



The Anglican Church of Australia

BILLS – CHILD PROTECTION

The Seventeenth Session of General Synod

BOOK 5

3 – 8 September 2017

Published by:

The Standing Committee of the General Synod of The Anglican Church of Australia

General Synod Office

Suite 4, Level 5, 189 Kent Street, Sydney, 2000, New South Wales, Australia

©The Anglican Church of Australia Trust Corporation 2017

Apart from any fair dealing for the purposes of private study, research, criticism or review, as permitted under the Copyright Act, no part of this book may be reproduced by any process without written permission from the copyright holder – apply to the General Secretary, General Synod of The Anglican Church of Australia, General Synod Office, at Suite 4, Level 5, 189 Kent Street, Sydney NSW 2000 Australia.

generalsecretary@anglican.org.au

CONTENTS

	PAGE
INTRODUCTION	5-001
1 BILLS PROMOTED BY REQUEST OF STANDING COMMITTEE	
1.1 Bill 10A - Canon Concerning Confessions (Revision) Canon 2017	5-003
1.2 Bill 10B - Canon Concerning Confessions (Vulnerable Persons) Canon 2017	5-003
1.3 Bill 15 - Safe Ministry to Children Canon 2017	5-021
1.4 Bill 16 - Disclosure of Information Canon 2017	5-054
1.5 Bill 17 - National Register Amendment Canon 2017	5-061
1.6 Bill 18 - National Register (Access to and Disclosure of Information) Amendment Protocol 2017	5-068
1.7 Bill 19 - National Register (Inclusion of Information) Amendment Protocol 2017	5-069
1.8 Bill 20 - Episcopal Standards (Child Protection) Canon 2017	5-070
1.9 Bill 21 - Constitution (Jurisdiction of Special Tribunal) Amendment Canon 2017	5-080
1.10 Bill 22 - Offences Amendment Canon 2017	5-082
2 BILLS SOUGHT TO BE INCLUDED ON THE AGENDA	
Promoted by the Professional Standards Commission	
2.1 A Bill for the Redress for Survivors of Abuse Canon 2017	5-087
Promoted by the Diocesan Council of the Diocese of Melbourne	
2.2 An Alternative Bill for the Episcopal Standards (Child Protection) Canon 2017	5-094

2.3	A Bill for the Episcopal Standards (Transitional Provisions, Consequential Amendments and Repeal) Canon 2017	5-146
2.4	A Bill for the Episcopal Standards (Child Protection) Amendment No.1 Canon 2017	5-152
2.5	A Bill for the Episcopal Standards (Child Protection) Amendment No. 2 Canon 2017	5-160

APPENDICES

Documents referenced in Bill 15 - A Bill for the Safe Ministry to Children Canon 2017

1.	Faithfulness in Service (Code of Conduct)	5-166
2.	Safe Ministry Check <ul style="list-style-type: none"> • applicant • referee • volunteer 	5-205 5-216 5-223
3.	Safe Ministry Training Benchmarks	5-230
4.	Policy for Safe Ministry in a parish where there is a risk of sexual abuse by a Person of Concern	5-234

INTRODUCTION

Book 5 of the papers for the Seventeenth Session of the General Synod contains bills addressing national standards and processes relating to child protection, episcopal standards and redress for survivors of abuse.

Bills by Request of the Standing Committee

The Standing Committee has endorsed Bills 15 to 19, dealing with safe ministry to children, as recommended by the Professional Standards Commission.

The Standing Committee has endorsed Bills 20 to 22, dealing with episcopal standards relating to child protection, as recommended by the Episcopal Standards Task Force established in February 2017.

The Standing Committee has endorsed two replacement bills. Bills 10A and 10B replace Bill 10 - A Bill for the Canon Concerning Confessions (Revision) Canon 2017, which was published in Book 1.

Bills Sought to be Included on the Agenda

Bills can only be included on the agenda if circulated 3 months in advance of the General Synod session or with a shorter period of notice with the approval of Standing Committee.

It is also possible for the Synod, by an affirmative vote of at least three-fourths in each house, to declare a bill to be a matter of urgency and permit it to be included in the agenda without previous notice. [ACA Constitution s27(1)(i)]

The Professional Standards Commission has submitted notice of motion to seek the approval of Synod to include a bill for a redress for survivors of abuse canon.

The Diocesan Council of the Diocese of Melbourne has submitted notice of motion to seek the approval of Synod to include a number of bills providing an alternative to Bills 20 to 22 dealing with episcopal standards.

These motions will be listed on the Business Paper for the First Day and the bills are provided in this book for the information of General Synod members.

**BILLS PROMOTED BY
REQUEST OF STANDING
COMMITTEE**

BILL 10A**A BILL FOR THE CANON CONCERNING CONFESSIONS
(REVISION) CANON 2017****BILL 10B****A BILL FOR THE CANON CONCERNING CONFESSIONS
(VULNERABLE PERSONS) CANON 2017****EXPLANATORY MEMORANDUM****General Background**

1. The Canon Concerning Confessions 1989 (Amendment) Canon 2014 (the 2014 canon) was passed at the Sixteenth Session of General Synod. After the Sixteenth Session of General Synod concerns were raised about the validity of the 2014 canon on the basis that the procedure for a special bill should have been followed. To address those concerns, the Standing Committee appointed a Confessions Working Group (comprising the chairs of the Church Law Commission, Doctrine Commission and the Professional Standards Commission, the Archbishop of Sydney and the Bishops of Ballarat and the Murray). A report was prepared by the Church Law Commission on the legal issues that concluded, by reference to section 2A(4) inserted by the 2014 canon, that the bill for the 2014 canon should have followed the procedure for a special bill.
2. The Standing Committee resolved (SC2015/1/20) to refer the subject matter of the 2014 canon to the House of Bishops to consider all liturgical and theological issues raised by the subject matter of 2014 for advice on how the primary purpose of the 2014 canon could be achieved.
3. At their meeting in March 2016, the national Bishops resolved:

“That this Bishops’ meeting recommends to the Standing Committee that a new form of the Canon Concerning Confessions Amendment Bill be promoted as a special bill at the 2017 session of General Synod, which addresses the concerns raised in relation to the 2014 Amendment Canon and takes into account subsequent discussions and the following recommendations. We recommend that the special bill be drafted in such a way as to give expression to the following key principles.

- The context in which every confession is heard is the desire of the penitent to be reconciled to God, to the church, and to those who have been harmed by their sin. We are therefore dealing with matters of eternal salvation.
 - Priests are required to keep all matters disclosed in the context of a confession strictly confidential, except in cases of **grave criminal offences involving the abuse of a vulnerable person or persons**. After appropriate consideration, the strong imperative of confidentiality may be overridden in these exceptional circumstances.
 - The decision as to what constitutes a **grave criminal offence involving the abuse of a vulnerable person** rests with the judgment of the priest who has heard the confession. If a priest is uncertain as to whether disclosure is permissible or appropriate, they should seek counsel from the bishop or a person appointed by the bishop for this purpose. This may be in the form of general advice, without the disclosure of identity or other particulars.
 - The canon should be permissive ('may reveal'), not coercive ('must reveal') – e.g. ... that priest **may** reveal the contents of a confession to the civil and/or church authorities."
4. Subsequent to the Bishops' meeting, the Doctrine Commission prepared a report dated March 2016 that supports the March 2016 resolution of the national Bishops. A copy of the Doctrine Commission report is attached to this Explanatory Memorandum.
 5. At the 2017 Bishops' meeting, the Bishops favoured a further exception to confidentiality where the conduct confessed by the penitent to an ordained minister did not constitute a criminal offence of the type specified to justify an exception to confidentiality, but gives the ordained minister reasonable grounds to believe that a vulnerable person is at risk of significant harm.
 6. The object of the Bill is to repeal the 2014 canon and to re-enact the amendment, taking into account the further consideration which has been given to the subject matter of the 2014 canon since the 16th General Synod. A copy of the Canon Concerning Confessions 1989 without any amendments made by the Canon Concerning Confessions 1989 (Amendment) Canon 2014 is attached to this Explanatory Memorandum.
 7. In light of the emphasis on principle in the Doctrine Commission's report that also underlined the national Bishops' advice on how to proceed with a canon to replace the 2014 canon, it is proposed to insert a recital in the Canon Concerning Confessions 1989 to remind all of the principle of confession.
 8. Consistent with the approach of the national Bishops, the application of the exception to confidentiality is confined to criminal offending in the categories of child abuse and abuse of a vulnerable person (other than a child) and other conduct which is defined to mean conduct confessed by the penitent to an ordained minister which does not constitute a defined criminal offence, but gives the ordained minister reasonable grounds to believe that a vulnerable person is at risk of significant harm.
 9. Feedback from the national Bishops indicates that all dioceses are likely to support a modification to the Canon Concerning Confessions to provide a limited exception to confidentiality in relation to a confession of child abuse, and that most – but not all –

dioceses are likely to support a further exception for confessions of non-criminal conduct that puts “a vulnerable person at risk of significant harm”. It is for this reason that the proposed amendments are being promoted in two separate bills.

- A Bill for the Canon Concerning Confessions (Revision) Canon 2017 amends the principal Canon to create an exception to the principle of confidentiality in relation to a “grave offence”, and defines a grave offence to mean “child abuse” (as defined in the National Register Canon 2007).
 - A Bill for the Canon Concerning Confessions (Vulnerable Persons) Canon 2017 expands the definition of “grave offence” to include abuse of a vulnerable person, and expands the exceptions to confidentiality to include non-criminal conduct that is reasonably believed to put a vulnerable person at risk of significant harm.
10. It is anticipated that all dioceses will adopt the first Canon, and most will adopt the second. This two-stage approach allows the Anglican Church of Australia to have a nationally consistent approach in relation to confessions of child abuse and to allow those dioceses that so wish to extend the exception further, while at the same time respecting a (minority?) view that the exception should not be extended further.
 11. Schedule A is a marked-up version of the Canon Concerning Confessions 1989 applying the amendments of the Canon Concerning Confessions (Revision) Canon 2017.
 12. Schedule B is a marked-up version of the Canon Concerning Confessions 1989 as already amended by the “Revision” Canon, showing the further amendments made by the Canon Concerning Confessions (Vulnerable Persons) Canon 2017.
 13. A diocese which did adopt the 2014 canon is advised to exclude the 2014 canon by ordinance pursuant to section 30(d) of the Constitution. This is prudent, even though clause 6 repeals the 2014 canon.
 14. The special bill procedure set out in section 28 of the Constitution must be followed in relation to this bill, unless 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.

SCHEDULE A
CANON CONCERNING CONFESSIONS 1989

as amended by the Canon Concerning Confessions (Revision) Canon 2017

A canon concerning confessions.

Whereas every confession to an ordained minister is heard in the context of the desire of the penitent to be reconciled to God, to the fellowship of the church, and to those who have been harmed by the penitent's sin:

The General Synod prescribes as follows:

1. This canon may be cited as "Canon concerning confessions 1989".
2. Subject to section 2A, if any person confess his or her secret and hidden sins to an ordained minister for the unburdening of conscience and to receive spiritual consolation and ease of mind, such minister shall not at any time reveal or make known any crime or offence or sin so confessed and committed to trust and secrecy by that person without the consent of that person.

2A. (1) In this section –

abuse means sexual assault, sexual exploitation or physical abuse;

child means a person under the age of 18 years;

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

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

Director of Professional Standards has the same meaning as in the National Register Canon 2007;

grave offence means conduct that amounts to a criminal offence against the laws of the Commonwealth, a State or Territory, or another country which is equivalent to a criminal offence of the Commonwealth, a State or Territory involving child abuse.

ordained minister has the same meaning as **clergy**;

penitent means a person who makes a confession to an ordained minister;

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

- (2) Subject to subsection (3), where a penitent confesses to an ordained minister that he or she has or may have committed a grave offence, that ordained minister is obliged to keep confidential the grave offence so confessed if he or she is reasonably satisfied that the penitent has reported

the grave offence to the police and, if the person is a church worker or a member of the clergy, to the Director of Professional Standards or other relevant Church authority.

(3) An ordained minister to whom a penitent has confessed that he or she has or may have committed a grave offence may, for the purpose of obtaining advice as to whether that conduct constitutes a grave offence, reveal the nature of that confession to a person nominated by the bishop of the diocese for the purpose of giving that advice.

(4) It is a defence to a charge of breach of discipline or any offence brought against an ordained minister, arising from his or her disclosure to any person of conduct confessed by a penitent that did not constitute a grave offence, that the ordained minister believed in good faith and on reasonable grounds that the conduct may have constituted a grave offence.

3. The proviso to canon numbered 113 of the Canons of 1603, and any other law of this Church concerning the making of confessions to an ordained minister, in so far as the same may have any force, shall have no operation or effect in this Church.
4. The provisions of this canon affect the order and good government of this Church within a diocese and shall not come into force in a diocese unless and until the diocese adopts this canon by ordinance of the synod of the diocese.

SCHEDULE B
CANON CONCERNING CONFESSIONS 1989

as amended by the Canon Concerning Confessions (Revision) Canon 2017 and further
 amended by the Canon Concerning Confessions (Vulnerable Persons) Canon 2017

A canon concerning confessions.

Whereas every confession to an ordained minister is heard in the context of the desire of the penitent to be reconciled to God, to the fellowship of the church, and to those who have been harmed by the penitent's sin:

The General Synod prescribes as follows:

1. This canon may be cited as "Canon concerning confessions 1989".
2. Subject to section 2A, if any person confess his or her secret and hidden sins to an ordained minister for the unburdening of conscience and to receive spiritual consolation and ease of mind, such minister shall not at any time reveal or make known any crime or offence or sin so confessed and committed to trust and secrecy by that person without the consent of that person.

2A. (1) In this section –

abuse means sexual assault, sexual exploitation or physical abuse;

child means a person under the age of 18 years;

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

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

Director of Professional Standards has the same meaning as in the National Register Canon 2007;

grave offence means conduct that amounts to a criminal offence against the laws of the Commonwealth, a State or Territory, or another country which is equivalent to a criminal offence of the Commonwealth, a State or Territory involving ~~child abuse~~;

(a) child abuse; or

(b) abuse of a vulnerable person (other than a child);

ordained minister has the same meaning as **clergy**;

other conduct means conduct confessed by the penitent to an ordained minister which does not constitute a grave offence, but gives the ordained minister reasonable grounds to believe that a vulnerable person is at risk of significant harm;

penitent means a person who makes a confession to an ordained minister;

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

vulnerable person includes a person who by reason of an intellectual disability, mental illness or other impairment, age or circumstance, has reduced capacity, whether permanently or temporarily, to protect himself or herself from abuse.

(2) Subject to subsection (3), where a penitent confesses to an ordained minister that he or she has or may have committed a grave offence or confesses to other conduct, that ordained minister is obliged to keep confidential the grave offence or the other conduct so confessed if he or she is reasonably satisfied that the penitent has reported the grave offence or the other conduct to the police and, if the person is a church worker or a member of the clergy, to the Director of Professional Standards or other relevant Church authority.

(3) An ordained minister to whom a penitent has confessed that he or she has or may have committed a grave offence or has confessed to other conduct may, for the purpose of obtaining advice as to whether that conduct constitutes a grave offence or other conduct, reveal the nature of that confession to a person nominated by the bishop of the diocese for the purpose of giving that advice.

~~(4) It is a defence to a charge of breach of discipline or any offence brought against an ordained minister, arising from his or her disclosure to any person of conduct confessed by a penitent that did not constitute a grave offence, that the ordained minister believed in good faith and on reasonable grounds that the conduct may have constituted a grave offence.~~

(4) It is a defence to a charge of breach of discipline or any offence brought against an ordained minister,

(a) arising from his or her disclosure to any person of conduct confessed by a penitent that did not constitute a grave offence, that the ordained minister believed in good faith and on reasonable grounds that the conduct may have constituted a grave offence; or

(b) arising from his or her disclosure to any person of other conduct that the ordained minister believed in good faith and on reasonable grounds that a vulnerable person was at risk of significant harm.

5. The proviso to canon numbered 113 of the Canons of 1603, and any other law of this Church concerning the making of confessions to an ordained minister, in so far as the same may have any force, shall have no operation or effect in this Church.

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

Notes on Clauses – Bill 10A

- Clause 1 contains the title of the canon.
- Clause 2 provides that the principal canon is the Canon Concerning Confessions 1989 without any amendments made by the Canon Concerning Confessions 1989 (Amendment) Canon 2014.
- Clause 3 inserts a preamble before the enacting words of the principal canon.
- Clause 4 provides for the amendment of section 2 of the principal canon by making the obligation of confidentiality of the ordained minister subject to section 2A and inserts the new section 2A which is based on section 2A that was inserted by the 2014 canon, but has been refined by the further consideration given to the extent of the exception to the obligation of confidentiality by the national Bishops and Doctrine Commission. The definition of **child exploitation material** that was inserted in subsection (1) of section 2A by the 2014 canon has been omitted, as the definition of **child abuse** extends to the possession, production or distribution of child exploitation material.
- Clause 5 provides that this canon affects 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 adopts the principal canon and this canon by ordinance.
- Clause 6 repeals the 2014 canon.

Notes on Clauses – Bill 10B

- Clause 1 contains the title of the canon.
- Clause 2 provides that the principal canon is the Canon Concerning Confessions 1989 as amended by the Canon Concerning Confessions (Revision) Canon 2017.
- Clauses 3-6 provides for the various amendments to the section 2A of the principal canon, including extending the definition of **grave abuse** and adding new definitions of **other conduct** and **vulnerable person**.
- Clause 7 provides that this canon affects 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 adopts the principal canon and this canon by ordinance.

ATTACHMENT 1



The Doctrine Commission of the Anglican Church of Australia

Confessions and Confidentiality – March 2016

Confession

The practice of confession needs to be shaped by our theological framework, especially the doctrines of creation, sin, and redemption, and their application to the understanding of human society. All people have been made in God's image and must be treated with dignity and respect. We are also all corrupted and affected by sin. The atonement tells us that God takes sin seriously – so seriously, in fact, that God became incarnate and Christ died so that our sins might be forgiven. God desires reconciliation and the restoration of broken relationships, both with God and with one another. Through Christ, forgiveness is freely offered to the sinner, calling for the acknowledgment of sin, true repentance and amendment of life, bearing 'fruits worthy of repentance' (Luke 3:8). This is the proper context for the practice of confession. First John 1:8-9 tells us 'If we say that we have no sin, we deceive ourselves, and the truth is not in us. If we confess our sins, he who is faithful and just will forgive us our sins and cleanse us from all unrighteousness.'

Similarly, the Risen Christ, in 'sending' the disciples into the world (as he was sent by his Father), and breathing the Holy Spirit on them, gave to his disciples the authority to pronounce, or withhold, God's forgiveness (see John 20:21–23; c.f. Matthew 16:19). The Church has continually exercised this ministry, part of the wider ministry given to it by its Lord. It is in this context that the 'Reconciliation of a Penitent' (c.f. APBA p. 773 ff), which entails the making (and hearing) of confession, and the pronouncing of absolution, arises. From this gospel imperative comes the clear sense that in this ministry we are dealing with matters of eternal salvation.

The New Testament recognises a corporate dimension to confession: 'confess your sins to each other and pray for each other so that you may be healed' (James 5:16). There is a basic human reluctance to confront our own sin, and the involvement of others can encourage repentance and provide an opportunity for pastoral care of the penitent. Although public confession is recorded in the Scriptures (e.g., Jer 29, Ezra 9-10) and was sometimes practised in the early church, there is often a reluctance to confess private sins in public.

Over time, the wisdom and experience of the church led to the principles of private confession, recognising the pastoral importance of 'the unburdening of conscience and [receiving] spiritual consolation and ease of mind' by the confession of 'secret and hidden sins'. While BCP provides for regular corporate confession and absolution in the context of public worship services, it also recognises that private confession may be helpful in some cases. This is articulated in the first exhortation in the Order for the Administration of the Lord's Supper.

[B]ecause it is requisite, that no man should come to the holy Communion, but with a full trust in God's mercy, and with a quiet conscience; therefore if there be any of you, who by this means cannot quiet his own conscience herein, but requireth further comfort or counsel,

let him come to me, or to some other discreet and learned Minister of God's Word, and open his grief; that by the ministry of God's holy Word he may receive the benefit of absolution, together with ghostly counsel and advice, to the quieting of his conscience, and avoiding of all scruple and doubtfulness.

The role of the minister in pronouncing absolution is to declare God's forgiveness to those who repent. As the service of Evening Prayer in BCP reminds us,

[God] hath given power, and commandment, to his Ministers, to declare and pronounce to his people, being penitent, the Absolution and Remission of their sins: He pardoneth and absolveth all them that truly repent, and unfeignedly believe his holy Gospel.

