students, Dean of Women or chaplains if the topic raises issues,

(d) the Safe Ministry module, conducted in second year, addresses the issue of domestic violence directly,

(e) a "Protective Behaviours" seminar conducted for faculty, staff and students by a professional in March 2017, covered mainly child sexual abuse, but also touched on domestic abuse,

(f) Moore Women have received input on domestic violence from a clinical psychologist (who is also a clergy wife),

(g) Moore Women have released a significant publication, "Domestic Violence: A Starting Point in Supporting Victims", distributed to all spouses and made available to the men of the College,

(h) there is a compulsory education session for all chaplains (i.e. male faculty, and visiting female chaplains) on domestic violence, and

(i) although there is no formal requirement this topic should be covered in chaplaincy groups, a number have done so.

51. In 2017, Youthworks College has reported the following –

(a) Continuing practice is to deal with domestic violence when it comes up in the context of a number of units including Sexuality and Identity, Young Adult Ministry, and Family Ministry.

(b) In another Critical Reflection/Personal Formation unit, the College is mandating that domestic violence will be one topic in a sequence of regular topics addressed. The nature of the unit includes an examination of biblical material, opportunity for theological reflection, and a consideration of practical application.

(c) This means students will interact with the issue as a matter of course at least twice in the time they are at the College, including engagement with outside expertise on at least one of those occasions.

(d) The College does not have a Domestic Violence Policy as it is not a residential college, but would consider development of one appropriate to its context if that is felt to be advisable.

52. In 2017, Mary Andrews College has reported that –

(a) the College does not have a domestic abuse policy at present, because of the part-time nature of the student body and lack of any 'common space', and

(b) the topic is addressed in Pastoral Care in the syllabus, and in other practical subjects as the issue arises.

53. In 2017, additional to what was noted in its own report to Synod in 2015, Ministry Training and Development reported that –

(a) A training day on domestic violence was held for all the assistant ministers in the Ministry Development ("MD") program for new ministers. Nicky Lock, an experienced counsellor in this area, was the presenter.

(b) There are plans for all assistant ministers in the MD program to attend additional training on dealing with domestic violence during the time that they are in the program, building on what they have done at Moore College.

(c) The new Confidential Questionnaire required of all ordination candidates now includes a question which gives an opportunity to discuss any inappropriate behaviour. The question reads, "Have you ever engaged in bullying, verbal abuse or violence within your family or with others?".

(d) All assistant ministers in the MD program have also attended the *Faithfulness in Service* training day this year organised by the PSU which had training on understanding and dealing with domestic violence.

(e) It anticipates the outcome of the work by the Task Force on Domestic Violence and how MTD might use the resources and advice that comes from this group.

54. In 2017, and as reported separately in its report, the Professional Standards Unit conducted its triennial *Faithfulness in Service* Seminars across the five regions of the Diocese. For the afternoon sessions Mrs Andrea Musulin, Director of the WA Child Protection Society presented on domestic violence and how protective behaviours education can help to build resilience to prevent domestic violence from occurring and to break the cycle.

Further recommendations regarding our response to domestic abuse

55. The Task Force is making some additional recommendations for consideration of the Synod and its Standing Committee.

Training

56. The Task Force recommends that Anglicare be requested to develop a basic training module, in consultation with Moore College, Ministry Training and Development, the Professional Standards Unit, and Anglican Youthworks, aimed at assisting clergy and church workers in understanding domestic abuse and how those serving in churches can respond well to this issue.

57. The Task Force notes that any training module should consider learning outcomes along the following lines: that by the end of the module, with use of personal notes and learning resources, participants should be able to –

(a) list key statistics and describe possible behaviours relating to domestic abuse,

(b) evidence responding appropriately to information about domestic abuse,

(c) describe a range of ways to manage risk to adults who are vulnerable and children,

(d) list and describe referral pathways and the roles of supporting agencies, and

(e) reflect on the implications of responding well to domestic abuse for traditional Christian teaching about marriage.

Screening, care and discipline of clergy and church workers

58. The Task Force encourages the PSU to continue monitoring and responding appropriately to all concerns reported regarding licensed clergy, lay ministers, and voluntary church workers in the diocese in relation to domestic abuse allegations, and also with concerns about poor pastoral practice in care of victims. The Task Force also supports the upholding and application of all relevant diocesan standards and disciplinary procedures, as they touch the issue of domestic abuse and our response to it, including the Church Discipline Ordinance as appropriate.