Therefore confession and absolution are of utmost significance. The context in which every confession is heard is the desire of the penitent to be reconciled to God, to the church, and to those who have been harmed by their sin.

Confidentiality of Confessions

It is for this reason that the church has guarded confessions with strict confidentiality. Otherwise, those whose consciences are burdened may be too afraid or ashamed to seek and find forgiveness for their sins. Just as legal professional privilege is necessary to enable a client to be completely open with his or her legal counsel, so also the confidentiality of confessions encourages full disclosure from a penitent.

The historic law of our Church regarding the confidentiality of confessions is as set out in the Proviso to Canon 113 of the Canons of 1603. In most dioceses in Australia, this has been replaced by the Canon Concerning Confessions 1989, which is a modernised version of the 1603 Canon that for the most part mirrors the 1603 version.¹

Proviso to Canon 113 of 1603	Canon Concerning Confessions 1989
Provided always, that if any man confess his secret and hidden sins to the minister, for the unburdening of his conscience, and to receive spiritual consolation and ease of mind from him; we do not in any way bind the said minister by this our Constitution, but do straitly charge and admonish him, that he do not at any time reveal and make known to any person whatsoever any crime or offence so committed to his trust and secrecy ...	If any person confess his or her secret and hidden sins to an ordained minister for the unburdening of conscience and to receive spiritual consolation and ease of mind, such minister shall not at any time reveal or make known any crime or offence or sin so confessed and committed to trust and secrecy by that person without the consent of that person.

While the 1603 Canon strongly urges confidentiality for what is revealed in a confession, this confidentiality was not absolute. The Proviso to Canon 113 recognised that confidentiality had to be maintained unless 'they [the sins confessed] be such crimes as by the laws of this realm his own life may be called into question for concealing the same'. For example, a 17th century minister who heard a confession of treason was not required to keep that confession confidential. This single exception is

¹ An important difference between the two canons is that the 1603 Canon allowed an exception to the principle of absolute confidentiality (as further discussed below).

very important, because it establishes both that confidentiality is of the utmost importance, and also that exceptions could be made under extraordinary circumstances. At this point, the Anglican understanding of the confessional is markedly different to the Roman Catholic understanding, in which the so-called ‘Seal of the Confessional’ allows no possible exceptions.² The single exception in the 1603 Canon demonstrates that, in a particular historical circumstance, it was not considered contrary to the doctrine of our Church for there to be an exception to the principle of strict confidentiality in certain extreme circumstances. As indicated above, however, that understanding of our doctrine was not articulated in the wording of the Canon of 1989.

An Exception for Confessions of Criminal Abuse of the Vulnerable?

To be authentic in character, a confession of thoughts, words or actions needs to include a concern for any who might have been hurt or harmed by the matters confessed. In some cases it is a first step whereby the needs of others are addressed, and refusal to do so may bring the genuineness of the confession into question, and, in the view of some, thereby remove the obligation of confidentiality. We cannot separate our relationship with God from our relationship with others. Human existence is innately multi-dimensional, so sin is multi-dimensional, as is forgiveness.

The Biblical principle of love and the call to promote fullness of life calls us to do everything in our power to further the welfare of all, especially the vulnerable. In addition to the pastoral responsibility to minister to those who come in genuine repentance and seeking forgiveness, there is also an obligation to victims of past and present actions and potential victims of future actions. Where there is an irreconcilable tension between these two responsibilities, the pastoral priority must lie with the vulnerable in matters of abuse. Here we can identify an exception to the high calling of confidentiality in the confessional which is different in context but not unrelated in principle to the exception provided in the 1603 canons. It remains a limited and relatively specific provision and aligns with the priority that Jesus consistently gave to the vulnerable. There remains a lack of clarity as to whether the 1989 canon, in the current historical circumstances, pays sufficient attention to this priority of the vulnerable.

The Commission recognises that difficulties are posed by the lack of consistency in the civil law across Australia in relation to the priest-penitent privilege. Furthermore, the Church is subject to mandatory reporting rules which are in partial conflict with the 1989 Canon, and ministers may be compelled to give evidence before a Royal Commission, which may be subject to different evidentiary rules. While we are grateful that the civil law protects ministers from civil prosecution for non-disclosure of confessions in some jurisdictions, we believe that it will be sometimes be appropriate not to rely on these legal privileges, out of a consideration of the welfare of the vulnerable.

At the same time, we also recognise that the practice of confession depends on the expectation of confidentiality, and that to undercut confidentiality in a substantive way is likely to put an obstacle in the path of those who are in deep spiritual need. Ministers should keep in strictest confidence all that has been ‘committed to them in trust’ and should not reveal pastoral information to others or gossip. The national code of conduct, *Faithfulness in Service*, in para. 4.8 establishes confidentiality in

² According to Canon 983.1 of the Code of Canon Law, “[t]he sacramental seal is inviolable; therefore it is absolutely forbidden for a confessor to betray in any way a penitent in words or in any manner and for any reason.”

pastoral relationships as a standard of ministerial behaviour. This expectation should only be relieved in exceptional cases involving 'grave criminal offences involving the abuse of the vulnerable'.

As noted above, the Proviso to Canon 113 of 1603 recognised that confidentiality had to be maintained unless 'they [the sins confessed] be such crimes as by the laws of this realm his own life may be called into question for concealing the same'. This establishes both that confidentiality is of the utmost importance, and also that exceptions could be made under extraordinary circumstances. We now recognise that grave criminal offences involving abuse of a vulnerable person or persons may constitute such extraordinary circumstances as to override the pastoral imperative of confidentiality.

Recommendations

The Doctrine Commission supports the March 2016 resolution of the national bishops,

that a new form of the Canon Concerning Confessions Amendment Bill be promoted as a special bill at the 2017 session of General Synod, which addresses the concerns raised in relation to the 2014 Amendment Canon and takes into account subsequent discussions and the following recommendations. We recommend that the special bill be drafted in such a way as to give expression to the following key principles.

- *The context in which every confession is heard is the desire of the penitent to be reconciled to God, to the church, and to those who have been harmed by their sin. We are therefore dealing with matters of eternal salvation.*
- *Priests are required to keep all matters disclosed in the context of a confession strictly confidential, except in cases of **grave criminal offences involving the abuse of a vulnerable person or persons**. After appropriate consideration, the strong imperative of confidentiality may be overridden in these exceptional circumstances.*
- *The decision as to what constitutes a **grave criminal offence involving the abuse of a vulnerable person** rests with the judgment of the priest who has heard the confession. If a priest is uncertain as to whether disclosure is permissible or appropriate, they should seek counsel from the bishop or a person appointed by the bishop for this purpose. This may be in the form of general advice, without the disclosure of identity or other particulars.*
- *The canon should be permissive ('may reveal'), not coercive ('must reveal') - E.g. '... that priest may reveal the contents of a confession to the civil and/or church authorities.'*

The Doctrine Commission of the Anglican Church of Australia
March 2016.

ATTACHMENT 2

CANON CONCERNING CONFESSIONS 1989

Canon 10, 1992¹ as amended by
Canon 11, 2014

A canon concerning confessions.

The General Synod prescribes as follows:

1. This canon may be cited as "Canon concerning confessions 1989".
 - 2.² Subject to section 2A, if any person confess his or her secret and hidden sins to an ordained minister for the unburdening of conscience and to receive spiritual consolation and ease of mind, such minister shall not at any time reveal or make known any crime or offence or sin so confessed and committed to trust and secrecy by that person without the consent of that person.
- 2A.³ (1) In this section -
- "child"** means a person under the age of 18 years;
- "child abuse"** has the same meaning as in the *National Register Canon 2007*;
- "child exploitation material"** has the same meaning as in the *National Register Canon 2007*;
- "church worker"** has the same meaning as in the *National Register Canon 2007*; **"clergy"** has the same meaning as in the *National Register Canon 2007*;
- "Director of Professional Standards"** has the same meaning as in the *National Register Canon 2007*;
- "ordained minister"** has the same meaning as "clergy";
- "police"** means the Australian Federal Police or the police service of a State or Territory of Australia;
- "serious offence"** means a criminal offence of the Commonwealth, of a State or of a Territory, or of another country which is equivalent to such a criminal offence of the Commonwealth, of a State or of a Territory:
- (a) involving child abuse; or
 - (b) involving child exploitation material; or

¹ This canon was passed provisionally as Canon P3, 1989.

² Amended by Canon 11, 2014.

³ Inserted by Canon 11, 2014.

- (c) punishable by imprisonment for life or for a term of 5 years or more.
 - (2) Subject to subsection (3), where a person confesses that he or she has committed a serious offence an ordained minister is only obliged to keep confidential the serious offence so confessed where the ordained minister is reasonably satisfied that the person has reported the serious offence to the police and, if the person is a church worker or a member of the clergy, to the Director of Professional Standards.
 - (3) An ordained minister may reveal the conduct so confessed to a professional advisor for the purpose of obtaining advice as to whether that conduct constitutes a serious offence.
 - (4) It is a defence to a charge of breach of discipline or any offence against the ordained minister arising from his or her disclosure to any person of the conduct so confessed that does not constitute a serious offence that the ordained minister in good faith believed that the conduct did constitute a serious offence.
- 3. The proviso to canon numbered 113 of the Canons of 1603, and any other law of this Church concerning the making of confessions to an ordained minister, in so far as the same may have any force, shall have no operation or effect in this Church.
 - 4. The provisions of this canon affect the order and good government of this Church within a diocese and shall not come into force in a diocese unless and until the diocese adopts this canon by ordinance of the synod of the diocese.

BILL 10A**5 A BILL FOR THE CANON CONCERNING CONFESSIONS (REVISION)
CANON 2017**

The General Synod prescribes as follows:

10

Title

1. This canon is the Canon Concerning Confessions (Revision) Canon 2017.

15

Interpretation

2. In this canon, the principal canon is the Canon Concerning Confessions 1989 without any amendments made by the Canon Concerning Confessions 1989 (Amendment) Canon 2014.

20

Insertion of preamble

3. In the principal canon before the enacting words insert:

25

“Whereas every confession to an ordained minister is heard in the context of the desire of the penitent to be reconciled to God, to the fellowship of the church, and to those who have been harmed by the penitent’s sin:”

Exception to confidentiality

30

4. Section 2 of the principal canon is amended by:
 - (a) deleting the word “If” and substituting the words “Subject to section 2A, if”. and
 - (b) after section 2 of the principal canon, inserting:

35

“2A. (1) In this section –

abuse means sexual assault, sexual exploitation or physical abuse;

child means a person under the age of 18 years;

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

40

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

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

45

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

Director of Professional Standards has the same meaning as in the National Register Canon 2007;

grave offence means conduct that amounts to a criminal offence against the laws of the Commonwealth, a State or Territory, or another country which is equivalent to a criminal offence of the Commonwealth, a State or Territory involving child abuse:

ordained minister has the same meaning as **clergy**;

penitent means a person who makes a confession to an ordained minister;

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

(2) Subject to subsection (3), where a penitent confesses to an ordained minister that he or she has or may have committed a grave offence, that ordained minister is obliged to keep confidential the grave offence so confessed if he or she is reasonably satisfied that the penitent has reported the grave offence to the police and, if the person is a church worker or a member of the clergy, to the Director of Professional Standards or other relevant Church authority.

(3) An ordained minister to whom a penitent has confessed that he or she has or may have committed a grave offence may, for the purpose of obtaining advice as to whether that conduct constitutes a grave offence, reveal the nature of that confession to a person nominated by the bishop of the diocese for the purpose of giving that advice.

(4) It is a defence to a charge of breach of discipline or any offence brought against an ordained minister arising from his or her disclosure to any person of conduct confessed by a penitent that did not constitute a grave offence, that the ordained minister believed in good faith and on reasonable grounds that the conduct may have constituted a grave offence.

Order and good government

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

Repeal

6. The Canon Concerning Confessions 1989 (Amendment) Canon 2014 is repealed.

BILL 10B**A BILL FOR THE CANON CONCERNING CONFESSIONS
(VULNERABLE PERSONS) CANON 2017**

The General Synod prescribes as follows:

Title

1. This canon is the Canon Concerning Confessions (Vulnerable Persons) Canon 2017.

Interpretation

2. In this canon, the principal canon is the Canon Concerning Confessions 1989 as amended by the Canon Concerning Confessions (Revision) Canon 2017.

Amendments to the Principal Canon

3. Section 2A(1) of the principal canon is amended by

- a. In the definition of “grave offence”, replacing the words “child abuse.” with a colon and adding the words
“(a) child abuse; or
(b) abuse of a vulnerable person (other than a child);”
- b. After the definition of “penitent”, insert the following definition
“**other conduct** means conduct confessed by the penitent to an ordained minister which does not constitute a grave offence, but gives the ordained minister reasonable grounds to believe that a vulnerable person is at risk of significant harm;”
- c. After the definition of “police”, insert the following definition
“**vulnerable person** includes a person who by reason of an intellectual disability, mental illness or other impairment, age or circumstance, has reduced capacity, whether permanently or temporarily, to protect himself or herself from abuse.”

4. Section 2A(2) of the principal canon is amended by

- a. After the first occurrence of “grave offence” insert “or confesses to other conduct”
- b. After the second occurrence of “grave offence” insert “or the other conduct”
- c. After the third occurrence of “grave offence” insert “or the other conduct”

5. Section 2A(3) of the principal canon is amended by

5 a. After the first occurrence of “grave offence” insert “or has confessed to other conduct”

b. After the second occurrence of “grave offence” insert “or other conduct”

10 6. Section 2A(4) of the principal canon is amended by deleting 2A(4) and replacing with “(4) It is a defence to a charge of breach of discipline or any offence brought against an ordained minister,

15 a. arising from his or her disclosure to any person of conduct confessed by a penitent that did not constitute a grave offence, that the ordained minister believed in good faith and on reasonable grounds that the conduct may have constituted a grave offence; or

b. arising from his or her disclosure to any person of other conduct that the ordained minister believed in good faith and on reasonable grounds that a vulnerable person was at risk of significant harm.”

20 **Order and good government**

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

BILL 15**A BILL FOR THE
SAFE MINISTRY TO CHILDREN CANON 2017****EXPLANATORY MEMORANDUM****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 *church 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 of 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.

Special bill procedure

49. The special bill procedure set out in section 28 of the Constitution must be followed in relation to this bill, unless the General 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.

Amendments in committee

50. This canon repeats proposed new or amended definitions in the National Register Amendment Canon 2017, and a definition in the Episcopal Standards (Child Protection) Canon 2017. If these canons are passed, and this canon is passed in principle, it is proposed to make the following amendments to definitions in this canon by way of referring to the equivalent definition in the National Register Canon 2007 and the Episcopal Standards (Child Protection) Canon 2017:

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

independent person has the same meaning as in the National Register Canon 2007;

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

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.

51. Further, the definition of **independent person** can be inserted in clause 3 with the consequential deletion of clause 12(1) and the renumbering of the remaining subclauses in clause 12.

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 or 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 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.

BILL 15

5

**A BILL FOR THE
SAFE MINISTRY TO CHILDREN CANON 2017**

10 Whereas –

- 15 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,
- 20 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:
- 25

now the General Synod prescribes as follows:

PART 1 - PRELIMINARY30 **Title**

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

Object

35

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
- 40 (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:

5 **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;

10 **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;

15 **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;

20

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;

25 **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);

30

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

35 (a) in the case of a diocese, under an ordinance of the diocese, or under the constitution of the Church body by one or more of the bishop, the diocesan synod and the diocesan council;

(b) in the case of a province, under an ordinance of the province, or under the constitution of the Church body by one or more of the metropolitan, the provincial synod and the provincial council;

40 (c) in the case of the General Synod, under a canon of the General Synod, or under the constitution of the Church body by one or more of the Primate, the General Synod and the Standing Committee;

diocesan audit means an audit as to whether:

45 (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);

- 5 (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; and
- (c) clergy and church workers in the diocese have observed the standards, and followed the guidelines unless there are cogent reasons for not doing so, applicable to them that give effect to the prescribed standards and guidelines;
- 10 (d) 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);

15 **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:

- 20 (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 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;
- 25 (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;
- 30 (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 effect to the applicable prescribed standards and guidelines as appropriately adapted to the context of the Church body;

35 **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;

40 **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;

45 **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) performs a professional standards role; or
- (e) 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 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;

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

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

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

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.

5 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 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.

30 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.
- 5 (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.
- 15 (2) The General Synod, or Standing Committee by a two-thirds majority, may by resolution amend the Second Schedule by:
- 20 (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.
- 25 (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
- 30 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.
- 35 (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
- 40 (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,
- 45 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.

5 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 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.

30 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**

- 5 12. (1) In this section:
 church worker has the same meaning as in the National Register Canon
 2007;
 independent person means a person who is not:
 (a) a member of the clergy; or
 (b) a church worker.
- 10 (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.
- 15 (3) The General Secretary shall consult with diocesan safe ministry authorities as
 to when the audit of each diocese shall be conducted.
- 20 (4) The Standing Committee shall determine the scope of the General Synod
 audit and a diocesan audit.
- 25 (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.
- 30 (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.
- 35 (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.
- 40 (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.
- 45

PART 5 – GENERAL**Diocesan safe ministry authority**

- 5 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.
 10

PART 6 – COMING INTO FORCE**Coming into force of particular provisions**

- 15 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.
 20 (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

- 25 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.
 30

FIRST SCHEDULE**Interpretation**

- 35 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.
 40

Code of conduct

- 45 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).
-

5

SECOND SCHEDULE PART 1 - INTERPRETATION

Interpretation

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

accredited training means:

- 15 (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
20 (b) training of another Church body or organisation that a diocesan safe ministry authority has determined is equivalent to the training in paragraph (a);

25

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;

30

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;

35

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:

- 40 (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;

45

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;

5 **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
- 10 (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.

15

PART 2 - STANDARDS OF SCREENING

Application

- 20 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.
- 25 (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.
- 30 (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.
- 35
- 40

Deacons

- 3. The standards of screening for a person to be ordained as a deacon are:
- 45 (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, authorised or paid church worker, 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 where a National Police History Check can be applied for by a volunteer or a risk assessment where available;
- (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.

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 clause (1), 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 and 3 when read with Part 1 of this Schedule shall come into force on 1 January 2018.

(2) 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**

5

Definitions

1. In this Protocol:

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

15 **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;

20 **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

25 (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:

30 (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;

35

Province includes part of a Province.

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

40

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:

45 (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.

5 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.

BILL 16**A BILL FOR THE
DISCLOSURE OF INFORMATION CANON 2017****EXPLANATORY MEMORANDUM****General Background**

1. There have been instances where clergy and authorised lay persons in a diocese of this Church, who are known or suspected of having abused people, have moved to and become authorised for ministry in another diocese of this Church, another Province of the Anglican Communion, or another diocese or denomination, without disclosure of this information, and continued to abuse people. The current informal system, where it has operated, has not always ensured that accurate and complete information about such clergy and lay persons has been shared with other Provinces, other dioceses or denominations.
2. 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.
3. The object of this canon is to:
 - (a) implement the Ministry Suitability Information Protocol so far as provides for the disclosure of information to the person or body in a Province responsible for authorising church workers to undertake ministry; and
 - (b) to provide for the disclosure of information to the bishop of another diocese of this Church, or 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 diocese or that denomination.
4. The Ministry Suitability Information Protocol is set out in the Schedule to assist in understanding the requirement for the disclosure of Ministry Suitability Information.
5. This canon provides for:
 - (l) for the General Secretary, upon receiving an application for information about a church worker from a diocesan authority or a prescribed person, where permitted by a protocol under the National Register Canon 2007 to provide an extract from

- the National Register relating to the church worker to the prescribed person, except where disclosure of the information is unlawful or is reasonably believed to be likely to give rise to legal liability;
- (m) for a prescribed authority, upon receiving an application for information about a church worker from the General Secretary or a prescribed person, to reasonably endeavour to provide the information as soon as practicable to the prescribed person, except where disclosure of the information is unlawful or is reasonably believed to be likely to give rise to legal liability;
- (n) the deemed consent of a church worker, in respect of whom an application for information by a prescribed person is received by the General Secretary or a prescribed authority, to the disclosure of information to the prescribed person.
6. It will be necessary to revise the Protocol for access to and disclosure of Information in the National Register 2007 to enable the General Secretary to obtain access to the National Register and disclose information to the prescribed person (which may be passed by a resolution).
7. Information may constitute personal information under privacy legislation. In general terms under privacy legislation, personal information which has been properly collected by an agency or organisation for certain purposes, as required or permitted by law, may be disclosed for those purposes. Restrictions on disclosure may be overcome in certain circumstances, including by consent and specified exemptions under privacy legislation. It is likely that an inference can be drawn that a church worker has consented to the disclosure of information to the prescribed person where the church worker has applied for employment or appointment to an office, licence or position of responsibility. In certain circumstances a specified exemption may exist under privacy legislation. To avoid doubt as to whether it is lawful for the General Secretary or a prescribed authority to disclose information to the prescribed person, the canon provides for the deemed consent of the church worker to its disclosure.
8. Consistent with the reasoning the Appellate Tribunal in its determination on the National Register Canon 2007, this canon does not affect the order and good government of the Church within, or the church trust property of, a diocese. Accordingly, this canon does not contains a declaration under s 30(b) of the Constitution. It is intended that the canon will come into force on a date appointed by the President.

Notes on Clauses

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: authorise, church worker, denominational authority, diocesan authority, information, prescribed person, prescribed authority, Protocol, Province and provincial authority.
Clause 4	provides that in respect of an application for information about a church worker received from a prescribed person the General Secretary, where permitted by a protocol under the National Register Canon 2007, is provide an extract from the National Register relating to the church worker to the prescribed person, and the applicable prescribed authority must reasonably endeavour to provide the information as soon as practicable to the prescribed person, except where disclosure of the information is prevented by law or is reasonably believed to be likely to give rise to legal liability.
Clause 5	provides for the deemed consent of a church worker to the disclosure of information.
Schedule	sets out the Ministry Suitability Information Protocol.

BILL 16**A BILL FOR THE
DISCLOSURE OF INFORMATION CANON 2017**

10 The General Synod prescribes as follows:

Title

1. This canon is the Disclosure of Information Canon 2017.

Object

2. The object of this canon is:
- (a) to implement the Protocol so far as it provides for the disclosure of information to the person or body in a Province responsible for authorising church workers to undertake ministry;
 - (b) to provide for the disclosure of information to the bishop of another diocese of this Church or 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 diocese or that denomination.

Interpretation

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

authorise means authorise by a licence or other similar authority;

church worker means a member of the clergy or a lay person who is authorised, or has previously been authorised, to undertake ministry by a diocesan authority;

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 diocesan 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 diocese regarding the moral conduct
of clergy and lay persons undertaking ministry, including rules relating to sexual
conduct and conduct towards children and vulnerable adults;

prescribed person means a provincial authority or a diocesan authority or a
denominational authority who is reasonably believed to:

(a) be considering whether to employ or appoint the church worker to an office,
licence or position of responsibility; or

(b) determining whether the church worker is suitable to remain in employment or to
hold an office, licence or position of responsibility; or

(c) have the role of recommending or taking disciplinary action against, or
recommending or determining the fitness for office of, the church worker under a
process being contemplated or taken against the church worker;

prescribed authority means the bishop of a diocese of this Church;

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 Schedule;

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.

Request for information

4. (1) When the General Secretary receives an application for information about a
church worker from a prescribed person, whether directly or through a
prescribed authority or otherwise, he or she must as soon as practicable:

(a) forward the application for information to any prescribed authority who, or
a predecessor of whom, is recorded in the application as having
previously authorised the church worker to undertake ministry; and

(b) where permitted by a protocol under the National Register Canon 2007
provide an extract from the National Register relating to the church
worker to the prescribed person, except where disclosure of the
information is unlawful or is reasonably believed to be likely to give rise to
legal liability.

(2) When a prescribed authority receives an application for information about a
church worker from a prescribed person he or she must advise the General
Secretary as soon as practicable of the application.

- (3) A prescribed authority, upon receiving an application for information about a church worker from the General Secretary or a prescribed person, must reasonably endeavour to provide the information as soon as practicable to the prescribed person, except where disclosure of the information is unlawful or is reasonably believed to be likely to give rise to legal liability.

Consent of the church worker to disclose information

5. A church worker in respect of whom an application for information by a prescribed person is received by the General Secretary or a prescribed authority is deemed to have given consent to the disclosure of information to the prescribed person.

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:

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

- (c) whether or not there has been; and
- (d) 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

5

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:

10

(c) 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

15

(d) 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

20

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:

25

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

(e) 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

30

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

35

(iv) is required by law; or

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

(vi) 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.

BILL 17**A BILL FOR THE
NATIONAL REGISTER AMENDMENT CANON 2017****EXPLANATORY MEMORANDUM****General Background**

1. The object of this canon is to amend the National Register Canon 2007 to:
 - (o) change the responsibility for entering Information in the National Register from the General Secretary to the Director of Professional Standards;
 - (p) ensure that conduct amounting a grooming in relation to a child, or the failure to comply with laws requiring the disclosure of a child sexual offence to the police, or the reporting of child abuse to the police or other authority, by a member of the clergy or church worker can be entered in the National Register;
 - (q) clarify the meaning of words and expressions used in the National Register Canon 2007; and
 - (r) provide that the report of the audit of the operation of the National Register is to be published on the General Synod website.
2. The system used for the entry of Information in the National Register involves the Director of Professional Standards directly making the entry rather than the Director of Professional Standards notifying the General Secretary who then makes the entry. The canon is being amended to reflect this system with the consequential amendment of the Protocol for provision of Information for inclusion in the National Register 2007 (which may be passed by a resolution).
3. There has been an instance where a Director of Professional Standards has received a complaint of grooming of a child by a church worker, but was unable to make an entry in the National Register because the conduct did not come within the definition of “child abuse”.
4. A complaint of the failure by a member of the clergy or church worker to comply with laws requiring:
 - (a) the disclosure of a child sexual offence to the police; or
 - (b) the reporting of child abuse to the police or other authority;

cannot be entered in the National Register because the conduct does not come within the definition of “child abuse”.

5. There has been uncertainty whether a Director of Professional Standards is required to enter a complaint against a member of the clergy or church worker in the National Register because some words and expressions used in the National Register Canon 2007 are not defined. Further, the definition of “adverse working with children check” does not accurately reflect the laws in the States and Territories which provide for the cancellation, revocation, suspension of, and refusal to issue, a working with children check, but not the issue of an adverse working with children check.
6. The purpose of the publication the report of the audit of the operation of the National Register on the General Synod website is to provide public accountability.
7. As the National Register Canon 2007 has been determined by the Appellate Tribunal not to affect the order and good government of the Church within a diocese, or the church trust property of a diocese, the canon contains no such declaration under s 30(b) of the Constitution. It is intended that the canon will come into force on a date appointed by the President.

Notes on Clauses

- | | |
|----------|---|
| Clause 1 | states the title of the canon and that the National Register Canon 2007 is referred to as the principal canon. |
| Clause 2 | amends section 5 of the principal canon by providing that an adverse check is to be recorded in the National Register. |
| Clause 3 | amends section 6 of the principal canon by providing that an adverse check is to be recorded in the National Register. |
| Clause 4 | amends section 8 of the principal canon by providing that the Director of Professional Standards shall enter Information in the National Register. |
| Clause 5 | amends section 15 of the principal canon by providing that each diocese shall provide access to records and provide information to enable the audit of the operation of the National Register to be undertaken and the report of the audit shall be published on the General Synod website. |
| Clause 6 | amends the First Schedule of the principal canon by amending paragraph 18 to specify an adverse check. |
| Clause 7 | amends the Second Schedule of the principal canon by amending paragraph 13 to specify an adverse check. |
| Clause 8 | amends the Third Schedule of the principal canon by deleting definition of adverse working with children check , amending the definitions of bullying , child abuse , Church body , church worker , sexual misconduct and working with children check and inserting definitions of adverse check , child offence , controlled by a diocese or province or |

the General Synod, grooming, independent person, sexual abuse, sexual assault, sexual harassment, sexually inappropriate behavior, wilful or reckless failure to report child abuse and working with vulnerable people check.

BILL 17

5

**A BILL FOR THE
NATIONAL REGISTER AMENDMENT CANON 2017**

10 The General Synod prescribes as follows:

Title

- 1 (1) This canon is the National Register Amendment Canon 2017.
15 (2) In this canon, the **principal canon** is the National Register Canon 2007.

Amendment of section 5

- 2 Section 5 of the principal canon is amended by deleting “working with children” in
20 paragraph (d) of subsection (1).

Amendment of section 6

- 3 Section 6 of the principal canon is amended by deleting “working with children” in
25 paragraph (c) of subsection (1).

Amendment of section 8

- 4 Section 8 of the principal canon is amended by:
30 (a) in subsection (1), deleting “notify the General Secretary of Information” and
substituting “enter Information in the National Register”;
(b) deleting subsection (2);
(c) renumbering subsection (3) as subsection (2) and in the renumbered
subsection (2) deleting “notified” and substituting “entered”;
35 (d) renumbering subsection (4) as subsection (3) and in the renumbered
subsection (3):
(e) in paragraph (a), deleting “(3)” and substituting “(2)”;
(f) in paragraph (b), deleting “(6)” and substituting “(5)”;
(g) renumbering subsection (5) as subsection (4) and in the renumbered
subsection (4) deleting “(3)” and substituting “(2)”;
40 (h) renumbering subsection (6) as subsection (5) and in the renumbered
subsection (5)(a) deleting “(5)” and substituting “(4)”.

Amendment of section 15

5 Section 15 of the principal canon is amended by:

- 5 (a) in subsection (2)(b), deleting “a person” and substituting “an independent person”;
- (b) adding the following subsections:
 - (3) Each diocese shall provide access to such of its records and provide such information as requested by the independent person undertaking the audit as is reasonably necessary to enable the audit to be undertaken.
 - 10 (4) The General Secretary shall, as soon as practicable after the report of the audit has been provided to the Standing Committee, publish the report on the General Synod website.

15 **Amendment of the First Schedule**

6 The First Schedule of the principal canon is amended by deleting “working with children” in paragraph 18.

20 **Amendment of the Second Schedule**

7 The Second Schedule of the principal canon is amended by deleting “details” and “working with children” in paragraph 13.

25 **Amendment of the Third Schedule**

8 The Third Schedule of the principal canon is amended by:

- (a) deleting the punctuation at the beginning and end of the defined words and expressions;
- 30 (b) inserting the following definition after the definition of “adverse admission”:

adverse check means the cancellation, revocation, suspension of, and refusal to issue, a working with children check, or a working with vulnerable people check on account of known or suspected child abuse or sexual misconduct;
- 35 (c) deleting the definition of “adverse working with children check”;
- (d) deleting the definition of “bullying” and substituting the following definition:

bullying means behaviour directed to a person which:

 - (a) is repeated;
 - (b) is unreasonable (being behaviour that a reasonable person,

40 having considered the circumstances, would see as unreasonable, including behaviour that is victimising, humiliating, intimidating or threatening); and
 - (c) creates a risk to the person’s health and safety;
- (e) in the definition of “child abuse”:
 - 45 (i) deleting the words and punctuation in paragraph (a)(v) and substituting “sexual abuse; or”;
 - (ii) inserting “or” at the end of paragraph (a)(vi); and

- (iii) inserting the following paragraphs after paragraph (a)(vi):
- (vii) grooming; or
 - (viii) a child offence; or
 - (ix) wilful or reckless failure to report child abuse;
- 5 (f) inserting the following definition after the definition of “child exploitation material”:
- child offence** means conduct that amounts to a criminal offence against the laws of the Commonwealth, a State or Territory, or another country which is equivalent to a criminal offence of the Commonwealth or a State or Territory involving the failure to disclose a sexual
- 10 offence committed against a child to the police;
- (g) in the definition of “Church body”, deleting “formed by or by the authority of the synod of a province or a diocese or” and substituting “, and is controlled by a diocese or province or”;
- 15 (h) in paragraph (c)(iii) of the definition of “Church worker”, deleting “incorporated by the General Synod, a diocese or a diocesan synod” and substituting “controlled by a diocese or province or the General Synod”;
- (i) inserting the following definitions after the definition of “clergy”:
- controlled by a diocese or province or the General Synod** means that the majority of the members of the body with management responsibility is elected or appointed:
- 20 (a) in the case of a diocese, under an ordinance of the diocese, or under the constitution of the Church body by one or more of the bishop, the diocesan synod and the diocesan council;
- 25 (b) in the case of a province, under an ordinance of the province, or under the constitution of the Church body by one or more of the metropolitan, the provincial synod and the provincial council;
- 30 (c) in the case of the General Synod, under a canon of the General Synod, or under the constitution of the Church body by one or more of the Primate, the General Synod and the Standing Committee;
- (j) inserting the following definitions after the definition of “General Secretary”:
- 35 **grooming** means conduct deliberately undertaken with the aim of engaging and influencing a child for the purpose of sexual activity;
- independent person** means a person who is not:
- (c) a member of the clergy; or
 - (d) a church worker;
- 40 (k) inserting the following definitions after the definition of “Safe Ministry Check”:
- sexual abuse** means the use of a child by a person for his or her own sexual stimulation or gratification or for that of others;
- sexual assault** means any intentional or reckless act, use of force or threat to use force involving some form of sexual activity against an adult without their consent;
- 45 (l) inserting the following definitions after the definition of “sexual exploitation”:
- sexual harassment** means:
- (a) an unwelcome sexual advance, or an unwelcome request for

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

in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated that the other person would be offended, humiliated or intimidated;

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

- (m) deleting the definition of “sexual misconduct” and substituting the following definition:

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

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

- (n) inserting the following definition after the definition of “Standing Committee”:

wilful or reckless failure to report child abuse means the wilful or reckless failure 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;

- (o) deleting the definition of “working with children check” and substituting the following definition:

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

- (p) inserting the following definition after the definition of “working with children check”:

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

BILL 18**A BILL FOR THE
NATIONAL REGISTER (ACCESS TO AND DISCLOSURE OF
INFORMATION) AMENDMENT PROTOCOL 2017**

The General Synod prescribes as follows:

Title

- 1 (1) This protocol is the National Register (access to and disclosure of information) Amendment Protocol 2017.
- (2) In this protocol, the **principal protocol** is the Protocol for access to and disclosure of Information in the National Register 2007.

Amendment of Part 6

- 2 The following heading and clause is inserted after clause 20C of the principal protocol:

Disclosure of Information Canon 2017

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

BILL 19**A BILL FOR THE
NATIONAL REGISTER (INCLUSION OF INFORMATION)
AMENDMENT PROTOCOL 2017**

The General Synod prescribes as follows:

Title

- 1 (1) This protocol is the National Register (Inclusion of Information) Amendment Protocol 2017.
- (2) In this protocol, the **principal protocol** is the Protocol for provision of Information for inclusion in the National Register 2007.

Amendment of clause 3

- 2 Clause 3 of the principal protocol is amended by:
- (a) deleting “Notification” in the heading and substituting “Entry”;
- (b) deleting “notify the General Secretary of Information” and substituting “enter Information in the National Register”.

Amendment of clause 4

- 3 Clause 4 of the principal protocol is amended by:
- (a) deleting the heading and substituting “Accuracy and completeness of Information”;
- (b) deleting the clause and substituting the following clause:
- The Director of Professional Standards, whenever satisfied that Information on the National Register is inaccurate or incomplete, shall amend the Information to ensure its accuracy and completeness.

BILL 20**A BILL FOR THE
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 explanatory memorandum are 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 Sixteenth General Synod. The EMTF included in its report a Model Episcopal Standards Ordinance.
4. Resolution 47/14 of the Sixteenth 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 Seventeenth 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.

10. It is proposed that the Episcopal Standards bill proceed on the basis that it deals with fitness for office and not discipline, so that it can take effect as a canon under section 30 of the Constitution and commence on and from a date appointed by the President, being not later than one calendar month from the date on which the canon was passed. To facilitate the commencement of the bill, there is no clause that declares that its provisions affect the order and good government of the Church within a diocese. If all dioceses are supportive of the rationale and requirement for this bill, then it is unlikely that any diocese will seek to rely on paragraph (c) of s 30 of the Constitution. If the bill did provide expressly that its provisions affect the order and good government of the Church within a diocese, then the bill would not come into force in a diocese until adopted by the diocese by ordinance. It could easily take a couple of years before all dioceses adopted the canon. It will therefore be a matter for dioceses at the General Synod as to whether they consider it is in the interests of the Church (and the public) to legislate for a national approach to episcopal standards that take almost immediate effect in relation to dealing with current and former bishops who are or were subject to s 56(6) of the Constitution in respect of fitness for office. If a matter then proceeded to a hearing before the Episcopal Standards Board and the Board made a determination, that determination would be entered into the national register which may be considered a significant outcome, even without the concomitant provisions that presently exist, for example, in s 51 of the 2007 Canon.
11. The relationship between the Episcopal Standards bill and the legislation of a diocese which has enacted its own Episcopal Standards Ordinance is that, pursuant to s 30 of the Constitution, any diocesan legislation covering the same subject area will to the extent of any inconsistency have no effect. Likewise, any diocese yet to enact its own Episcopal Standards Ordinance will be able to do so for the balance of episcopal standards matters not covered by the Episcopal Standards bill.
12. 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.
13. 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 Episcopal Standards Board set up to hear questions that are referred by the ESC. The 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.

14. In order to ensure that the Episcopal Standards bill deals with fitness for office and does not affect the discipline of this Church that would otherwise attract the application of proviso (a) to s 30 of the Constitution, it is necessary to modify some of the provisions in the 2007 Canon. This task is facilitated by consideration of the Appellate Tribunal's determination dated 4 April 2007 on the references in respect of the Special Tribunal Canon 2004 and the National Register Canon 2004 (the 2007 AT determination). On that basis section 12(1) of the 2007 Canon must be modified, so that the relevant bishop is not compelled to provide a detailed report to the ESC in response to an investigation, but instead is allowed to provide a detailed report. Sections 12(2), 16(c) and (d), 48(c) and 51 of the 2007 Canon cannot apply. See p 19 of the 2007 AT determination.
15. If the 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 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.
16. 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.

Notes on Clauses

Clause 1 provides for the title of the canon.

Clause 2 sets out 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.

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.

As one of the areas of conduct that can fall within the definition of examinable conduct is the wilful or reckless failure 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.

- Clause 3 specifies 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 and to ensure the subject matter of the canon concerns fitness for office only.
- Clause 4 states that 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 upon which the canon was passed.