59. The Task Force recommends those reviewing the Church Discipline Ordinance to consider measures to ensure that a clergy person or church worker can be appropriately required to receive guidance and specialised help and/or disciplined in cases of domestic abuse, which do not constitute sexual abuse or serious criminal behaviour already covered by the ordinance.

60. The Task Force recommends those reviewing the Church Discipline Ordinance consider measures to ensure that a clergy person or church worker can be required to receive guidance and specialised help in cases of serious failure to provide appropriate pastoral care to a victim of domestic violence. By “serious failure”, we refer to provision of pastoral care in a manner that puts the safety of a victim or their family at risk and demonstrates a wilful disregard of the Synod’s policy and guidelines in this area.

61. The Task Force applauds Anglicare for the appointment of a Domestic Violence Adviser, part of whose job description involves working with the Sydney Diocese to ensure parishes are well equipped and able to respond to family violence situations by providing appropriate resources.

62. The Task Force recommends publicising to parishes the existence of the Anglicare Domestic Violence Adviser and encourages liaison with the Adviser.

63. The Task Force recommends consideration be given to recommending extension – with sufficient funding for staffing and training – of the PSU Contact Person and Chaplain system, so that it is available to provide advice, support and resources to those in our churches who have experienced domestic abuse. The Task Force notes that the PSU already provides responses to inquiries received in this area though it is not funded for this. It also notes that the workload in this area can reasonably be expected to increase.

64. The Task Force recommends that the Episcopal team, in consultation with PSU and Anglicare, develops a protocol for providing pastoral support to clergy, lay ministers, and/or their spouses, who have experienced domestic abuse.

65. The Task Force recommends that the Archbishop, in consultation with Ministry Training and Development, determine, by consultation with appropriate professionals, whether screening of ordination and other ministry candidates needs to be improved to address concerns about candidates who may display evidence of personality types, or psychological disorders, or other tendencies or attitudes associated with a heightened risk of domestic abuse.

Concluding Recommendations

66. The Task Force recommends that the Synod make a confession that domestic abuse has occurred among members of our churches and an apology for failures to respond well pastorally to such situations (alongside acknowledgement for those clergy and members who have responded in more helpful ways). The Task Force notes the following wording from resolution regarding this topic, was passed at the recent session of General Synod –

> "We grieve with victims and survivors of domestic abuse, and pray for their healing and recovery. We give thanks for those women and men, clergy and lay people, who have faithfully supported, cared for and protected such victims in our churches and communities.
>
> However, we also confess with deep shame 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 has failed adequately to support victims and call perpetrators to account."

67. In November 2016, the General Synod Standing Committee made amendments to *Faithfulness in Service.* This included an amendment be made in section 6 "Personal behaviour", adding the following sentence at the end of paragraph 6.3: "Abuse in a family or domestic context is commonly known as "family and domestic violence". The Task Force commends the Standing Committee's separate report recommending that these amendments from the General Synod Standing Committee be adopted by the Synod of the Diocese of Sydney.

68. The Task Force recommends that the proposed Provisional Policy be adopted by the Synod as a policy of Synod.

69. The Task Force recommends that all parishes, and if considered helpful, diocesan organisations, adopt as their own, and implement, the Domestic Abuse Policy and Good Practice Guidelines, modified as appropriate to their context.

70. The Task Force recommends that the Standing Committee consider how best to resource parishes and organisations with further resources and training materials in the area of responding to domestic abuse.

71. The Task Force recommends that the Standing Committee determine how best to review our policy, guidelines and other procedures and resources in the area of domestic abuse periodically.

72. The Task Force recommends that the Standing Committee consider reappointing the Task Force, possibly with some changes to membership as required, to continue work for another year, especially to receive feedback on the Provisional Policy and Guidelines, and to further work on some of these recommendations and incomplete tasks.

For and on behalf of the Task Force

CANON A. R. (SANDY) GRANT
Chair

20 September 2017

Anglican Diocese of Sydney

Responding to Domestic Abuse: Provisional Policy and Good Practice Guidelines

A Word from the Archbishop

God is love. The Bible reveals him 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 **Provisional 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 clergy and 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 abuse counts as domestic violence. We have also chosen to refer to **victims** of domestic abuse but acknowledge many victims go on to become survivors.