ATTACHMENT TO EXPLANTATORY MEMORANDUM**ANGLICAN CHURCH OF AUSTRALIA – EPISCOPAL STANDARDS LEGISLATION BY DIOCESE**

Diocese	Legislation	
Adelaide	<i>Episcopal Standards Ordinance 2015 (adopting model ordinance 2014)</i>	Complaints based, fitness enquiry, wide definition of misconduct, appeal to Review Board
Armidale	<i>Episcopal Standards Canon 2007 adopted</i>	Information and examinable conduct, wide definition of misconduct, limited appeal to Review Tribunal
Ballarat	<i>Episcopal Standards Act 2013</i>	Complaints based, fitness enquiry, wide definition of misconduct, appeal to Review Board
Bathurst	<i>Episcopal Standards Canon 2007 adopted</i>	Information and examinable conduct, wide definition of misconduct, limited appeal to Review Tribunal
Bendigo	<i>Episcopal Standards Act 2015 (adopting model ordinance 2014)</i>	Complaints based, fitness enquiry, wide definition of misconduct, appeal to Review Board
Brisbane	<i>Episcopal Standards Canon 2007 adopted</i>	Information and examinable conduct, wide definition of misconduct, limited appeal to Review Tribunal
Bunbury	<i>Episcopal Standards Canon 2007 adopted</i>	Information and examinable conduct, wide definition of misconduct, limited appeal to Review Tribunal
Canberra & Goulburn	<i>Episcopal Standards Canon 2007 adopted / repealed</i>	Under consideration
Gippsland	No legislation	Under consideration
Grafton	<i>Episcopal Standards Canon 2007 adopted</i>	Information and examinable conduct, wide definition of misconduct, limited appeal to Review Tribunal
Melbourne	<i>Episcopal Standards Act 2015 (adopting model ordinance 2014)</i>	Complaints based, fitness enquiry, wide definition of misconduct, appeal to Review Board
Newcastle	<i>Episcopal Standards Canon 2007 adopted</i>	Information and examinable conduct, wide definition of misconduct, limited appeal

**ANGLICAN CHURCH OF AUSTRALIA – EPISCOPAL STANDARDS LEGISLATION BY
DIOCESE**

		to Review Tribunal
North Queensland	<i>Episcopal Standards Canon 2007 adopted</i>	Information and examinable conduct, wide definition of misconduct, limited appeal to Review Tribunal
North West Australia	<i>Episcopal Standards Statute 2016</i>	Follows Perth: Complaints based, fitness enquiry, appeal to Review Board
Northern Territory	<i>Episcopal Standards Canon 2007 adopted</i>	Information and examinable conduct, wide definition of misconduct, limited appeal to Review Tribunal
Perth	<i>Episcopal Standards Statute 2016</i>	Complaints based, fitness enquiry, appeal to Review Board
Riverina	<i>Episcopal Standards Canon 2007 adopted</i>	Information and examinable conduct, wide definition of misconduct, limited appeal to Review Tribunal
Rockhampton	<i>Episcopal Standards Canon 2007 adopted</i>	Information and examinable conduct, wide definition of misconduct, limited appeal to Review Tribunal
Sydney	<i>No legislation</i>	Under consideration
Tasmania	<i>Episcopal Standards Canon 2007 adopted</i>	Information and examinable conduct, wide definition of misconduct, limited appeal to Review Tribunal
The Murray	<i>Episcopal Standards Ordinance 2016</i> (substantially adopting model ordinance 2014)	Complaints based, fitness enquiry, wide definition of misconduct, appeal to Review Board
Wangaratta	<i>Episcopal Standards Act 2012</i>	Complaints based, fitness enquiry, wide definition of misconduct, appeal to Review Board
Willochra	<i>Episcopal Standards Regulation 2015</i> (adopting model ordinance 2014)	Follows Adelaide: Complaints based, fitness enquiry, wide definition of misconduct, appeal to Review Board

ANGLICAN CHURCH OF AUSTRALIA – EPISCOPAL STANDARDS LEGISLATION BY DIOCESE**NOTES**

1. Where a diocese has episcopal standards legislation, it addresses child sexual abuse and is directed to the Diocesan Bishop. Each diocese bases their legislation on the concept of fitness for office of the Diocesan Bishop.
2. The legislation of the Australian dioceses falls into 3 broad categories:
 - (a) Complaints based – fitness for office - model episcopal standards ordinance 2014;
 - (b) Complaints based – fitness for office;
 - (c) The Episcopal Standards Canon 2007 – Information and examinable conduct, fitness for office;
3. So far, 5 of the 23 dioceses in Australia have legislation that substantially adopts the Model Episcopal Standards Ordinance 2014:
 - Adelaide
 - Bendigo
 - Melbourne
 - The Murray
 - Willochra
4. 4 of the 23 dioceses have adopted a 'complaints' based approach but reflecting the concept of fitness for office. Ballarat and Wangaratta still have the legislation based on the Melbourne Episcopal Standards Act 2011 but plan to adopt the model ordinance in like fashion to Melbourne. Perth and North West Australia has recently enacted legislation:
 - Ballarat
 - North West Australia
 - Perth
 - Wangaratta
5. 11 of the 23 dioceses, including Brisbane have adopted and still have the Episcopal Standards Canon 2007:
 - Armidale
 - Bathurst
 - Brisbane
 - Bunbury
 - Grafton
 - Newcastle
 - North Queensland
 - Northern Territory
 - Riverina
 - Rockhampton
 - Tasmania
6. Canberra Goulburn is 'in between' repealing the old and introducing new legislation.
7. 2 dioceses, Sydney and Gippsland have not had any Episcopal Standards ordinance but have legislation under consideration.

BILL 20**A BILL FOR
THE EPISCOPAL STANDARDS (CHILD PROTECTION) CANON 2017**

The General Synod prescribes as follows:

Title

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

Definitions

2. 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;

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 wilful or reckless failure to perform a function under a professional standards process; or
- (iv) the wilful or reckless failure 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 be or 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 wilful or reckless failure to perform a function under a professional standards process; or
- (iv) the wilful or reckless failure 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 be or 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;

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.

Application of specified provisions of the Episcopal Standards Canon 2007

3. 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", "Code of Conduct" and "examinable conduct"; and
- (b) Parts 3 to 9, except that in section 12(1) "allow" is substituted for "require" and other than section 12(2), paragraphs (c) and (d) of section 16, paragraph (c) of section 48, and section 51.

Commencement of this canon

4. 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 as passed.

BILL 21**A BILL FOR THE
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. |

BILL 21**A BILL FOR THE
CONSTITUTION (JURISDICTION OF SPECIAL TRIBUNAL)
AMENDMENT CANON 2017**

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.”

BILL 22**A BILL FOR THE
OFFENCES AMENDMENT CANON 2017****EXPLANATORY MEMORANDUM****General Background**

1. 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.
2. 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 the wilful or reckless failure 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.
3. 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.

BILL 22**A BILL FOR THE
OFFENCES AMENDMENT CANON 2017**

10 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. Wilful or reckless failure 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. Wilful or reckless failure 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. Wilful or reckless failure 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.

**BILLS SOUGHT TO BE
INCLUDED ON THE
AGENDA**

A BILL FOR THE REDRESS FOR SURVIVORS OF ABUSE CANON 2017

EXPLANATORY MEMORANDUM

General Background

1. Since 2004 some dioceses and Anglican organisations have developed their own redress schemes as a response to survivors of abuse, including child sexual abuse, as an alternative to civil litigation. They are often referred to as Pastoral Care and Assistance schemes. Different processes apply in these schemes with varying degrees of independence in the decision-makers and the decisions made in assessing claims (including around monetary payments).
2. The Royal Commission into Institutional Responses to Child Sexual Abuse was established in January 2013 and its terms of reference include “what institutions and governments should do to address, or alleviate the impact of, past and future child sexual abuse and related matters in institutional contexts, including, in particular, in ensuring justice for victims through the provision of redress by institutions ...”.
3. On 14 September 2015 the Redress and Civil Litigation Report of the Royal Commission was tabled in the Australian Parliament. In this report, the Royal Commission:
 - (a) found that a process for redress must provide equal access and equal treatment for survivors – regardless of the location, operator, type, continued existence or assets of the institution in which they were abused – if it is to be regarded by survivors as being capable of delivering justice;
 - (b) found that appropriate redress for survivors should include the elements of a direct personal response, counselling and psychological care and monetary payments;
 - (c) recommended that, in order to provide redress under the most effective structure for ensuring justice for survivors, the Australian Government should establish a single national redress scheme; and

- (d) stated that decisions about redress should be made by a body that is independent of the institutions, which will mean that applicants will not need to deal directly with the institution in which they were abused.
4. In response to this report, the Royal Commission Working Group put in place a process of consultation, including two forums on 1 June 2016 and 21 September 2016 which attracted extensive representation from dioceses and organisations and the circulation of an options paper. A majority of participants at the second forum supported the view that “Option 4” in the options paper (an independently controlled scheme managed by an independent, incorporated entity to determine payments in accordance with Royal Commission’s recommended financial matrix) would best deliver an independent, consistent, survivor centred redress scheme. There was no firm commitment of involvement but a willingness to receive more detailed information to allow an assessment against current arrangements. A consistent view expressed at these forums was that diocese or organisation should not be liable for the payment of any amount in settlement of a claim for redress against another diocese or organisation.
5. On 4 November 2016 the Commonwealth announced that it would establish a Redress Scheme for survivors of abuse in Commonwealth institutional settings, and would encourage states, territories and non-government institutions to opt-in on a strictly “responsible entity pays” basis. The ability of non-government institutions (including dioceses and other Anglican organisations) to participate in the Scheme will depend on a referral of powers from the state(s) in which that institution is established and/or operates. A referral will enable non-government institutions in the referring state to voluntarily opt into the Scheme by written agreement.
6. The present position with respect to the Commonwealth Redress Scheme is:
- (a) the Scheme is proposed to commence on 1 July 2018 and will be limited to child sexual abuse which occurred prior to that date;
 - (b) participating responsible entities will need to meet the following costs:
 - redress costs comprising the three Scheme outcomes of monetary payment, direct personal response, and psychological counselling;
 - contribution to the cost of a survivor’s legal advice in a capped amount; and
 - administration costs;
 - (c) it is unclear whether the Church will only be able to opt into the Scheme through a single entity on behalf of any dioceses and organisations that wish to voluntarily participate in the Scheme;
 - (d) it is unclear which states will refer the necessary powers to the Commonwealth to enable non-government institutions in their jurisdiction to voluntarily opt into the Scheme; and

- (e) it is anticipated that an Exposure Draft of the Bill to establish the Scheme will be available in early August 2017 before it is introduced into the Australian Parliament in the Spring sittings commencing in August 2017.
7. In these circumstances some dioceses and organisations may wish to voluntarily opt into the Commonwealth Redress Scheme. Accordingly, it is prudent for the General Synod to authorise the Standing Committee to arrange for the registration of a company, or for the participation in another entity or scheme, on behalf of those dioceses and organisations. It is also conceivable that a number of non-Anglican, non-government institutions may wish to opt into the Scheme through membership of the company or participation in the same entity or scheme.
8. In addition, it may be necessary or desirable to put in place arrangements for the co-ordination and management of redress for survivors of abuse perpetrated by clergy, lay workers and volunteers who commit abuse in the course of their official responsibilities, including survivors of child sexual abuse who are unable or unwilling to participate in the Commonwealth Redress Scheme. Accordingly, it is also prudent for the General Synod to authorise the Standing Committee to arrange for the company or another entity or scheme to be able co-ordinate and manage redress in these circumstances on behalf of the dioceses and organisations that voluntarily elect to become members of the company or participate in the entity or scheme.
9. The object of this canon is to make provision for the co-ordination and management of redress:
- (d) for survivors of child sexual abuse perpetrated by offenders through participation in the Commonwealth Redress Scheme; and
- (e) for survivors of abuse perpetrated by offenders, including survivors of child sexual abuse who are unable or unwilling to participate in the Commonwealth Redress Scheme.
10. The canon confers authority on the Standing Committee to arrange for the registration of such a company and/or the participation of dioceses and organisations in another entity or scheme, and confers powers on the Standing Committee in relation to the company or the entity or scheme.
11. As the canon does not in any direct way influence, alter or shape how the diocese is ordered or governed or the church trust property of a diocese, it does not contain a declaration under s 30(b) of the Constitution. It is intended that the canon will come into force on a date appointed by the President.

Notes on Clauses

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: Commonwealth redress scheme, Offenders and Participants.
Clause 4	confers authority on the Standing Committee to arrange for the registration of a company limited by guarantee under the Corporations Act 2001 (Cth) to co-ordinate and manage redress.
Clause 5	specifies provisions that must be included in the constitution of the company.
Clause 6	confers powers on the Standing Committee in relation to the company.
Clause 7	confers authority on the Standing Committee to arrange for the participation of dioceses and organisations in another entity or scheme which is established to co-ordinate and manage redress.
Clause 8	confers powers on the Standing Committee in relation to the entity or scheme.

A BILL FOR THE REDRESS FOR SURVIVORS OF ABUSE CANON 2017

The General Synod prescribes as follows:

Title

1. This canon is the Redress for Survivors of Abuse Canon 2017.

Object

2. The object of this canon is to make provision for the co-ordination and management of redress:
 - (a) for survivors of child sexual abuse perpetrated by Offenders through participation in a Commonwealth redress scheme; and
 - (b) for survivors of abuse perpetrated by Offenders, including survivors of child sexual abuse who are unable or unwilling to participate in a Commonwealth redress scheme.

Interpretation

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

Commonwealth redress scheme means a scheme established by the Commonwealth to implement the recommendations in the Redress and Civil Litigation Report of the Royal Commission into Institutional Responses to Child Sexual Abuse;

Offenders means clergy, lay workers and volunteers of Participants who commit abuse in the course of their official responsibilities;

Participants means:

- (a) dioceses and organisations of this Church, and other entities approved by Standing Committee, that voluntarily elect to become members of a company registered in accordance with section 4; or
- (b) the company or dioceses and organisations of this Church that voluntarily elect to participate, and other entities that participate, in an entity or scheme authorised in accordance with section 7.

Registration of a company

4. The Standing Committee is authorised to arrange for the registration of a company limited by guarantee under the Corporations Act 2001 (Cth) to co-ordinate and manage redress:
- (a) for survivors of child sexual abuse perpetrated by Offenders through participation in a Commonwealth redress scheme; and/or
 - (b) for survivors of abuse perpetrated by Offenders, including survivors of child sexual abuse who are unable or unwilling to participate in a Commonwealth redress scheme;
- on behalf of Participants.

Constitution of the company

5. The constitution of the company must provide that:
- (a) a member of the company is not liable for the payment of any amount in settlement of a claim for redress against another member; and
 - (b) amendments to the constitution of the company must be approved by the Standing Committee.

Powers of the Standing Committee in relation to the company

6. The Standing Committee is further authorised:
- (a) to approve the constitution of the company;
 - (b) to approve the initial members of the company;
 - (c) to approve arrangements for entities other than dioceses and organisations of this Church to become members of the company;
 - (d) to do such things as the constitution of the company requires of it;
 - (e) to do such other things as are incidental or conducive to the registration, governance or management of the company; and
 - (f) to consent to any future amendment of the constitution of the company.

Participation in an entity or scheme

7. The Standing Committee is authorised to arrange for the participation of the company, or dioceses and organisations of this Church, in another entity or scheme which is established to co-ordinate and manage redress:
- (a) for survivors of child sexual abuse perpetrated by Offenders through participation in a Commonwealth redress scheme; and/or
 - (b) for survivors of abuse perpetrated by Offenders, including survivors of child sexual abuse who are unable or unwilling to participate in a Commonwealth redress scheme;
- on behalf of Participants.

Powers of the Standing Committee in relation to the entity or scheme

8. (1) The Standing Committee is further authorised:
- 5 (a) subject to subsection (2), to approve the terms for participation in the entity or scheme; and
- (b) to do such other things as are incidental or conducive to the participation in the entity or scheme.
- (2) The Standing Committee must not approve a term for participation in an entity or
- 10 scheme which provides that a Participant is liable for the payment of any amount in settlement of a claim for redress against another Participant.

AN ALTERNATIVE BILL FOR THE EPISCOPAL STANDARDS (CHILD PROTECTION) CANON 2017

EXPLANATORY MEMORANDUM

Introduction

1. This Bill for an *Episcopal Standards (Child Protection) Canon 2017* (**the Long Form Episcopal Standards Bill**) and the accompanying bills are promoted by the Diocesan Council of the Diocese of Melbourne pursuant to rule 7(j) of the Standing Orders of General Synod (Rule No 1) which, for compliance with s27(1) of the Constitution and if Standing Committee by circular resolution declines to allow a shorter period of notice, moves as follows–

That General Synod by an affirmative vote in each house of at least three-fourths of the members present declare the Bill for an alternative *Episcopal Standards (Child Protection) Canon 2017* and its accompanying Bills to be a matter of urgency and permit them to be included in the agenda without previous notice.

2. They are presented so as to be considered by General Synod as an alternative to the short Bill No 21 for an Episcopal Standards (Child Protection) Canon 2017 presented by Standing Committee as approved in May 2017 (the Short Form Episcopal Standards Bill). Both the Primate and the Episcopal member of the Episcopal Standards Task Force, Archbishop Glenn Davies, support this approach in circumstances where the relatively short time available has not permitted either Standing Committee or the current Episcopal Standards Task Force to consider these bills promoted by the Diocesan Council and make a recommendation to General Synod.

Background

3. First some background history. This explanatory memorandum should be read with the explanatory memorandum to Bill No 20.

4. In October 2010, the Standing Committee of General Synod had constituted an Episcopal Ministry Task Force. The members of the Task Force were:
The Hon Justice David Bleby, now The Hon David Bleby QC (Convenor)
The Most Rev'd Dr Peter Jensen, Archbishop of Sydney
The Most Rev'd Dr Phillip Freier, Archbishop of Melbourne
The Right Rev'd Gary Weatherill, then Bishop of Willochra, now Bishop of Ballarat
Mr Michael Shand QC
Mr Garth Blake SC
Ms Leigh Haywood.
Upon the retirement of the Most Rev'd Dr Peter Jensen the Most Rev'd Dr Glenn Davies was appointed to fill the vacancy.
5. The Task Force concluded its work in April 2014, recommending to General Synod a Model Episcopal Standards Ordinance for adoption by dioceses. The Task Report made a detailed report to General Synod.
6. At the meeting of General Synod in July 2014 in Adelaide, it was resolved, having been moved by Archbishop Philip Freier and seconded by Archbishop Glenn Davies that the General Synod-
 - (a) commends 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;
 - (b) requests that where a diocesan synod enacts or proposes to enact an Ordinance which departs in any matter of substance from the Model Ordinance, the Standing Committee be notified of the proposal or enactment; and
 - (c) requests the Standing Committee to appoint a group to review such notifications, to discuss, where appropriate, the proposal or enactment and, where appropriate, to make recommendations for amendment of the Model Ordinance.
7. In February 2017, Standing Committee appointed an Episcopal Standards Task Force, as explained in the explanatory memorandum to the Short Form Episcopal Standards Bill.
8. Members of General Synod will find attached to that explanatory memorandum to the Short Form Episcopal Standards Bill a table showing the particular episcopal standards legislation, if any, which each diocese in Australia has adopted. As at March 2017, 9 dioceses had adopted the model ordinance or similar legislation; 11 still had the Episcopal Standards Canon 2007.

The Short Form Episcopal Standards Bill

9. As the explanatory memorandum for the Short Form Episcopal Standards Bill explains, the rationale for the Short Form 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.

10. The explanatory memorandum states that the Short Form Episcopal Standards Bill proceeds on the principle that it deals with fitness for office and not discipline, so that it can take effect as a canon under section 30 of the Constitution and commence with almost immediate effect, on and from a date appointed by the President, being not later than one calendar month from the date on which the canon was passed. To facilitate the immediate commencement of the bill, there is no clause that declares that its provisions affect the order and good government of the Church within a diocese.
11. Since 13 May 2017, when Standing Committee resolved to promote the Short Form Episcopal Standards Bill to General Synod, it became apparent that by reason of the incorporated provisions of the Episcopal Standards Canon 2007, the Short Form Episcopal Standards canon could not fully take effect from the anticipated date - the date appointed by the President, being not later than one calendar month from the date on which the canon was passed. This is because, at least in respect of former diocesan bishops, the enforcement provisions of s51 of the Episcopal Standards Canon 2007 depend on the Special Tribunal having jurisdiction over the respondent Bishop. The Special Tribunal does not currently have jurisdiction over former diocesan bishops and will not acquire that jurisdiction until the proposed constitutional amendment comes into operation, a process that will take around 2 years.
12. The Bill for the Short Form Episcopal Standards canon excludes s51 from the provisions incorporated into the proposed canon. The result in effect is that there are no enforcement provisions at all in the proposed canon and the Church would be depending on the goodwill of the respondent bishop to comply with the recommendation or direction. It would be an embarrassment to go through a lengthy Episcopal Standards process only to have the outcome ignored and not being able to take any lawful action to enforce it. This is in contrast to the scheme of the Model Episcopal Standards Ordinance where a Council of Bishops is empowered to give effect to the recommendation and direction of the Board.
13. The Short Form Canon cannot be fully effective from commencement as originally planned. The premise then on which Standing Committee endorsed the Short Form Bill has regrettably been found to be incorrect.
14. In any event, the Short Form Episcopal Standards Bill suffers from at least two other significant shortcomings.
15. First it would promote a bifurcation of jurisdiction in episcopal standards matters. It would have some dioceses operate under two separate Episcopal Standards regimes in relation to the same diocesan bishop or former diocesan bishop – one established by General Synod and the other by the diocesan synod. This would be cumbersome, expensive, potentially embarrassing and unnecessary, given the available alternative. It would also undermine the force and authority of General Synod's 2014 Model Episcopal Standards Ordinance by forcing some dioceses to operate under the 2007 canon when they have already rejected that option and adopted more contemporary legislation. Those dioceses include the dioceses of Melbourne, Adelaide, Perth, Ballarat, Bendigo and Wangaratta.

16. A complaint may raise a range of misconduct, some of which may fall within the ‘child protection’ jurisdiction of the proposed canon and some may fall under the diocesan episcopal standards regime. There would be the potential for two separate investigative agencies to be seized of the same complaint, albeit different aspects of it.
17. Establishing two separate regimes would be counter to the inherent nature of a professional standards process which enquires in a holistic way into the fitness of a person, taking into account all considerations relevant to that question. If jurisdiction were bifurcated in the manner proposed, would the determining Board in one jurisdiction have no regard to the conduct, the subject of the other jurisdiction? Such an approach undermines the foundational holistic concept of fitness and is not practicable.
18. The second significant shortcoming of the Short Form Episcopal Standards Bill is that it fails to take advantage of the provisions of the Model Episcopal Standards Ordinance, developed over 4 years of work by the then Episcopal Ministry Task Force between 2010 and 2014. These reflect the substantial learning in the area in recent times. In that sense, the incorporation of the provisions from the *Episcopal Standards Canon 2007* would be a step backwards.

Advantages of the Long Form Episcopal Standards Bill

19. The proposed Long Form Episcopal Standards Bill meets all the objectives of the Short Form Bill – it offers a National approach to Episcopal Standards. It will operate fully upon enactment by General Synod, unlike the Short Form Bill. Its episcopal standards process is not dependent on any amendment to the constitution. It will operate not just in child protection matters but more broadly, if a diocese chooses to adopt the Episcopal Standards Amendment No 2 Bill and extend the operation of the Long Form Episcopal Standards Canon broadly in line with the Model Episcopal Standards Ordinance. In that way, it avoids a bifurcation of jurisdiction between National and diocesan synods.
20. Those dioceses that have moved to more contemporary Episcopal Standards legislation have done so partly to adopt a process that reflects best practice and balances the rights and interests of those participating. The Long Form Episcopal Bill the subject of this explanatory memorandum includes the following features–
 - (a) the concept of excluded conduct in the definition of misconduct that protects a Bishop from proceedings if he or she has acted lawfully, reasonably and in good faith;
 - (b) the right to adduce evidence and cross examine;
 - (c) the voluntary submission to medical examinations;
 - (d) the greater flexibility in the disposition of the matter by the Board, including the power to adjourn on undertakings;
 - (e) suspension provisions that afford greater procedural fairness;
 - (f) provision for a private hearing unless otherwise directed, an essential in child protection matters;

- (g) an available merits review by a Review Board in lieu of a limited right of appeal before a barrister;
 - (h) special procedures for a hearing involving children and vulnerable people;
 - (i) provisions to facilitate expedited determinations with agreed statements of facts or proposed recommendations, cl 30; and
 - (j) greater transparency in the publication of determinations and recommendations, and decisions on implementation, clauses 99 and 102.
21. The purpose of this Bill is therefore to adopt a National approach to Episcopal Standards in the Anglican Church of Australia which can be effective almost immediately, but incorporating so far as possible the provisions of the Model Episcopal Standards Ordinance as approved by General Synod in 2014, with such modifications as more recent developments deem appropriate.

Clause Notes

- | | |
|----------|--|
| Clause 1 | provides for the short title. |
| Clause 2 | provides for the canon to 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 has passed. |
| Clause 3 | gives definitions of terms used in the canon, including "Council of Bishops", "misconduct" and its various components and "excluded conduct" referred to in those definitions. |
| Clause 4 | states that the overriding purposes of the canon and of any protocol made under the canon, in their application to any complaint under this canon, is to facilitate the just, quick and inexpensive resolution of the real issues in the complaint and to regulate fitness for ministry for the protection of the community. |
| Clause 5 | provides that the Director, the ESC, the Board and the Review Board must each seek to give effect to the overriding purposes when it exercises any power given to it by the canon or by any protocol and when it interprets any provision of the canon or of any such protocol. |
| Clause 6 | is not enacted in this canon because it would affect the discipline of the Church. It is separately enacted in the accompanying <i>Episcopal Standards (Child Protection) Amendment No 1 Canon 2017</i> which must be adopted by the Synod of a diocese before it comes into force. |

It inserts section 6 into the Principal Canon to provide for a code of conduct for observance by Bishops in relation to safe ministry to children, which does not make provision for any matter concerning faith, ritual or ceremonial.

Clause 7 empower the Standing Committee from time to time by resolution to promote awareness of a code of conduct for observance by a Bishop.

Clause 8 is not enacted in this canon because it would affect the discipline of the Church. It is separately enacted in the accompanying *Episcopal Standards (Child Protection) Amendment No 1 Canon 2017* which must be adopted by the Synod of a diocese before it comes into force.
It specifies the circumstances in which a Bishop must report certain matters.

Clauses 9 and 10 are not enacted in this canon because they would affect the discipline of the Church. They are separately enacted in the accompanying *Episcopal Standards (Child Protection) Amendment No 1 Canon 2017* which must be adopted by the Synod of a diocese before it comes into force.
They specify the duties of a Bishop with respect to responding to a complaint or complying with an undertaking or direction.

Clauses 11 and 12 empower the Standing Committee from time to time by resolution to approve and promote a protocol or protocols for implementation in relation to the matters the subject of the canon.

Clauses 13- 17 regulate the Episcopal Standards Commission.

Clauses 18 and 19 establish the office of Director of Episcopal Standards and set out the functions of the Director.

Clauses 20 – 21 deal with who may make a complaint against a Bishop and how that may be done.

Clause 21A provides for the General Secretary to constitute the Council of Bishops in relation to a complaint.

Clause 22 provides that the ESC may require more information and verification.

Clause 23 and 24 set out the circumstances in which the ESC may dismiss a complaint or take no further action in relation to a complaint and requires notice of that outcome and reasons to the complainant if that happens.

Clause 25 – 26	deal with investigations and require the ESC, subject to the canon, to investigate each complaint as expeditiously as possible.
Clause 27	<p>is not enacted in this canon because it would affect the discipline of the Church. It is separately enacted in the accompanying <i>Episcopal Standards (Child Protection) Amendment No 1 Canon 2017</i> which must be adopted by the Synod of a diocese before it comes into force.</p> <p>It provides that the ESC may require a respondent to take certain specified steps.</p>
Clause 28 and 29	provide for the different courses of action the ESC may take in relation to a complaint.
Clause 30	deals with the settlement or resolution of a complaint.
Clauses 31- 39	establish and regulate the Episcopal Standards Board.
Clauses 40 – 49	provide for the circumstances in which a Bishop may be suspended and the process to be followed in different circumstances.
Clauses 50 – 51	deal with the effect and consequences of suspension.
Clauses 52 – 56	deal with the reference of a complaint to the Episcopal Standards Board and for dealing with a complaint as expeditiously as possible.
Clause 57	sets out the circumstances in which the Board may dismiss or take no further action in relation to a complaint.
Clauses 58 - 59	empower the Board to make a determination in relation to the reference and to make recommendations, including deposition from the exercise of Holy Orders.
Clause 60	enables the Board to adjourn for up to 12 months upon the respondent undertaking a number of possible actions or omissions and provides for the consequences of failing to give or of breaching an undertaking.
Clauses 61 – 68	establish and regulate the Professional Standards Review Board.
Clauses 69-70	provide that where the Board has made a "reviewable decision", the respondent or the ESC may within 30 days from the date of the decision or such further period as the Episcopal Standards Review Board may allow, apply to the Review Board for a review of the decision.

- Clause 71 provides that, unless the Review Board directs otherwise, the application for review does not operate as a stay of the action on any recommendation by the Council of Bishops.
- Clauses 72 - 73 provide for the delivery of documents to the secretary of the Review Board and for the President or Deputy President to determine the membership of the Review Board from the Panel.
- Clauses 74 - 75 set out the powers of the Review Board and the need to act expeditiously.
- Clauses 76 - 99 regulate proceedings of the Board and the Review Board. Clause 76 provides that each of the Board and the Review 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.
- Clause 77 provides that subject to the canon, each of the Board and the Review Board -
- (a) may regulate the proceedings of its meetings as it sees fit;
 - (b) may conduct its business and any proceedings by video link, conference telephone or by any electronic means of communication;
 - (c) may inform itself from the transcript or other record of proceedings in any court or tribunal or Royal Commission and accept as its own the record of any court or tribunal or Royal Commission;
 - (d) may give to another person to whom notice of the proceedings was given or who has a proper interest in the matter a reasonable opportunity to make submissions;
 - (e) must give 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 ESC.
- The Board must give the PSC and the respondent a reasonable opportunity to adduce evidence, to examine cross-examined witnesses and to make submissions to the Board.
- Clause 77A provides that the Board and the Review Board may stipulate special procedures in certain cases.
- Clause 78 provides that any hearing of the Board or Review Board must be held in private, but with power in certain circumstances to direct that the whole or part of a proceeding be held in public.

- Clause 79 provides that a Review Board is not obliged to hold a hearing at which evidence is adduced or submissions heard orally, or to admit fresh evidence unless certain criteria are fulfilled.
- Clause 80 provides that a party to a complaint may at their own expense appoint a legal representative to assist them in the process.
- Clauses 81 – 83 enable the Board and the Review Board to give directions as to production of documents, appointing a person or persons to assist and as to further enquiries to be made.
- Clause 84 provides that without limiting the meaning and effect of sections 76 and 77, each of the Board and the Review Board may receive a statutory declaration or a signed statement without the need for the personal attendance of the maker of the statement and may also in its discretion use electronic means such as video link or conference telephone to receive evidence and submissions.
- Clause 85 provides for reception of a certificate, reasons for judgment or other record from a court or tribunal or from a Professional Standards Board or Review Board constituted under an ordinance of a diocese (as the case may be) as conclusive evidence that the respondent engaged in the conduct constituting abuse and precludes the parties from calling into question the conviction or finding of guilt of the respondent or denying that the respondent engaged in the conduct constituting abuse.
- Clause 86 provides that–
- (1) The standard of proof to establish an allegation is that of a reasonable satisfaction on the balance of probabilities.
 - (2) Each of the Board and the Review Board must scrutinize evidence with greater care if there is a serious allegation to be established, or an inherent unlikelihood of an occurrence of a given description or if there are grave consequences that would flow from a particular finding.
- Clause 87 provides that no member of the Board or the Review Board shall individually meet with either the complainant or the respondent or anyone acting on their behalf while the matter is in progress.
- Clause 88 provides that a member of the Board or the Review Board must without delay disclose in writing any circumstances likely to give rise to justifiable doubts as to his or her impartiality or independence, as they arise, to the President and the parties unless he or she has already informed them of the circumstances.

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

- Clause 89 empowers the ESC or the Board or Board of Review to request (but not require) a respondent to submit within a specified time to a medical, psychiatric or psychological examination by a person approved by the ESC or the Board the cost of which shall be met from church funds under the control of the Standing Committee.
- Clause 90 is not enacted in this canon because it may affect the discipline of the Church. It is separately enacted in the accompanying *Episcopal Standards (Child Protection) Amendment No 1 Canon 2017* which must be adopted by the Synod of a diocese before it comes into force.
It provides that if the Board or the Review Board is satisfied that there is no reasonable likelihood that the Special Tribunal would find the respondent guilty of any offence, the Board or the Review Board shall take no further action by way of recommending the appointment of a person to lay a charge against the respondent.
- Clause 91 precludes the Board or the Review Board from inquiring into various matters there stated or from enquiring into, making any findings in relation to or taking into account any breach of faith, ritual or ceremonial.
- Clause 92 sets out the matters the Board and the Review Board shall take into account. Paragraph (g) is separately enacted for the reasons stated above.
- Clause 93 provides that neither the Board nor the Review Board has the power to award costs of any matter before it.
- Clauses 94 – 95 provide for the making of Rules of the Board and Review Board.
- Clauses 96 – 98 provide for matters of practice and procedure of the Board and the Review Board.
- Clause 99 requires each of the Board and the Review Board to cause a copy of each determination and recommendation to be provided to:
- (a) the Council of Bishops;
 - (b) the complainant;
 - (c) the respondent;
 - (d) the Director and the ESC;
 - (e) the Diocesan Council where the respondent is a diocesan bishop; and

- (f) the Safe Ministry Commission of the Anglican Church of Australia;

subject, however, to certain anonymisation or redaction, and to release such determination, reasons and recommendation to the public.

Clause 100

empowers and obliges the Council of Bishops to whom a recommendation is made under the canon to do any act to give effect to –

- (a) a recommendation of the ESC, the Board or if applicable, the Review Board; or
- (b) any variation or modification of that recommendation, consistent with any facts found by the body making the recommendation provided that the substance of that recommendation is preserved, as the Council of Bishops sees fit.

Clause 101

provides that a question before the Council of Bishops is to be decided by a majority of votes of the members.

Clause 102

provides for publication of the decision of the Council of Bishops.

Clauses 103 - 104

deals with deposition from the exercise of Holy Orders.

Clause 105

provides for the confidentiality of information and precludes divulging the same except in the circumstances there specified.

Clause 106

authorises the disclosure of certain information to an equivalent body or to that of another Christian nomination.

Clause 107

provides that –

- (1) Without disclosing the identity of any complainant or the details of any complaint, the ESC must report annually to the Standing Committee on its activities for that calendar year.
- (2) Notwithstanding subsection (1), the report of the ESC pursuant to that subsection may identify the Diocesan bishop as the respondent who has been exonerated from an allegation the subject of a complaint or who has been the subject of a determination or recommendation by the Board or the Review Board, favourable to the Bishop.

Clause 108	<p>provides that –</p> <p>(1) Subject to sub-section (2) the ESC must, in respect of every complaint with which it is dealing under the canon, report either orally or in writing to the Primate with such frequency and as fully as the Primate may reasonably require.</p> <p>(2) If the matter relates to the conduct of the Diocesan bishop who is the Primate, such reports must be made to and at the direction of the senior Metropolitan at the time in Australia who is not the Primate.</p>
Clause 109	<p>provides for an indemnity by the Standing Committee for certain persons and office holders for 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 the canon. The indemnity extends to a witness if the Standing Committee so resolves in a particular case. This may be necessary in the proper administration of justice in proceedings.</p>
Clause 110	<p>authorises Standing Committee from time to time to make amend or repeal Regulations, not inconsistent with the provisions of the canon, providing for records arising out of or incidental to the operation of the canon, and for all or any of the purposes whether general or to meet particular cases, which may be convenient for the administration of the canon or which may be necessary or expedient to carry out the objects and purposes of the canon.</p>
Clauses 111 – 114	<p>provides for the appointment and functions of the Episcopal Standards Ombudsman.</p>
Clauses 115 - 116	<p>provides for the procedure to deal with any grievance about process.</p>
Clause 117	<p>preserves certain jurisdiction of a diocesan Professional Standards Board or Review Board.</p>

The General Synod prescribes as follows:

Short title

- ## Commencement

- (a) a member of the House of Bishops;³ or
- (b) a bishop holding office as Bishop to the Defence Force appointed pursuant to the *Defence Force Ministry Canon* 1995; or

(i) an Aboriginal bishop and a Torres Strait Islander bishop who shall be members of the House of Bishops;

- (c) any other assistant to the Primate⁴; or
- (d) a person holding the office of assistant bishop pursuant to the *Assistant Bishops' Canon* 1966;

5 **“Board”** means the Episcopal Standards Board established under Part 11;

“bullying” means repeated behaviour directed to a person or persons-

- 10 (a) which a reasonable person, having regard to all the circumstances, would expect to victimise, humiliate, undermine or threaten the person or persons; and
 - (b) which creates a real risk to the health and safety of the person or persons
- but does not include excluded conduct;

15 **“child”** means a person under 18 years of age;

“child abuse” means the abuse of a child;

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

“Church body” includes a parish, an incumbent, a parish council, a vestry, a school, and any body corporate, organization or association that exercises ministry within, or on behalf of, the Church;

25 **“code of conduct”** means a code of conduct applicable under section 6 of this canon;

“complainant” means a person who makes a complaint;

30 **“complaint”** means a complaint under section 20 of this canon;

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

35 **“Council of Bishops”** in relation to a complaint has the meaning in subsections (3), (4) and (5) of this section;

40 **“deposition”** means (without derogating from or altering the meaning and effect of section 103 of this canon) the removal of the right to the exercise of ministry in any of the Holy Orders to which a person is ordained, and **“depose”** has a similar meaning;

45 **“Diocese”** means a diocese of the Anglican Church of Australia and in relation to the Diocesan bishop means the diocese of the Diocesan bishop;

⁴ Cf Constitution, s56(6)(b).

“Diocesan bishop” means the bishop of a Diocese holding office as a diocesan bishop under the Constitution;

“Diocesan Council” means –

- (a) the body exercising powers and functions of the synod of the Diocese on its behalf when it is not in session, or
- (b) where there is no such body, the body constituted or determined by the synod of the Diocese to be the diocesan council.

“Director” means the Director of Episcopal Standards appointed under Part 7 and includes an acting Director of Episcopal Standards and any Deputy Director of Episcopal Standards;

“emotional abuse” means:

- (a) subjecting a person to excessive and repeated personal criticism;
- (b) ridiculing a person, including the use of insulting or derogatory terms to refer to that person;
- (c) threatening or intimidating a person;
- (d) ignoring a person openly and pointedly;
- (e) behaving in a hostile manner or in any way that could reasonably result in another person feeling isolated or rejected; or
- (f) any other act or omission in relation to a person; which has caused, or is likely to cause physical or mental harm including self harm but does not include excluded conduct;

“Episcopal Standards Committee” or **“ESC”** means the Episcopal Standards Commission established under Part 2 of the *Special Tribunal Canon 2007*;

“Episcopal Standards Ombudsman” means the Episcopal Standards Ombudsman appointed under Part 22 and includes an acting Episcopal Standards Ombudsman;

“equivalent body” means a body of a Diocese exercising powers, duties or functions under legislation with respect to professional standards or discipline of a church worker, similar to those of the ESC or the Board or the Review Board as the case may be;

“excluded conduct” has the meaning in subsection (6) of this section;

“General Secretary” means:

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

“**harassment**” means unwelcome conduct, whether intended or not, in relation to a person in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated that the other person would be offended, humiliated or intimidated but does not include excluded conduct but does not include excluded conduct;

“**incapable**” in relation to a Diocesan bishop has the meaning in section 2 of the *Bishop (Incapacity) Canon 1995*⁵;

“**medical**” includes psychiatric, psychological and other areas of health practice;

“**misconduct**” has the meaning in subsection (7) of this section;

“**ministry**” means ordained ministry in Bishop’s orders;

“**ministry to children**” has the meaning in the *Safe Ministry to Children Canon 2017*;

“**national register**” means the national register established pursuant to the National Register Canon 2007 or any canon prescribed by General Synod in substitution for that canon;

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

“**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 but does not include lawful discipline by a parent or guardian.

“**prescribed sexual offence**” means-

- (a) a sexual offence; or
- (b) such other offence as may be prescribed under legislation of the State or Territory, in which the process under this canon is conducted, for the purposes of prohibiting the publication of details of the identity of a victim of crime⁶;

⁵ Section 2 provides-

“*Incapable*”, in relation to a person who is the bishop of a diocese, means-

(a) incapable, continuously or intermittently, of managing the person’s affairs; or

(b) by reason of a physical or mental disability of any kind, unable, continuously or intermittently, to make reasonable judgments in respect of matters relating to all or any part of the carrying out of the person’s affairs or the affairs of the person’s office as the bishop of the diocese;

⁶ See footnote 6.

5 “**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 any 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 or a failure to report child abuse.

10 “**protocol**” means the protocol approved from time to time by the Standing Committee under Part 5;

15 “**Provincial Tribunal**” means the Provincial Tribunal of a province established under Chapter IX of the Constitution;

20 “**respondent**” means the Bishop in respect of whom a complaint is made;

25 “**relevant Metropolitan**” in relation to a Bishop means:

- (a) unless paragraph (c) or (d) applies, the Metropolitan of the Province in which the Bishop is resident; or
- (b) if the Bishop is the Metropolitan but not the Primate, the Primate;
- (c) if the Diocese is an extra-provincial Diocese, the Primate;
- (d) if the Bishop is the Primate, the person who, at the relevant time, is the next most senior Metropolitan who is available, seniority being determined by the date of consecration⁷;

30 “**Review Board**” means the Episcopal Standards Review Board established under Part 14;

35 “**sexual abuse**” means sexual assault, sexual exploitation or sexual harassment and in relation to a child includes the use of a child for a person’s own sexual stimulation or gratification or for that of others;

40 “**sexual assault**” means any intentional or reckless act, use of force or threat to use force involving some form of sexual activity—

- (a) against an adult without their consent or a reasonable belief⁸ in their consent; or
- (b) against a child;

45 “**sexual exploitation**” means any form of sexual contact or invitation to sexual contact with another person, with whom there is a pastoral or supervisory relationship, whether or not there is consent and regardless of who initiated the contact. It does not include such contact or invitation within a marriage;

⁷ See s2 of the *Bishop (Incapacity) Canon* 1985.

⁸ Whether a belief is reasonable depends on the circumstances. See for example, *Crimes Act* 1958 (Vic) section 37G

“sexual harassment” means—

- (a) an unwelcome sexual advance, or an unwelcome request for sexual favours, to the other person, or
 - (b) other unwelcome conduct of a sexual nature in relation to the other person,
- in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated that the other person would be offended, humiliated or intimidated.⁹

“sexual offence” means-

- (a) a sexual offence as defined under the Crimes legislation of the State or Territory in which in which the process under this canon is conducted¹⁰; or
 - (b) an attempt to commit an offence referred to in paragraph (a); or
 - (c) an assault with intent to commit an offence referred to in paragraph (a)
- and in relation to a particular jurisdiction, has the meaning given it by the applicable legislation of that jurisdiction;

“spiritual abuse” means the mistreatment of a person by actions or threats directed specifically to that person and justified by appeal to God, faith or religion, which mistreatment has caused, or is likely to cause physical or mental harm including self harm but does not include excluded conduct;

“Special Tribunal” means the Special Tribunal established under the Constitution;

“Standing Committee” means the Standing Committee of General Synod.