Section 1

Provisional Sydney Anglican Policy on Responding to Domestic Abuse

SECTION 1:

Provisional Sydney Anglican Policy on Responding to Domestic Abuse

1.1 We acknowledge domestic abuse exists, is wrong and must stop

1.1.1 All forms of domestic abuse are wrong and 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

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. Abuse involving children should follow child protection procedures

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 amongst people

1.2.2 **Promote a culture of healthy relationships** of mutual responsibility 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

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 need to obtain advice from those with professional expertise when faced with situations of domestic abuse.

1.4.6 Where mistakes in caring for people in difficult situations are made, an apology should be offered

1.5 We respect people who come to us for help

We shall respond to domestic abuse by valuing, listening to and respecting both victims and alleged or known perpetrators of domestic abuse, while 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.

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 used to justify or excuse any form of abuse

1.6.2 Clearly teach that the Bible does not condone abuse and should not be used to demand a spouse tolerate or submit to domestic abuse

1.6.3 Raise awareness of domestic violence agencies, support services, 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

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** – Work with the appropriate statutory authorities during an investigation into domestic violence, 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

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 support to those in our care

1.8.1 **Offer informed care** – Ensure that informed and appropriate pastoral care is offered to any adult, child or young person who has suffered domestic abuse

1.8.2 **Go at the victim's pace** – We will never pressure any victim of domestic abuse to forgive, submit to, or restore a relationship with an offender

1.8.3 **Reconciliation comes with conditions** – Understand that any reconciliation between victim and offender is dependent principally upon genuine repentance and reformation of the offender, and also upon the willing grace of the victim

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 **Equal access to care** – we will 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. Accordingly, any attempt to distort the biblical concepts of headship and submission to justify abusive behaviour 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 sin. 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 always an appropriate step to be considered and should never be discouraged (Proverbs 27:12; 1 Corinthians 7:10-11; cf. 1984 Doctrine Commission Report, *21/82 The Remarriage of Divorced Persons* (1984), para. 4.12, Appendix 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 support 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 offers forgiveness and calls for repentance. When domestic abuse has been indicated as a factor in separation, attempts made at reconciliation should not be suggested until it is clear that the

perpetrator has demonstrated genuine repentance and taken full responsibility for their actions. Such repentance includes being able to demonstrate an understanding of what led the person to behave in an abusive manner, and an understanding of what was wrong with their behaviour (Luke 3:8-14; Romans 12:9; 2 Corinthians 7:8-11).

1.9.8 Any attempts made at reconciliation should only proceed slowly and cautiously, after consultation with experienced domestic violence services. Domestic abuse research and statistics showing that true reformation in such cases takes time and considerable effort on the part of the perpetrator, and, for some, may never be achieved. Therefore the caution of a victim in being reconciled to an offender 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 compromise the safety or pastoral care of victims of domestic abuse.

1.9.10 Christians with a genuine desire to be faithful to Scripture will hold different views on the question of when divorce is appropriate. However such views should not impact on 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 a sad but appropriate action in the circumstances of domestic abuse please see the attached 1984 Doctrine Commission report extract, para. 4:13, Appendix 11.

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 and reformation – by the abuser

Define and clarify the state of the relationship

1.10.1 A victim's physical and emotional safety must be our first concern. This must be attended to before other matters (such as a desire for reconciliation) can be addressed. Other matters may be considered according to the priorities suggested above, 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 5 for the recommended parish version of the above policy)