3. (2) In this canon, a reference to conduct shall be read as a reference to—
 - (a) doing or refusing to do any act;
 - (b) refraining (otherwise than inadvertently) from doing an act; or
 - (c) making it known that an act will not be done.

⁹ The language of the definition reflects both s92 of the *Equal Opportunity Act 2010* (Vic) and s22A of *Anti-Discrimination Act 1977* (NSW). Cf also the *Sex Discrimination Act* (1984), s28A.

¹⁰ The following references are offered as a guide only and need to be verified -

Victoria s4 of the *Judicial Proceedings Reports Act 1958* (Vic);
 New South Wales s578A of the *Crimes Act 1900* (NSW);
 s290A of the *Criminal Procedure Act 1986*
 Queensland - Criminal Law (Sexual Offences) Act 1978 (QLD);
 South Australia s4 of the *Evidence Act 1929* (SA);
 Western Australia s36A of the *Evidence Act 1906* (WA).

Council of Bishops

(3) “**Council of Bishops**” in relation to a complaint, means a council of Bishops comprising-

- 5 (a) the Primate; and
(b) the two most senior diocesan bishops in office as at the date of the complaint (seniority being determined by date of consecration), one of whom shall be a Metropolitan, if willing and able -
each of whom shall have consented in writing to act as a member of the
10 Council of Bishops in relation to the complaint.

(4) If an office holder referred to in subsection (3) -

- 15 (a) is a respondent to the complaint; or
(b) is a respondent to any other complaint that, as at the date of the first mentioned complaint, has been—
(i) either referred to the Board under Part 12 or Part 13 of this canon and has not yet been dealt with by the Board or Review Board; or
(ii) if it has been dealt with, has resulted in a recommendation to the Council of Bishops pursuant to section 40, 45 or 58 of this canon; or
20 (c) is unable to act because of illness or absence from his or her Diocese; or
(d) otherwise ceases to hold office; or
(e) declines for what ever reason to consent in writing as set out in subsection (3) —
that office holder shall (as the case may be) be ineligible, or shall cease, to
25 be a member of the Council of Bishops and the place of that office holder –
(f) if the Primate, shall be taken by the Primate's successor in office or, if the office is vacant or the Primate is incapable, by the Metropolitan or bishop who would exercise the authorities powers rights and duties of the Primate during such vacancy or incapacity;
30 (g) if a Metropolitan (other than the Primate), shall be taken by the Metropolitan next senior to that bishop (if any); and
(h) in any other case, shall be taken by the next most senior diocesan bishop.

35 (5) If the Metropolitan or bishop who would exercise the authorities powers rights and duties of the Primate, when the office was then vacant, takes the place of the Primate and is already or would otherwise be a member of the Council of Bishops as Senior Metropolitan, the place shall be taken by the Metropolitan next senior to that bishop not already or otherwise a member of the Council of Bishops.

Excluded conduct

(6) The expression “excluded conduct” in relation to a Bishop means –

- (a) any act or omission or refusal of the Bishop to ordain, appoint, correct, discipline, counsel, admonish, transfer, demote, suspend, retrench or dismiss a person; or
- (b) any other act or omission or refusal of the Bishop in the course of ministry; or
- (c) any decision of the Bishop relating to the same if the Bishop has acted or omitted or refused to act or decided –
- (d) in good faith;
- (e) reasonably; and
- (f) in the lawful discharge of the duties and functions of the Bishop.

Nothing in this definition shall be read as imposing any duty or function on a Bishop.

Misconduct

(7) The expression “misconduct” in relation to a person who at the time of the complaint is or was a Bishop means any conduct or omission involving:

- (a) child abuse;
- (b) conduct that impedes or undermines a professional standards process; or
- (c) the wilful or reckless failure to perform a function under a professional standards process; or
- (d) the wilful or reckless failure to comply with the laws of the Commonwealth, a State or Territory requiring the reporting of child abuse to the police or other authority by that office holder whenever occurring (whether before or after the commencement of this canon) which, if established, would on its face call into question:
 - (i) the fitness of the office holder to hold office, or to be or remain in Holy Orders; or
 - (ii) the fitness of the office holder, whether temporarily or permanently, to exercise ministry and perform any duty or function of the office; or
 - (iii) whether, in the exercise of ministry or in the performance of any duty or function, the office holder should be subject to any condition but excludes for the purposes of this canon any breach of faith ritual or ceremonial.¹¹

¹¹ Those terms are defined in s74 of the Constitution. See the *Interpretation Canon* 1995, s4.

Overriding purposes of the canon

4. The overriding purposes of this canon and of any protocol made under this canon, in their application to any complaint under this canon, are to facilitate the just, quick and inexpensive resolution of the real issues in the complaint and to regulate fitness for safe ministry to children.
5. The Director, the ESC, the Board and the Review Board must each seek to give effect to the overriding purposes when exercising any power given by this canon or by any protocol and when interpreting any provision of this canon or of any such protocol.¹²

PART 5 – PROTOCOL**Making and content of protocols**

11. (1) The Standing Committee must from time to time consider and approve a protocol or protocols not inconsistent with this canon for implementation in relation to complaints.
- (2) The protocol or protocols must include:
- (a) procedures for receiving a complaint;
 - (b) the appointment, role and function of support persons and carers;
 - (c) provision for informing a complainant and victim of alleged misconduct, and the respondent, of rights, remedies and relevant procedures available to them;
 - (d) provision for assisting or supporting, as appropriate, any person affected by alleged conduct the subject of a complaint or the respondent;
 - (e) an explanation of the processes for investigating and dealing with a complaint;
 - (f) provisions for dealing fairly with each party to a complaint;
 - (g) processes for mediation, conciliation and reconciliation, as appropriate, of a complaint or grievance;
 - (h) provisions for information, reports, advice and recommendations to the Primate and the relevant Metropolitan or the relevant Administrator at each stage of the process of dealing with a complaint;
 - (i) procedures for working, where necessary, with law enforcement, prosecution or child protection authorities of the States and Territories and of the Commonwealth of Australia.

Promoting knowledge and understanding of any protocol

12. The Standing Committee through the Director and the ESC and by such other means as they may consider appropriate must take such steps as may be necessary or desirable to promote throughout the community knowledge and understanding of any protocol.

¹² Sections 6 to 10 both inclusive are enacted in the *Episcopal Standards (Child Protection) Amendment No 1 Canon 2017*.

PART 6 – EPISCOPAL STANDARDS COMMISSION**Establishment of ESC**

- 5 13. (1) The members of the ESC including its chair shall be appointed by the Standing Committee.
- (2) The members of the ESC shall hold office on such terms and conditions as may be determined from time to time by the Standing Committee.
- (3) The ESC shall have at least 3 members including the chair.
- 10 (4) The membership of the ESC shall be constituted, so far as reasonably possible, so as collectively to provide experience and appropriate professional qualifications in:
- (a) law;
- 15 (b) episcopal ministry; and
- (c) human resources, pastoral ministry, investigations, social work, ethics or counselling.
- (5) The ESC shall –
- (a) include at least one person who is not a member of the Anglican Church of Australia;
- 20 (b) so far as it is reasonably practicable have at least one man and at least one woman; and
- (c) not include a person who is a diocesan bishop or a clergy person holding a licence or other authority from the Diocesan bishop.
- (7) The members of the ESC may constitute or include the members of an equivalent
- 25 body either generally or for a particular complaint or matter.

Cessation of holding office

- 13A. A member of the ESC shall cease to hold office upon:
- 30 (a) death of the member;
- (b) resignation of the member;
- (c) declaration by a competent court or tribunal that the member is incapable of managing his or her affairs;
- (d) the member ceasing to reside permanently in Australia;
- 35 (e) conviction or finding of guilt of the member in any court of any offence punishable by imprisonment for at least six months;
- (f) the member becoming a Diocesan bishop;
- (g) the member reaching the age of 72 years; or
- (h) the passing of a resolution –
- 40 (i) by the Standing Committee by a two-thirds majority of those members present and voting, or
- (ii) by the General Synod voting as a whole passed by a two-thirds majority of those members present and voting to remove the member from office.¹³

¹³ Derived from *Special Tribunal Canon* 2007, s 5A.

Conduct of business

14. (1) The ESC 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 ESC at the request of the Director.
- (3) The procedures of the ESC shall be as determined by the ESC.
- (4) A majority of the members shall constitute a quorum.
- (5) A decision taken other than at a meeting of the ESC, if supported by a majority of members of the ESC, constitutes a decision of the ESC.
- (6) The ESC must act in all things as expeditiously as possible.

Validity of proceedings

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

Functions of the ESC

16. The ESC has the following functions:
- (a) to implement any protocol;
- (b) to receive a complaint against a Bishop;
- (c) to act on a complaint in accordance with the provisions of this canon and any protocol and to obtain independent legal advice for that purpose;
- (d) to appoint suitable persons to fulfil the several roles required to implement a protocol in each particular case;
- (e) where appropriate, to recommend the conciliation or mediation of any complaint;
- (f) to investigate or cause to be investigated a complaint in a timely and appropriate manner;
- (g) where appropriate, to recommend to the Standing Committee any changes to a protocol and any other changes to Church processes, structures and education programmes that would reduce the risk of misconduct;
- (h) subject to any limit imposed by the Standing Committee to authorise such expenditure as may be necessary or appropriate to implement, in a particular case, a protocol and the provisions of this canon;
- (i) to advise any relevant Church body as to the financial, pastoral or other needs of a person affected by conduct the subject of a complaint and in connection with any legal proceedings, anticipated or existing, against such Church body arising out of that alleged conduct;
- (j) 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;

- (k) to maintain proper records of all complaints received and of action taken in relation to each of them; and
- (l) to exercise such other powers and functions as are conferred on it by this or any other canon or by a protocol.

5

Power of the ESC to delegate

17. (1) Subject to subsection (2), the ESC may delegate, upon such terms and conditions as the ESC may approve, any of its functions under this canon to any person.
- (2) The ESC cannot delegate:
- (a) its functions under subsection (1);
 - (b) its functions under paragraphs (e) and (g) of subsection 16;
 - (c) its functions under Part 12 (suspension); or
 - (d) its functions under sections 28 and 29.
- (3) A delegation under this section must be made by instrument in writing signed by a member of the ESC.

10

15

PART 7 – DIRECTOR OF EPISCOPAL STANDARDS

20

Appointment of the Director

18. (1) There shall be a Director of Episcopal Standards.
- (2) There may also be a Deputy Director of Episcopal Standards or more than one such Deputy.
- (3) A Deputy Director of Professional Standards when acting in that capacity is taken to be the Director and has all the powers and functions of the Director.
- (4) The Director and any Deputy Director, shall be appointed by the Standing Committee.
- (5) The Director and any Deputy Director shall hold office on such terms and conditions as may be determined from time to time by the Standing Committee.
- (6) The Director and any Deputy Director may act in a corresponding capacity as a Director of Episcopal Standards for a diocese either generally or for a particular case or matter.

25

30

35

Appointment of Acting Director

- 18A. (1) The Standing Committee may appoint an acting Director of Episcopal Standards on such terms and conditions as may be determined by resolution of the Standing Committee.
- (2) The Acting Director of Episcopal Standards may act in that capacity during the absence of the Director or during a vacancy in the office of Director.
- (3) An acting Director of Episcopal Standards when acting in that capacity is taken to be the Director and has all the powers and functions of the Director.
- (6) An acting Director of Episcopal Standards may act in a corresponding capacity as a Director of Episcopal Standards for a diocese either generally or for a particular case or matter.

40

45

Functions of the Director

19. (1) The Director shall have the following functions under this canon:

- (a) to receive any complaint on behalf of the ESC;
- (b) in his or her discretion to make a complaint against a Bishop;
- (c) to manage the implementation of the protocol in respect of any complaint or grievance;
- (cc) to refer any application for redress in accordance with any protocol approved under this canon;
- (d) to be the executive officer of the ESC;
- (e) to attend meetings of the ESC except for any part of a meeting which deals with conditions of employment, remuneration or performance of the Director;
- (f) to provide advice about any code of conduct, the protocol and procedures under this canon;
- (g) to provide or arrange care or treatment of the complainant and respondent;
- (h) to provide input into education and vocational training programs for Bishops;
- (i) to provide information to complainants and the respondent about the operation of this canon and any protocol, and to help Bishops to understand and discharge his or her responsibilities under the same;
- (j) to keep proper records of complaints, decisions, meetings, employment screening details, police checks and people affected by any allegation of misconduct;
- (k) to consult and co-operate with other persons and bodies in the Church with responsibility for professional standards;
- (l) in cases of alleged illegal behaviour, to support the complainant in making a report to police or child protection authorities;
- (m) to report to the ESC on any recommended changes to the protocol and any other changes to Church processes, structures and education programmes that would reduce the risk of misconduct; and
- (n) such specific functions and duties, consistent with this canon, as may be determined from time to time by the ESC or as specified in any protocol.

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

PART 8 – COMPLAINTS**Making a complaint of misconduct**

20. Any person including the Director may make a complaint of misconduct to the ESC in relation to a Bishop.

Form of a complaint

21. (1) A complaint may be in any form, oral or in writing, whether by electronic means or otherwise.
- (2) Where a complaint is oral, the Director must make a written record of the complaint as soon as practicable after receiving it.
- (3) A complaint must include details of the misconduct complained about.
- (4) The Director must not make a complaint based only on information provided anonymously.
- (5) The ESC must not act on an anonymous complaint.
- (6) Non compliance with subsection (2) and (3) of this section does not invalidate a complaint.

Constituting the Council of Bishops

- 21A. If the Director receives or makes a complaint against a Bishop, the Director must request the General Secretary to, and the General Secretary must, constitute the Council of Bishops in accordance with subsections (3), (4) and (5) of section 3 of this canon.

ESC may require more information and verification

22. (1) The ESC may require a complainant to—
- (a) give further details of the complaint; and
- (b) verify any details of the complaint by statutory declaration.
- (2) A requirement under subsection (1) must be in writing and allow the complainant a reasonable time to comply.

ESC may dismiss a complaint or take no further action

23. The ESC may dismiss a complaint or take no further action in relation to a complaint if—
- (a) the ESC is of the opinion that the complaint does not fall within the provisions of this canon; or
- (b) the complainant has failed to provide further details to the ESC or to verify the allegations by statutory declaration when requested by the Director to do so; or
- (c) the ESC is of the opinion that the complaint is false, vexatious, misconceived, frivolous or lacking in substance; or
- (d) the ESC is of the opinion that there is insufficient reliable evidence to warrant an investigation or further investigation
- and may take no further action or may delay further action in relation to a complaint if—
- (e) the behaviour, the subject matter of the complaint, can properly be dealt with by other means; or
- (f) the subject matter of the complaint is under investigation by some other competent person or body or is the subject of legal proceedings.

ESC must give the complainant notice of the outcome of complaint and reasons

24. If a complaint is dealt with by the ESC under the preceding section, the ESC must give the complainant a written notice of the outcome including the reasons for the outcome.

5

PART 9 – INVESTIGATIONS**When ESC is to investigate**

- 10 25. (1) Subject to this canon, the ESC must cause to be investigated each complaint as expeditiously as possible¹⁴.
- (2) The ESC may cause to be investigated the conduct of a Bishop if –
- 15 (a) the ESC has reason to believe that the conduct may amount to misconduct under this canon; or
- (b) a complaint about the conduct has been withdrawn.
- 15 (3) The Director must prior to any investigation seek from any complainant his or her written consent to –
- (a) the giving by the Director of notice of the complaint to the respondent;
- 20 (b) the investigation of the complaint by the ESC or its delegate;
- (c) the ESC otherwise dealing with it under this canon;
- (d) the hearing and determination of the complaint by the Board and on any review, the Review Board, either by hearing or otherwise in accordance with this canon; and
- 25 (e) the making of recommendations to the Council of Bishops in accordance with this canon.
- (4) If the complainant (other than the Director) has not given the written consent referred to in the preceding subsection–
- (a) the ESC shall not be required to investigate the complaint and otherwise to refer it to the Board; and
- 30 (b) the ESC may dismiss the complaint or take no further action in relation to the complaint.

ESC to obtain material

- 35 26. For the purpose of an investigation the ESC or its delegate shall obtain such statutory declarations, written statements, recorded conversations, reports, documents and other material as the ESC or its delegate considers necessary or advisable for presentation to the ESC.¹⁵

40

¹⁴ The ESC may delegate its investigation of a complaint: see s17.

¹⁵ Section 27 is enacted in the *Episcopal Standards (Child Protection) Amendment No 1 Canon 2017*.

PART 10 – OUTCOMES OF ESC**How ESC may or must respond after receipt of complaint**

- 5 28. At any time after the ESC receives a complaint, the ESC may:
- (a) recommend mediation, conciliation, neutral evaluation or other alternative resolution of the complaint;
 - (b) if it considers on reasonable grounds that the Bishop may be incapable as a Diocesan bishop, report the matter in writing to the relevant Metropolitan; and
 - 10 (c) exercise its powers under section 23 of this Canon to dismiss a complaint or to take no further action in relation to a complaint.
29. At any time after investigation of a complaint in accordance with Part 9, the ESC must, if required under section 52 of this canon to do so, refer the complaint to the Board.
- 15

If a complaint is settled or resolved

30. (1) The fact that the subject matter of a complaint may be settled or resolved in whole or in part between the parties affected thereby does not prevent the ESC from taking any of the steps referred to in sections 28(b) and (c) and 29 in respect of the subject matter of the complaint.
- 20
- (2) Any term of settlement or resolution referred to in subsection (1) which purports to prevent or to limit the institution of action under either of sections 28(b) and (c) and 29 shall be of no effect.
- 25
- (3) The ESC may agree with the respondent for the submission to the Board or the Review Board of either or both a statement of the facts relevant to the complaint and any recommendation proposed to be made by the Board or the Review Board to the Council of Bishops.
- (4) The Board or the Review Board may in its discretion proceed on the basis of the statement of agreed facts and determine any recommendation to be made to the Council of Bishops, having regard to but not bound by any proposed recommendation agreed between the ESC and the respondent.
- 30

PART 11 – EPISCOPAL STANDARDS BOARD

35

Establishment of the Board

31. There shall be an Episcopal Standards Board comprising 3 persons and constituted and appointed in accordance with the provisions of this Part.
- 40

Functions of the Board

32. Subject to the provisions of this canon, the functions of the Board are –
- (a) to make a determination and where appropriate make a recommendation under section 45 of this canon;
- 45

- (b) to enquire into and determine a complaint referred to it under section 57; and
- (c) to make a determination and where appropriate make a recommendation under section 58.

5 Board appointed from a panel

33. (1) The members of the Board in a particular case shall be appointed from a panel of at least 10 persons comprising:

- 10 (a) a President and a Deputy President, both of whom shall be or shall have been either a judicial officer or a practising barrister or solicitor of at least 10 years' standing of the Supreme Court of a State or Territory and who are members of the Anglican Church of Australia; and
- 15 (b) at least 8 other persons of whom at least—
 - (i) 4 shall be clergy who are or have been a Diocesan bishop; and
 - (ii) 4 shall be lay persons who are members of the Anglican Church of Australia.

(2) As far as reasonably practicable the lay members of the panel should comprise an equal number of men and women.

20 Appointment of members of the panel

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

Convening the Board

- 30 35. (1) The members of the Board 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, by the Deputy President.
- (2) For the purpose of any reference to the Board, the Board shall consist of—
- 35 (a) the President or Deputy President, who shall be the presiding member;
 - (b) one person who is or has been a Diocesan bishop; and
 - (c) one lay person.
- (3) The Board must so far as reasonably practicable have at least one man and at least one woman.
- 40 c (4) The members of the Board may constitute or include the members of an equivalent body either generally or for a particular complaint or matter.

Quorum of Board

36. 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 section 81 of this canon.

Secretary to the Board

37. There shall be a Secretary to the Board who shall be appointed by the President of the Board on such terms and conditions as may be determined from time to time by the President of the Board.

Filling vacancies on the Board

38. (1) Any vacancy in the membership of the Board shall be filled from the panel by the President of the Board, or if the President is not available, the Deputy President of the Board.
- (2) Where a member of the Board is unable to enquire into and determine a complaint, a substitute member may be appointed by the President of the Board, or if the President is not available, the Deputy President of the Board.

Validity of proceedings

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

PART 12 – SUSPENSION**ESC may refer to Board or recommend suspension**

40. Where after receipt of a complaint and at any time during the progress of a complaint under this canon, the ESC is satisfied that if the Bishop remains in office pending the outcome of the complaint–
- (a) there is an unacceptable risk of harm to any person; or
- (b) there will be serious damage to the reputation of the Church the ESC must refer the matter to the Board or, as the urgency of the matter requires, make a recommendation to the Council of Bishops that pending that outcome–
- (c) the Bishop be suspended from the duties of office or certain of those duties; and
- (d) such other action be taken as may be thought fit.

Respondent to be given notice

41. Before making a recommendation pursuant to section 40 or referring the matter to the Board, the ESC must give the Bishop notice that grounds exist for the ESC to be satisfied as stated in section 40 (specifying the same) and notice of any proposed recommendation and request the Bishop to show cause in writing within 7 days why the recommendation should not be made.

No notice where immediate unacceptable risk

42. The provisions of the preceding section shall not apply if the ESC is satisfied that there is an immediate unacceptable risk of harm to any person if the Bishop remains in office.

Referral to the Board

43. Where the ESC is satisfied that there is an immediate unacceptable risk of harm to any person if the Bishop remains in office and makes a recommendation to the Council of Bishops pursuant to section 40—

- (a) the ESC must forthwith refer the matter to the Board; and
- (b) the Director must as soon as practicable give the Bishop notice that—
 - (i) the recommendation has been made without notice and the grounds relied on;
 - (ii) the ESC will report the recommendation to the Board at its next meeting and that the Board will consider whether the recommendation should stand; and
 - (iii) the Bishop may advance submissions to the Board if he or she wishes to do so.

ESC or Board to consider respondent's response

44. (1) The ESC or the Board (as the case may be) must consider the response if any from the Bishop received within the time specified above or any further period allowed, before making a decision on the recommendation to be made.
- (2) The provisions of subsection (1) shall not apply in relation to any recommendation of the ESC to the Council of Bishops under section 40 where the ESC is satisfied that there is an immediate unacceptable risk of harm to any person if the Bishop remains in office and for that reason the provisions of section 41 do not apply.

Powers of Board if satisfied as to unacceptable risk or serious damage to reputation

45. If the Board is satisfied—

(a) that if the Bishop remains in office pending the outcome of the complaint—

(i) there is an unacceptable risk of harm to any person; or

(ii) there will be serious damage to the reputation of the Church

the Board may after considering the response if any from the Bishop—

(b) determine accordingly and make a recommendation to the Council of Bishops that pending that outcome action be taken as referred to above in section 40;

or where the ESC has already made a recommendation under section 40—

(c) affirm or vary that recommendation; or

(d) set aside that recommendation and make another in substitution for it.

Matters to be considered by ESC or Board before recommending

46. Before making a recommendation under this Part, the ESC or the Board (as the case may be) must take into account:

(a) the seriousness of any alleged misconduct;

(b) the nature of the material to support or negate the allegations;

(c) the extent to which any person is at risk of harm;

(d) after consultation with the Diocesan Council where the respondent is a Diocesan bishop, the effect on the Bishop, and on the Church and its reputation of acting and of not acting under this Part; and

(e) any other allegation of similar conduct previously made to the ESC or to an equivalent body

and may take into account any other relevant matter.

Suspension by the Council of Bishops

47. (1) Subject to section 71, the Council of Bishops to whom a recommendation is made under this Part must, and is hereby empowered to give effect to—

(a) that recommendation of the ESC or the Board; or

(b) any variation or modification of that recommendation, consistent with any facts found by the body making the recommendation provided that the substance of that recommendation is preserved, as the Council of Bishops sees fit.

(2) Subject to subsection (3), the Council of Bishops must release to the persons referred to in paragraphs (b) to (f) of subsection 99(1) and to the public as soon as practicable a written statement disclosing their decision on the recommendation received and the steps to be taken or that have been taken pursuant to this section to give effect to it.

(3) The Council of Bishops must ensure that any statement which is released to the public is anonymised and redacted so as not to contain any particulars that identify or are likely to lead to the identification of any person referred to in section 102(2).

Decision of the Council of Bishops to be decided by a majority of the votes

48. A question before the Council of Bishops under this Part may be decided by a majority of the votes of the members of the Council of Bishops.

5

Criminal charges – Notice of suspension by the relevant Metropolitan

49. (1) If a Bishop has been charged in any jurisdiction in Australia with a sexual offence or an offence relating to child pornography whether committed within or outside Australia, the Bishop must forthwith stand down from the duties of office pending the determination of the charge.
- (2) If the Diocesan bishop fails to do so, the relevant Metropolitan may serve on the Diocesan bishop a notice of suspension signed by the relevant Metropolitan.
- (3) Upon service of that notice, the Bishop shall be deemed to have been suspended pending the outcome of the hearing of the charge.

10

15

Effect and consequences of suspension

50. A suspension of the Diocesan bishop made by the Council of Bishops following a recommendation under this canon or a suspension deemed under the preceding section:
- (a) has effect, where the respondent is a Diocesan bishop, as an absence of the Bishop from the see; and
- (b) continues until it ceases to have effect by reason of :
- (i) the ESC terminating the investigation of the complaint without referring the matter to the Board; or
- (ii) the Council of Bishops giving effect to a recommendation of the Board or the Review Board or such a recommendation as varied or modified by the Council of Bishops under section 100; or
- (iii) the see becoming vacant (whether or not under this canon) whichever first occurs.

20

25

30

Continuation of stipend, allowances and other benefits

51. During any such suspension or any voluntary standing down from the duties of office pending the outcome of a complaint, the Bishop is entitled to receive whatever stipend, allowances and other benefits as would otherwise have accrued and they are to be met or reimbursed by the body normally responsible for their payment.

35

40

PART 13 – REFERENCE OF A COMPLAINT TO THE BOARD**ESC to refer certain matters to the Board**

52. After investigation of a complaint in accordance with Part 9, where the ESC has formed the opinion that the conduct the subject of the complaint if established would call into question whether—
- (a) the Bishop is unfit –
 - (i) to hold office or to be or remain in Holy Orders; or
 - (ii) whether temporarily or permanently, to exercise ministry and perform any duty or function of the office; or
 - (b) in the exercise of ministry or in the performance of any duty or function, the Diocesan bishop should be subject to any condition
- the ESC must refer the complaint to the Board.

How ESC to refer matters

53. The ESC must refer the complaint to the Board by delivering to the Secretary of the Board a written report of its investigation and opinion signed by a member of the ESC.

If the Bishop resigns from office

54. If after a complaint is referred to the Board, the Bishop resigns from office, the Board may continue to enquire into and determine the complaint, notwithstanding such resignation.

Documents and materials to be delivered to the Board

- (1) Within 14 days of the date of the reference of a complaint to the Board or within 14 days of the date of the document or material coming into existence, whichever is the later, the ESC must cause to be delivered to the Secretary of the Board any documents and material relevant to the reference.
- (2) The ESC, as soon as practicable after delivering the report referred to in section 53 to the Secretary of the Board, shall cause to be delivered to the Bishop as the respondent a copy of the report and opinion and notice that the respondent may advance any submissions to the Board if he or she wishes to do so.

56. The Board must deal with a complaint as expeditiously as possible.

Powers of Board

- (1) If the Board is not satisfied that the Bishop 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 Bishop did commit misconduct but is not satisfied as to any of the matters in paragraphs (a) and (b) of section 58, the Board may determine accordingly and must take no further action in relation to the complaint and must recommend to that effect.

58. (1) If the Board is satisfied that the Bishop did commit any misconduct and that—
- (a) the Bishop is unfit –
 - (i) to hold office or to be or remain in Holy Orders; or
 - (ii) whether temporarily or permanently, to exercise ministry and perform any duty or function of the office; or
 - (b) in the exercise of ministry or in the performance of any duty or function, the Bishop should be subject to any condition the Board may determine in writing accordingly and may recommend to the Council of Bishops any one or more of the following:
 - (c) that the Bishop be counselled;
 - (d) that for a specified period the Bishop's holding of office or performance of a function as the case may be, shall be subject to such conditions or restrictions as the Board may specify;
 - (e) that the Bishop be suspended from office or from performing a function as the case may be for such period recommended by the Board;
 - (f) that the Bishop be directed to do or to refrain from doing a specified act;
 - (g) that the Bishop be removed from office and the See if any held by the Bishop be declared vacant;
 - (h) that the implementation of a determination shall be suspended for such period and upon such conditions as the Board shall specify;
 - (j) that the Bishop be prohibited, either temporarily or permanently, from functioning as a bishop or as a bishop and priest;
 - (k) that the Bishop be deposed from the exercise of Holy Orders;¹⁶
 - (l) otherwise as the Board sees fit.
59. If the Board is satisfied that the Bishop is unfit-
- (a) to hold office or to be or remain in Holy Orders; or
 - (b) whether temporarily or permanently, to exercise ministry and perform any duty or function of the office
- its recommendation must include any one or more of those specified above in paragraphs (e), (g), (j) and (k).

¹⁶ If it is determined that a person should be prohibited permanently from all orders of ministry – bishop, priest and deacon, the recommendation would be for deposition from the exercise of Holy Orders.

Board may adjourn on terms

- 5 60. (1) The Board may defer making any recommendation under section 58 on a complaint and may for that purpose adjourn any hearing from time to time for a period or periods not exceeding in the aggregate 12 months, on terms that the Bishop undertake for a specified period and in a form approved by the Board to do one or more of the following acts or omissions –
- 10 (a) stand down from the duties of office or from performing specified episcopal duties;
- (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;
- 15 (e) provide medical or other evidence requested by the Board to assist it in deciding on any final recommendation; and
- (f) perform or refrain from performing some other specified act.
- (2) If, within a period specified by the Board, the Bishop declines to give an undertaking in accordance with subsection (1), the Board must proceed to make a determination and recommendation.¹⁷
- 20

PART 14 – EPISCOPAL STANDARDS REVIEW BOARD**Establishment of the Review Board**

- 25 61. There shall be an Episcopal Standards Review Board comprising 5 persons and constituted and appointed in accordance with the provisions of this Part.

Function of the Review Board

- 30 62. Subject to the provisions of this canon, the function of the Review Board is to determine any application authorised by this canon for review of a decision of the Board.

Panel of Review Board members

- 35 63. The members of the Review Board in a particular case shall be appointed from a panel of at least 14 persons comprising:
- 40 (a) a President and a Deputy President, both of whom shall be or shall have been either a judicial officer or a practising barrister or solicitor of at least 10 years' standing of the Supreme Court of a State or Territory; and

¹⁷ Subsection 60(3) is enacted in the *Episcopal Standards (Child Protection) Amendment No 1 Canon 2017*.

- (b) 12 other persons of whom—
- (i) 3 shall be clergy who are or have been a Diocesan bishop;
 - (ii) 3 shall be clergy not in bishop's orders; and
 - (iii) 6 shall be lay persons.

5

Appointment of members of Review Board Panel

64. (1) The members of the panel shall be appointed by the Standing Committee.
- (2) The members of the panel shall hold office on such terms and conditions as may be determined from time to time by the Standing Committee.
- (3) The members of the panel may constitute or include the members of an equivalent body either generally or for a particular complaint or matter.
- (4) Any vacancy in the membership of the panel shall be filled by the Standing Committee.

15

Convening a Review Board

65. (1) The members of the Review Board to be convened for any review of a decision of the Board shall be determined by the President or, if there is a vacancy in the office of President, by the Deputy President.
- (2) For the purpose of any application to the Review Board, the Review Board shall consist of the President or Deputy President, who shall be the presiding member, one clergy person in bishop's orders, one clergy person not in bishop's orders and two lay persons.
- (3) So far as it is reasonably practicable, the Review Board shall include at least one man and at least one woman.
- (4) The quorum for a meeting of the Review Board shall be all the members of the Review Board except where the Review Board by its President or Deputy President makes directions under section 81 of this canon.

30

Secretary to the Review Board

66. There shall be a Secretary to the Review Board who shall be appointed on such terms and conditions as may be determined from time to time by the President of the Review Board.

35

Separately constituted Review Boards may sit simultaneously

67. The Review Board, separately constituted in accordance with this Part, may act simultaneously for the purpose of applications made to it.

40

Review Board’s proceedings valid despite vacancies etc

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

PART 15 – APPLICATION FOR REVIEW**Interpretation**

69. In this Part, “reviewable decision” means any finding of fact, determination or recommendation by the Board under sections 57 or 58 of this canon.

Application to Review Board

70. Where the Board has made any reviewable decision, the respondent or the ESC may within 30 days from the date of the decision or such further period as the Review Board may allow, apply to the Review Board for review of the decision.

Stay

71. Except in so far as the Board or the Review Board may direct otherwise, the application for review shall not operate as a stay of the action on any recommendation by the Council of Bishops required under this canon.

Documents and material to be delivered following application

72. Within 14 days of the date of the application to the Review Board or within 14 days of the date of the document or material coming to existence, whichever is the later, the ESC shall cause to be delivered to the Secretary of the Review Board any documents and material relevant to the application for review including the reasons of the Board for its determination and any recommendations.

President to determine membership of Review Board

73. Upon delivery to the Secretary of the Review Board the documents and material relevant to the application for review, the President or Deputy President of the Review Board as the case may be shall as soon as possible determine the membership of the Review Board for the purpose of the application for review.

Review Board may exercise the powers of the Board

74. The Review Board may exercise all the powers of the Board under this canon and may—
- (a) affirm the decision under review;
 - (b) vary the decision under review;

- (c) set aside the decision under review and make another decision in substitution for it; or
- (d) set aside the decision under review and remit the matter for reconsideration by the Board in accordance with any directions or recommendations of the Review Board.

Review Board to deal with application expeditiously

75. The Review Board must deal with the application as expeditiously as possible and must consider any further submissions from the respondent or the ESC.

PART 16 - PROCEEDINGS OF THE BOARD AND THE REVIEW BOARD

Conduct of proceedings

76. Each of the Board and the Review 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.

Powers and duties of the Board and Review Board

77. (1) Subject to this canon, each of the Board and the Review Board—
- (a) may regulate the proceedings of its meetings as it sees fit;
 - (b) may conduct its business and any proceedings by video link, conference telephone or by any electronic means of communication;
 - (c) may inform itself from the transcript or other record of proceedings in any court or tribunal or Royal Commission and accept as its own the record of any court or tribunal or Royal Commission;
 - (d) may give any other person to whom notice of the proceedings was given or who satisfies them that he or she has a proper interest in the matter a reasonable opportunity to make submissions to them; and
 - (e) 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 ESC.
- (2) Subject to the following section, the Board must give the ESC and the respondent a reasonable opportunity to adduce evidence, to examine or cross-examine witnesses and to make submissions to the Board.

Board may stipulate special procedures in certain cases

- 77A. Subject to any terms prescribed by regulation, each of the Board and the Review Board may stipulate the terms on which the examination or cross examination of a child or a victim of sexual abuse is to be conducted and may—

- (a) refuse to permit any questions as to, or admit any evidence of, the general reputation of the victim of sexual abuse with respect to chastity;
- (b) refuse to permit a victim of sexual abuse to be cross examined personally by the respondent;
- 5 (c) may direct that alternative arrangements be made for the giving of evidence by a victim of sexual abuse, including arrangements—
 - (i) permitting the evidence to be given from a place other than the hearing room by means of closed-circuit television or other facilities that enable communication between that place and the hearing room;
 - 10 (ii) using screens to remove the respondent from the direct line of vision of the witness;
 - (iii) permitting a person, chosen by the witness and approved by the board for this purpose, to be beside the witness while the witness is giving evidence, for the purpose of providing emotional support to the witness;
 - 15 (iv) permitting only persons specified by the board to be present while the witness is giving evidence;
 - (v) requiring legal practitioners to be seated while examining or cross-examining the witness.

20 **Private hearing**

78. (1) Subject to subsections (2) and (3), any hearing of the Board or the Review Board must be held in private with attendance only by-
- 25 (a) the members of the Board or the Review Board (as the case may be);
 - (b) the Secretary of the Board or the Review Board and any person providing transcription services;
 - (c) the Director and any member of the ESC and any person representing any of them;
 - 30 (d) the respondent and any person representing the respondent;
 - (e) the complainant;
 - (f) a person whom the complainant wishes to have present for the purpose of providing emotional support to him or her, who is reasonably available and who is approved by the Board or the Review Board to be present;¹⁸
 - 35 (g) any witness while giving evidence; and
 - (h) any other person to whom notice of the proceedings was given or who satisfies the Board that he or she has a proper interest in the matter.
 - (2) Each of the Board and the Review Board may direct –
 - (a) that the whole or part of a proceeding be held in public; or
 - 40 (b) that any other persons or classes of persons specified by it may be present during the whole or any part of a proceeding.
 - (3) Each of the Board and the Review Board may only make a direction under the preceding subsection if satisfied that the direction is in the public interest in the proper administration of justice.

¹⁸ To adapt the language of clause 17 of schedule 5 of the *Magistrates' Court Act 1989* (Vic).

Review Board not obliged to hold hearing or admit certain evidence

79. Subject to this canon, the Review Board is not obliged –

(a) to hold a hearing at which-

(i) evidence is adduced, whether by oral examination or signed statement or statutory declaration; or

(ii) submissions are heard orally; or

(b) to admit evidence that was not adduced before the Board in relation to the facts relevant to the complaint unless –

(i) the evidence could not have been obtained with reasonable diligence for use at the hearing before the Board; and

(ii) that there is a high probability that the result would have been different had it been received at that hearing.

Legal representation

80. The ESC may and the respondent at the respondent's own expense may appoint a legal representative to assist in the process.

Directions

81. Each of the Board and the Review Board may at any time and from time to time give directions:

(a) as to the inspection by and supply of copies to the respondent or any other person of the documents or material relevant to the reference; and

(b) as to the conduct of its inquiry into the reference

and for that purpose the Board or the Review Board may be constituted by the President or Deputy President alone.

Board and Review Board may appoint a person to assist

82. Each of the Board and the Review Board may, for the purpose of any particular reference, appoint such person or persons (other than the Director), to assist it in inquiring into (but not determining) a reference as the Board or the Review Board thinks fit.

Directions to ESC

83. Each of the Board and the Review Board may at any time and from time to time give directions to the ESC as to any further inquiries or investigation it requires to be carried out for the purposes of the reference and the ESC must to the best of its ability cause such directions to be carried out.

Board and Review Board may receive written evidence

84. Without limiting the meaning and effect of sections 76 and 77, each of the Board and the Review 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.

Board and Review Board may rely on decisions of other bodies

85. In any proceedings before it, where the Board or the Review Board is satisfied that the respondent—

(a) has been convicted by a court within Australia of an offence involving conduct as described in any of paragraphs (a) to (d) of subsection 3(7) of this canon (“specified conduct”);

(b) has been found guilty (without conviction) by a court within Australia of an offence involving specified conduct;

(c) has admitted in proceedings before a court or tribunal within Australia having engaged in specified conduct;

(d) has been found by a court or tribunal within Australia or by a Professional Standards Board or Review Board constituted under an ordinance of a diocese to have engaged in specified conduct; or

(e) has been disqualified by a court or tribunal within Australia from professional practice on account of specified conduct,

then—

(f) a certificate, reasons for judgment or other record from the court or tribunal or Professional Standards Board or Review Board (as the case may be) shall be conclusive evidence that the respondent engaged in the specified conduct; 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 specified conduct.

Standard of proof applying to Board and Review Board

(1) The standard of proof to establish an allegation is that of a reasonable satisfaction on the balance of probabilities.

(2) Each of the Board and the Review Board must scrutinize evidence with greater care if there is a serious allegation to be established, or an inherent unlikelihood of an occurrence of a given description or if there are grave consequences that would flow from a particular finding.

Individual members of Board and Review Board not to meet with parties

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

Disclosure and material personal interest

88. (1) A member of the Board or the Review Board must without delay disclose in writing any circumstances likely to give rise to justifiable doubts as to his or her impartiality or independence, as they arise, to the President and the parties unless he or she has already informed them of the circumstances.

(2) Where a member of the board has a material personal interest or other conflict of interest in a matter before it, the member shall be disqualified from participating in the matter.

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

Medical examination

89. (1) The ESC or the Board or the Review Board may request the respondent to submit within a specified time to a medical examination by a person approved by the ESC or the Board or the Review Board (as the case may be) the cost of which shall be met from church funds under the control of the Standing Committee.