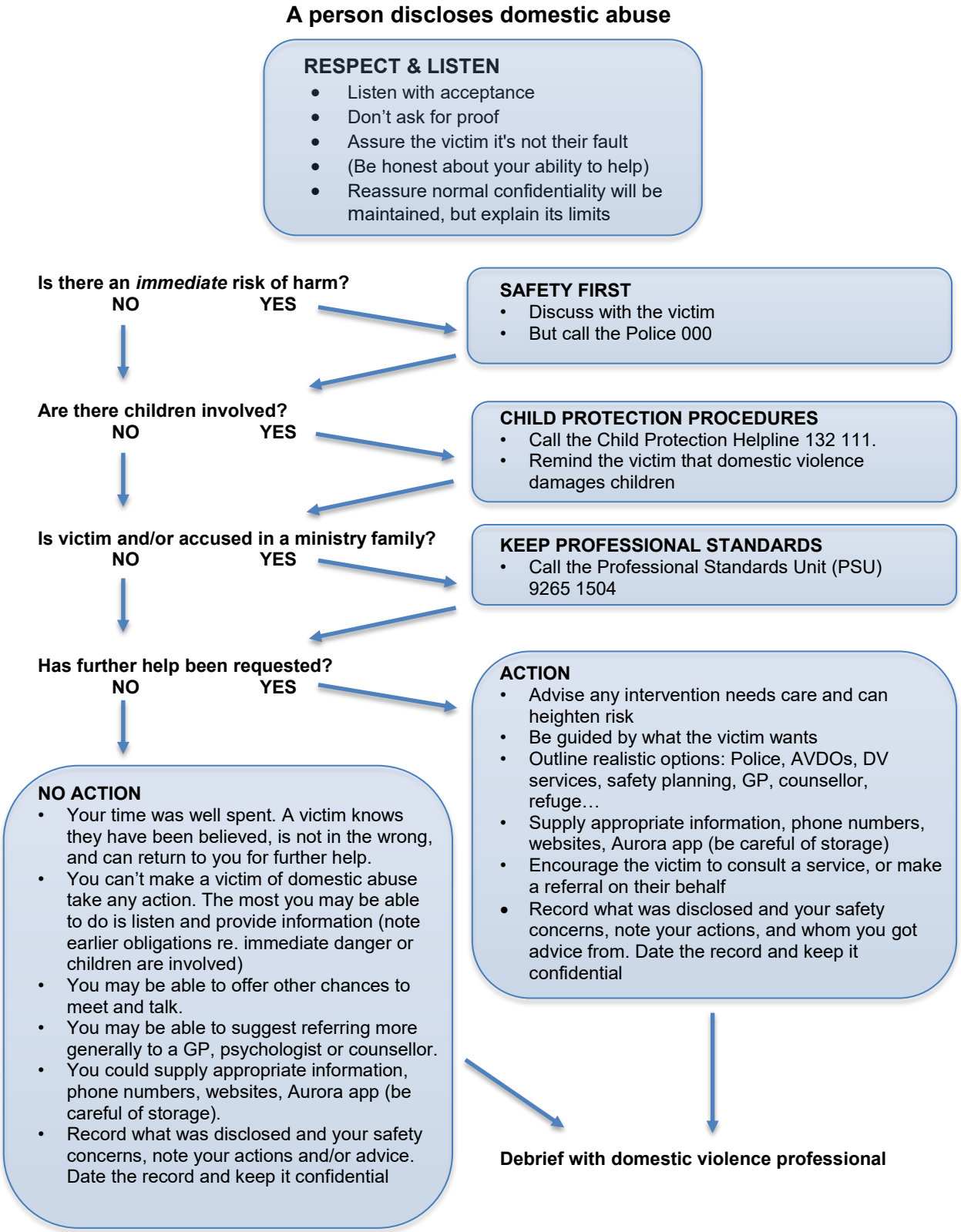
1.11.3 Consider displaying the church's domestic abuse policy statement in an appropriate place alongside information about how to access advice and support from the Police, domestic violence helplines and diocesan services

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

1.12 Domestic Abuse Flowchart



1.13 Domestic Abuse – key telephone numbers and websites for help

AGENCY	CONTACT DETAILS
1800 Respect national helpline: 24/7 national number for sexual assault, family & domestic violence counseling and advice	**1800 737 732** **1800respect.org.au**
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	**0438 826 556 (business hours)**
Aurora App The Aurora domestic and family violence app is for people experiencing domestic abuse or for those worried about their relationship. The app contains useful information including emergency contacts, the kinds of behaviour considered to be domestic abuse, vital links to support services available in NSW. Importantly, the app allows the user to message their trusted friends and family members or call emergency services immediately. The Aurora app has been built with numerous safety features that allow people to use it discreetly and seek assistance without risk of "tipping off" a perpetrator and endangering themselves. It was developed in consultation with NSW Police and experts from the domestic violence sector	**free to download from iPhone App Store & Android Google Play**
Child Protection Helpline Contact this helpline if you think a child or young person is at risk of harm from abuse	**13 111** **reporter.childstory.nsw.gov.au/s/mrg**
Daisy App Australia-wide alternative to the Aurora app	
Lifeline 24 hour telephone crisis line	**131 114** **www.lifeline.org.au/get-help**
NSW Domestic Violence Line: 24/7 for comprehensive information and referrals to nearby support services, for all categories of domestic violence	**1800 65 64 63** **domesticviolence.nsw.gov.au/get-help**
NSW Rape Crisis Centre counseling service for *anyone* in NSW – men and women – who has experienced or is at risk of sexual assault	**1800 424 017** **www.nswrapecrisis.com.au**
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	**130 766 491 ww.ntvmrs.org.au**
Professional Standards Unit Advice about abuse involving clergy or church workers in the Anglican Diocese of Sydney	**9265 1604** **safeministry.org.au**

N.B. Addresses for local refuges are generally not made public for security's sake.

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 2. 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 be 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.

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. 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 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 4) 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 6 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

2.6.9 **Where to get help** – Share information about helplines and accountability programs

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 circumstance 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 responding to 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
- Do not try to investigate or 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
- 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 themself

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 <u>not</u> 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 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 "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 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 may be real** – Recognise that perpetrators may express real remorse for the damage that they have wrought on others in their relationships. A perpetrator may ask for forgiveness from God and seek to live a repentant life even though they may be unable to regulate their emotions and behaviour sufficiently to be reconciled in a relationship

2.9.7 **Repentance must be real and visible** – Ask for and 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?

2.9.8 **Support** – Assure them of your support 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.

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.

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

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 support both parties safely, noting that a clergy person or church worker cannot support 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 clergy** – 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 to 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 are advised to develop a protocol for support. This protocol could include 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

2.13 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, which involves sexual abuse of an adult, or conviction for an offence punishable by imprisonment for 12 months or more, 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)

2.14 Mediation

2.14.1 **Get professional help** – Mediation is a specialist ministry that needs to 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. Family Relationship Centres are a good referral option for family dispute resolution and have designated processes to ensure the safety of all concerned

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. 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
3. Legal Framework
4. Domestic Abuse: Policy Guidance from *Faithfulness in Service*
5. Suggested Parish Policy on Domestic Abuse
6. Draft Safety and Exit plan
7. Marriage Preparation: Recommended good practice
8. Synod Resolutions related to Domestic Abuse
9. Timeline of Public Statements by Diocesan Leadership addressing Domestic Abuse
10. “Walking Through It: A Family Violence Survivor’s Reflection”
11. Doctrine Commission on Divorce and Remarriage

Appendix 1: An expansive description of Domestic Abuse

This Australian Parliamentary Library Research Publication[1] 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'.

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[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: 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.
- 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

Prevalence of Domestic Violence in Australia[1]

- 1 in 6 women (17%) and 1 in 20 men (5%) had experienced threatened or actual physical or sexual violence by a partner they had lived with.[2] [3]
- 6% of women reported some form of interpersonal violence in the previous two years. Almost 5% of women and 3% of men had experienced emotional abuse by their current partner in a 12 month period between 2011 and 2012. 25% of women and 14% of men have experienced emotional abuse by a partner since the age of 15.
- Violence by a current partner was more common when emotional abuse was present. Around a third of the women (and 18% of men) who had experienced emotional abuse by their current partner had also experienced violence by them.

Who experiences Domestic Violence and Abuse?[4]

- 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.

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[1] 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. 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] Australia's National Research Organisation for Women's Safety (2015), Violence against women: Additional analysis of the Australian Bureau of Statistics' Personal Safety Survey, 2012, Horizons Research Report, October 2015. Accessed May 2016 at http://anrows.org.au/

[3] This means that almost 1.5 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.

[4] 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.

- Most victims are between the ages of 20 and 39.[5] 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.
- Indigenous women and girls were 35 times more likely than the wider female population to be hospitalised due to family violence.[6]
- 25% of children in Australia have been witnesses to domestic violence.[7]

Reported incidents of Domestic Violence in NSW[8]

- Every week NSW Police deal with over 1,250 domestic violence related incidents.[9]
- Between 2005 and 2014, there were 169 intimate partner homicides (129 females and 40 males) in NSW, comprising one third of all homicides. The number of homicides rose by almost 50% during this period. 63% of those women killed by a former partner had ended the relationship with the domestic violence abuser within three months of the homicide.[10]
- 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.[11]

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.

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5 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.

6 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/

7 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

8 Most 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.

9 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/

10 Stephanie Ramsey (2015) "Intimate partner Homicides in NSW: 2005-2014", *Bureau Brief,* Issue no.111, November 2015, Bureau of Crime Statistics and Research. Accessed 4 August 2017 at http://www.bocsar.nsw.gov.au/Pages/bocsar_news/Intimate-partner-homicides-in-NSW-2005-to-2014.aspx

11 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 is 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 2012 Personal Safety Survey suggested that 1 in 6 Australian women and 1 in 20 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;
- 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;
- 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;
- 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.

Survivor View (13 year old)

> *It's only in the last year or so that I began to think that a family could be a good place to be...a home". I'm the eldest, and I took a lot of my Dad's fury – or just being drunk which is what it often was. I know my Mum wasn't always a saint – she could really wind him up – in fact she does it to me sometimes and then I get terrified that I'll react like him.*
>
> *Anyway sometimes they would just argue and shout, but then I'd seen what he could do when he loses it. I had to take Mum to hospital once and it was just horrible. In fact I remember being amazed how she looked almost normal when they'd cleaned her up. But seeing it or even worse just hearing it was ... don't know ... I couldn't bear it, and I wanted to kill him. I couldn't I know – even if I was strong enough – so I just used to hold on to the little ones and sort of hide with them till it was over. But it did get so difficult. I didn't want to go home after school, so I'd stay out late sometimes with my mates. Then my Mum started saying I was just like him. That was the worst time ever.*
>
> *One day my mum spoke to someone on a helpline. After that, they had a big row and then he left home. Things sort of calmed down, but I was still scared that he would come back or I'd be like him. Then we had this counsellor who talked to my Mum, and me and my sisters together. Somehow it all began to seem better and I felt it was possible to move on.*

6. Who are the perpetrators of domestic abuse?

Most known perpetrators of domestic abuse are men. (This may to a certain extent also reflect the potential under-reporting of domestic abuse by 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;
- 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, 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, 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 3: 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
- Family Law Act 1975

NSW Crimes (Domestic and Personal Violence) Act 2007[1]

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, and

b. to reduce and prevent violence by a person against another person where a domestic relationship exists between those persons, and

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, or

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); or
- '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.

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[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 enable[3]:

- 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.
- 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 website[5], 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]

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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 1975[8]

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.
- 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 serious*[11] *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)
- Law enforcement (e.g. police)

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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://earlytraumagrief.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 4: 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**.*[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.*[2]

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.*

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[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.

[2] Although the actual phrase "domestic abuse" is not currently used, the Sydney Synod will soon consider the national General Synod's recommended amendment in Faithfulness in Service to explicitly note at this point in para. 6.3 that "Abuse in a family or domestic context is commonly known as "family and domestic violence."

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 5: Suggested Parish Policy on Domestic Abuse

Parish of ..... Policy for Responding to Domestic Abuse

All forms of domestic abuse are wrong and 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
- 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)
- 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
- Where mistakes in caring for people in difficult situations are made, an apology should be offered

5. **We respect people who come to us for help by** –

- Valuing, listening to and respecting both victims and alleged or known perpetrators of domestic abuse, while 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 used to justify or excuse any form of abuse
- Clearly teaching that the Bible should not be used to demand a spouse tolerate or submit to domestic abuse
- Raising awareness of domestic violence agencies, support services, 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

- 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 violence, 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
- 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 support to those in our care by –**

- Offering informed care – Ensuring that informed and appropriate pastoral care is offered to any adult, child or young person who has suffered domestic abuse
- Going at the victim's pace – 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 also upon the willing grace of the victim
- Coordinating the care – Identifing 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 any one 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 6: Draft Safety and Exit plan

Ordinarily safety planning would be done with an experienced professional in the field of responding to domestic violence. 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 violence 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 7: 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 Minnesota[1].

This was research based in the United States from a national sample of over 20,000 couples taking the Enrich questionnaire.

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[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 Egalitarian[2] 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.

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[2] Note that 'Egalitarian' here in Prepare/Enrich is not defined primarily in theological terms.

Appendix 8: 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)

Appendix 9: 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 Answers[2]

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

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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 10: 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, Australia[1])

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 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 lead me to go further, to bring deeper wounds forward to see if perhaps—breathtakingly—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-

[1] Source: https://australia.thegospelcoalition.org/article/things-i-wish-you-understood-an-open-letter-to-ministers-from-a-family-violence-survivor

husband, I was placed in harm's way, and again received a tirade of abuse that left me trembling 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 my 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 11: 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.