(2) A copy of the report of an examination under subsection (1) shall be provided to the respondent, the Director, the ESC, the Board and, if applicable, the Review Board.¹⁹

Certain matters not to be inquired into

91. Neither the Board nor the Review Board shall, in the course of considering a complaint or reconsidering a decision respectively:

(a) inquire into any matter which is the subject of any completed formal investigation or enquiry and determination conducted—

(i) pursuant to any provision of the Constitution; or

(ii) pursuant to this canon or the Episcopal Standards Canon 2007, a canon or an ordinance of a diocesan Synod in any case relating to the discipline or professional standards of Church workers by a board of enquiry, tribunal or other body—

save to the extent of any fresh evidence that was not reasonably available during the previous formal investigation or enquiry, but may take into account the finding of any such formal investigation or enquiry; or

¹⁹ Section 90 is enacted in the *Episcopal Standards (Child Protection) Amendment No 1 Canon 2017*.

- (b) inquire into, make any findings in relation to or take into account any alleged breach of faith ritual or ceremonial.

Matters Board and Review Board to consider

92. Where a matter is ***referred to the Board or application for review is made to the Review Board***, the Board or Review Board (as the case may be) shall consider the complaint or decision and may make any finding on any relevant question of fact, taking into account—
- (a) the final report (if any) of the investigator including any attachments;
 - (b) such report of the ESC as may be submitted;
 - (c) any further material received from the complainant and the Bishop relevant to its consideration;
 - (d) any other relevant evidentiary material;
 - (e) any standards prescribed by a code of conduct approved for the purposes of this canon, whenever the conduct may have occurred;
 - (f) the conduct of the Bishop as it finds it to have been;
 - (g) ...²⁰
 - (h) in the case of the Review Board, the determination and reasons of the Board.

No costs to be awarded

93. Neither the Board nor the Review Board has the power to award costs of any complaint or matter before it.

Making of rules

94. (1) The President of the Board may make rules of the Board reasonably required in relation to the practice and procedure of the Board.
- (2) The President of the Review Board may make rules of the Review Board reasonably required in relation to the practice and procedure of the Review Board.
- (3) The ESC, the respondent and any other party joined to a complaint or matter by leave of the Board or the Review Board shall comply with the rules of the Board or the Review Board (as the case may be) and with any directions given by either the Board or the Review Board.
95. The rules of the Board or the Review Board made under this Part may provide that, in relation to the exercise of specified functions, or in relation to matters of a specified class, other than the determination of an application including the making of a recommendation, the Board or the Review Board (as the case may be) may, at the direction of the presiding member, be constituted by a single member sitting alone.

²⁰ Subparagraph (g) is enacted in the *Episcopal Standards (Child Protection) Amendment No 1 Canon 2017*.

Practice and procedure

96. Subject to this canon and the relevant rules-

- (a) the practice and procedure of the Board will be as directed by the presiding member of the Board; and
- (b) the practice and procedure of the Review Board will be as directed by the presiding member of the Review Board.

97. (1) In any proceedings of the Board or the Review 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 or the Review 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 or the Review Board (as the case may be).

98. If a member of the Board or the Review Board, other than the presiding member, dies or is for any other reason unable to continue with any complaint referred to the Board or any matter before the Review Board, the Board or the Review Board constituted by the presiding member and the other member or members may, if the presiding member so determines, continue and complete the matter.

To whom a copy of the determination and recommendation to be provided.

99. (1) Subject to this section, each of the Board and the Review Board must cause a copy of the determination and recommendations together with reasons (whether under section 45, 57, 58 or 74) to be provided to—

- (a) the Council of Bishops;
 - (b) the complainant;
 - (c) the respondent;
 - (d) the Director and the ESC;
 - (e) the Diocesan Council where the respondent is the Bishop of a diocese; and
 - (f) the Safe Ministry Commission of the Anglican Church of Australia;
- and must cause any required relevant details to be forwarded to the General Secretary to be entered on to the national register.

(2) The Board (unless a stay has been granted under section 71) and the Review Board must release to the public as soon as practicable—

- (a) its determination and reasons for decision; and
- (b) the recommendations made to the Council of Bishops anonymised and redacted as referred to in the following subsection.

- (3) Each of the Board and the Review Board must ensure that the determination and recommendations together with reasons, which are released to the public are anonymised and redacted so as not to contain any particulars that identify or are likely to lead to the identification of any person referred to in section 102(2).²¹

5

PART 17 - THE COUNCIL OF BISHOPS

Council of Bishops must give effect

100. Subject to section 71 of this canon, the Council of Bishops to whom a recommendation under section 57, 58 or 74 of this canon must, and is hereby empowered to give effect to—
- (a) the recommendation of the Board or if applicable, the Review Board; or
 - (b) any variation or modification of that recommendation, consistent with any facts found by the body making the recommendation provided that the substance of that recommendation is preserved, as the Council of Bishops sees fit.

15

Decision by majority of votes

101. A question before the Council of Bishops may be decided by a majority of the votes of the members of the Council of Bishops.

20

Publication of decision of the Council of Bishops

102. (1) Subject to section 71 and to subsection (2), the Council of Bishops must release to the persons referred to in paragraphs (b) to (f) of subsection 99(1) and to the public as soon as practicable a written statement disclosing—
- (a) their decision on any recommendation received in respect of a complaint;
 - (b) the steps to be taken or that have been taken pursuant to the preceding section to give effect to it; and
 - (c) the reasons for any variation or modification of a recommendation under the preceding section
- and may release to the public such further material as it may determine with respect to the exoneration of the Bishop or any action taken against the Bishop.
- (2) The Council of Bishops must ensure that any statement or further material which is released to the public is anonymised and redacted so as not to contain any particulars that identify or are likely to lead to the identification of—
- (a) the complainant other than the Director;
 - (b) any witness other than the respondent or a witness as to either character or a question on which expert evidence is given;
 - (c) any person against whom a prescribed sexual offence is alleged to have been committed; or
 - (d) the respondent (whether as a witness or otherwise), unless—
 - (i) the Board or the Review Board has already made public the name of the respondent in the exercise of its discretion; or
 - (ii) in the discretion of the Council of Bishops, the disclosure of the

25

30

35

40

45

²¹ See for example s4(1A) of the *Judicial Proceedings Reports Act 1958 (Vic)* or like provisions in another State or Territory.

identity of the respondent is necessary or desirable in the public interest.

- (3) The Council of Bishops must cause any required relevant details of a variation or modification to a recommendation made to it to be forwarded to the General Secretary to be entered onto the national register.

PART 18 – DEPOSITION FROM THE EXERCISE OF HOLY ORDERS

Effect of deposition from Holy Orders

103. A Bishop who has been deposed from the exercise of Holy Orders in accordance with this canon or in accordance with the provisions of any ordinance, act, legislative measure or provision of the synod of a diocese relating to episcopal standards—
- (a) may not:
 - (i) officiate or act in any manner as a bishop, priest or deacon of this Church;
 - (ii) accept or hold an 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 office 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 the Church which may be held by a lay person without the prior consent of the diocesan bishop for the time being; 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.²²

How deposition from the exercise of Holy Orders effected

104. (1) Subject to subsection (2), the deposition of a Bishop from the exercise of Holy Orders following the recommendation of the Board or Review Board shall be effected by the execution by the members of the Council of Bishops or a majority of them of an instrument of deposition in or to the effect of the form in Schedule 1.
- (2) The General Secretary must forthwith:
- (a) register the instrument in the Registry of the General Synod office;
 - (b) deliver a copy of the instrument to the Diocesan bishop of -
 - (i) the Diocese in which the person who is the subject of the instrument was ordained; and
 - (ii) the Diocese in which that person resides; and
 - (c) cause relevant details to be entered onto the national register.

²² Section 11 of the *Holy Orders (Removal from Exercise of Ministry) Canon 2017* provides in like terms for the effect of deposition but will not come into operation in a diocese unless and until adopted by the Synod of that diocese. The canon affects the discipline of the Church.

PART 19 – CONFIDENTIALITY AND REPORTING**Duty of confidentiality**

- 5 105. Subject to the provisions of this canon, the Director, a member of the ESC, a member
of the Board or the Review Board or of a Council of Bishops or a person employed or
engaged on work related to the affairs of the ESC, the Board or the Review Board
must not divulge information that comes to his or her knowledge by virtue of that office
or position except:
- 10 (a) in the course of carrying out the duties of that office or position;
(b) as may be authorised by or under this canon or any protocol;
(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;
- 15 (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 or Council of Bishops where
the information may give rise to or be relevant to a claim for indemnity by the
Church body or Council of Bishops against the insurer or is relevant to obtaining
20 or continuing insurance cover.

Duty of disclosure to other church bodies

- 25 106. (1) The ESC must disclose to an equivalent body information in its possession
concerning alleged misconduct of a Bishop other than a person who is then a
Diocesan bishop which is information concerning misconduct alleged to have
occurred in the diocese of the equivalent body and must co-operate with the
equivalent body.
- 30 (2) The ESC may disclose to a person or body of another church or Christian
denomination exercising powers, duties or functions similar to those of the ESC,
in relation to clergy, details of information in its possession concerning the
alleged misconduct of a person who was a Bishop and the ESC must co-operate
with such person or body to whom the information is disclosed.

ESC to report annually to Standing Committee

- 35 107. (1) The ESC must report annually to the Standing Committee on its activities for that
calendar year.
- 40 (2) The report of the ESC pursuant to the preceding subsection may identify the
Bishop as the respondent who has been exonerated from an allegation the
subject of a complaint or who has been the subject of a determination or
recommendation by the Board or the Review Board, favourable to the Bishop.

ESC to report to Primate or senior Metropolitan

108. (1) Subject to subsection (2), the ESC must, in respect of every complaint with which it is dealing under this canon, report either orally or in writing to the Primate with such frequency and as fully as the Primate may reasonably require.
- (2) If the matter relates to the conduct of the Bishop who is the Primate, such reports must be made to and at the direction of the senior Metropolitan at the time in Australia who is not the Primate.

PART 20 – INDEMNITY**Indemnification of those with functions under the Act**

109. The Standing Committee must and is hereby authorised, out of church funds under the control of the Standing Committee, to indemnify –
- (a) the Director and any delegate of the Director;
 - (b) any carer appointed under this canon or any protocol;
 - (c) the members of the ESC and each of them;
 - (d) any delegate of the ESC;
 - (e) the members of the Board and each of them;
 - (f) the Secretary to the Board;
 - (g) any person appointed by the Board pursuant to this canon;
 - (h) the members of the Review Board and each of them;
 - (i) the Secretary to the Review Board;
 - (j) any person appointed by the Review Board pursuant to this canon;
 - (k) any witness in a proceeding under this canon, if the Standing Committee so resolves in a particular case; and
 - (l) the members of the Council of Bishops and each of them —
- for 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 canon.

PART 21 – REGULATIONS**Making amending or repealing regulations**

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

PART 22 – EPISCOPAL STANDARDS OMBUDSMAN**Appointment**

- 5 111. (1) There shall be appointed an Episcopal Standards Ombudsman who shall be a lay person.
 (2) There may be appointed an acting Episcopal Standards Ombudsman.
- 10 112. (1) The Episcopal Standards Ombudsman, and any acting Episcopal Standards Ombudsman, shall be appointed by the Standing Committee and shall hold office on such terms and conditions as may be determined from time to time by resolution of the Standing Committee.
 (2) The Episcopal Standards Ombudsman and any acting Episcopal Standards Ombudsman must report to the Standing Committee.
- 15

Functions

- 20 113. (1) The Episcopal Standards Ombudsman shall have the following functions—
 (a) to discharge the functions assigned to that officer under this canon or any protocol approved under it including responding to grievances concerning any complaint or grievance about the operation of this canon or any protocol approved under it in relation to a complaint or other matter;
 (b) to keep under scrutiny, by spot audits and otherwise, the systems in the Church for responding to and dealing with complaints of misconduct against a Bishop;
 (c) to report to the Standing Committee on any recommended changes to the Protocol and any changes to Church processes, structures and education programmes that would reduce the risk of abuse in the Church; and
 (d) to exercise such other functions as may be determined by the Standing Committee.
- 25
- 30

Access to files and information

- 35 114. The Episcopal Standards Ombudsman shall have access to all files of the Office of Episcopal Standards and information relevant to any complaint or matter.

PART 23 – PROCEDURE FOR GRIEVANCE ABOUT PROCESS

- 40 115. (1) Any grievance about the operation of this canon or any protocol approved under it must in the first instance be addressed in writing to the Grievance Officer appointed by the General Secretary.
 (2) The Grievance Officer must consider the complaint or grievance and forward the same to the Director and to the investigator or other staff member if any involved for a written response within 14 days or such longer period as the Grievance Officer may allow.
 (3) The Grievance Officer must provide the person lodging the grievance with a written response and an outline of any proposed action.
- 45

- (4) For the purposes of this and the following section, the Grievance Officer shall have access to the files of the Office of Episcopal Standards and information relevant to the complaint or matter the subject of the grievance.
- 5 116. (1) If the person aggrieved about the operation of this canon or any protocol approved under it remains so after receiving the response from the Grievance Officer, that person may address their grievance in writing to the Episcopal Standards Ombudsman.
- 10 (2) The Episcopal Standards Ombudsman must consider the complaint or grievance and forward the same to the Director and to the investigator or other staff member if any involved for a written response within 14 days or such longer period as the Episcopal Standards Ombudsman may allow.
- 15 (3) The Episcopal Standards Ombudsman must provide the person lodging the grievance and the Standing Committee or a duly authorised subcommittee of that body with a written response and an outline of any proposed action.

PART 24 – JURISDICTION OF DIOCESAN PROFESSIONAL STANDARDS BOARD OR REVIEW BOARD

- 20 117. (1) Nothing in this canon shall be read as precluding—
- (a) a Professional Standards Board constituted under an ordinance of the Synod of a diocese from exercising jurisdiction to hear and determine an application for a clearance for ministry arising under that ordinance; or
- 25 (b) a Professional Standards Review Board constituted under that ordinance from exercising jurisdiction to hear and determine an application for review of a decision of the Professional Board on that application.
- (2) The members of the Board or Review Board as constituted under this canon may act respectively as the Board or Review Board under that ordinance for the purpose of exercising the jurisdiction of the Professional Standards Board or
- 30 Review Board respectively.

SCHEDULE 1

TO:

5

We, *[MEMBERS OF THE COUNCIL OF BISHOPS]* do by these presents hereby depose you from Holy Orders (particulars of which are set out below) in accordance with the recommendation of the Episcopal Standards Board [or Episcopal Standards Review Board] pursuant to the provisions of the Episcopal Standards (Child Protection) Canon 2017.

15

PARTICULARS OF HOLY ORDERSFULL NAME AND
ADDRESS:ORDAINING
BISHOP

PLACE

DATE

ORDINATION AS
DEACON:ORDINATION AS
PRIEST:CONSECRATION AS
BISHOP:

.....
.....
.....

20

DATED

**A BILL FOR THE
EPISCOPAL STANDARDS (TRANSITIONAL PROVISIONS,
CONSEQUENTIAL AMENDMENTS AND REPEAL) CANON 2017**

EXPLANATORY MEMORANDUM

GENERAL

1. The purpose of the *Episcopal Standards (Transitional Provisions, Consequential Amendments and Repeal) Canon 2017* (**the Transitional Provisions Canon**) is to make transitional provisions that deal with the introduction of the *Episcopal Standards (Child Protection) Canon 2017* (**the Principal Canon**) and current matters, to repeal certain provisions of the *Special Tribunal Canon 2007* and to repeal the *Episcopal Standards Canon 2007*.
2. The Transitional Provisions Canon will commence on the date on which the Principal Canon comes into operation.

Clause Notes

- | | |
|----------|--|
| Clause 1 | provides for the short title. |
| Clause 2 | provides for the commencement of the canon. |
| Clause 3 | gives definitions of various terms used in this canon. |
| Clause 4 | provides that on and after the commencement day a complaint or examinable conduct here referred to is to be dealt with under the Principal Canon. |
| Clause 5 | provides that a complaint or examinable conduct which has been the subject of a referral is to be dealt with under the Episcopal Standards Act 2007 or the ordinance of the Synod of the diocese (as the case may be) to the exclusion of the Principal Canon. |

- Clause 6 provides that on and after the commencement day, an investigation in a matter that has begun but has not been completed and the subject of a referral is to be conducted under the Principal Canon.
- Clause 7 provides that on the commencement of this canon, a person holding an office of Director or member of the ESC constituted under the *Special Tribunal Canon* 2007 shall be taken to hold that office under the Principal Canon.
- Clause 8 provides that on the commencement of this canon, a person holding office as a member of the Episcopal Standards Board panel constituted under the Former Canon shall be taken to hold office as a member of the Episcopal Standards Board panel constituted under the Principal Canon.
- Clause 9 makes various consequential amendments to the *Special Tribunal Canon* 2007. The functions of the Director and the ESC in the handling of a complaint received by the ESC are dealt with exclusively under the Principal Canon. For that reason, Parts 2 (excepting s3), 3 and 4 of the *Special Tribunal Canon* 2007 are repealed and further consequential amendments are made, repealing section 43(2). Part 8 (Deposition from Orders) is repealed because of the proposed enactment of the *Holy Orders (Removal from Exercise of Ministry) Canon* 2017.
- Clause 10 repeals the *Episcopal Standards Canon* 2007.

5

10

Short title

15

20

Interpretation

25

30

35

40

45

5-148

diocese as constituted before the commencement day.

“**Professional Standards Committee**” means the professional standards committee of a diocese as constituted before the commencement day.

Otherwise terms used in this canon have the same meanings as they are given in the Principal Canon.

PART 2 – TRANSITIONAL PROVISIONS

Complaints or examinable conduct disclosed but not referred

4. (1) This section applies to a complaint or examinable conduct, in respect of misconduct, within the meaning of the expressions, complaint or examinable conduct, in the Former Act or in an ordinance of the Synod of a diocese if—
- (a) the complaint or examinable conduct was made known before the commencement day; and
 - (b) the complaint or examinable conduct has not been the subject of a referral—
 - (i) by the ESC to the Episcopal Standards Board; or
 - (ii) by the Professional Standards Committee to the Professional Standards Boardbefore that day.
- (2) On and after the commencement day the complaint or examinable conduct is to be dealt with under the Principal Canon.

Complaints or examinable conduct already referred

5. (1) This section applies to a complaint or examinable conduct, as to misconduct, within the meaning of those expressions, complaint or examinable conduct, in the Former Canon or in an ordinance of the Synod of a diocese if—
- (a) the complaint or examinable conduct was made known before the commencement day; and
 - (b) the complaint or examinable conduct has been the subject of a referral—
 - (i) by the ESC to the Episcopal Standards Board; or
 - (ii) by the Professional Standards Committee to the Professional Standards Boardbefore that day.
- (2) The complaint or examinable conduct is to be dealt with under the Former Canon or the ordinance of the Synod of the diocese (as the case may be) to the exclusion of the Principal Canon.

Current investigation

6. (1) This section applies to an investigation of a complaint or examinable conduct as to misconduct that—
- 5 (a) the ESC; or
- (b) the Episcopal Standards Committee; or
- (b) the Director of Professional Standards or the Professional Standards Committee
- 10 has begun but not been completed and the subject of a referral as provided above, in any case before the commencement day.
- (2) On and after the commencement day, the investigation is to be conducted under the Principal Canon.
7. On the commencement of this canon, a person holding an office of Director or member of the ESC constituted under the *Special Tribunal Canon 2007* shall be taken to hold that office under the Principal Canon.
- 15 8. On the commencement of this canon, a person holding office as a member of the Episcopal Standards Board panel constituted under the Former Canon shall be taken to hold office as a member of the Episcopal Standards Board panel constituted under the Principal Canon.
- 20

PART 3 – CONSEQUENTIAL AMENDMENTS**25 Special Tribunal Canon 2007**

9. (1) In section 2 of the *Special Tribunal Canon 2007* —
- (a) the definition of “complaint” is repealed;
- 30 (b) the definition of “Director” is amended by substituting for “Part 3” – “the Episcopal Standards (Child Protection) Canon 2017”;
- (2) Section 2A of the *Special Tribunal Canon 2007* is repealed.
- (3) Part 2 of the Special Tribunal Canon 2007, with the exception of section 3, is repealed.
- (4) Section 3 is amended by adding after the words “Episcopal Standards Commission” the words – “constituted as provided in the *Episcopal Standards (Child Protection) Canon 2017*”.
- 35 (5) Part 3 of the Special Tribunal Canon 2007 is repealed.
- (6) Part 4 of the Special Tribunal Canon 2007 is repealed.
- (7) Subsection 43(1)(a) is amended by adding after the word “ESC” the words—
- 40 “to the extent otherwise permitted by the *Episcopal Standards (Child Protection) Canon 2017* or that canon as amended from time to time”
- (8) Subsection 43(2) is repealed.
- (9) Part 8 (Deposition from Orders) is repealed.

PART 4 – REPEAL

Episcopal Standards Canon 2007

- 5 10. The *Episcopal Standards Canon 2007* is repealed.

**A BILL FOR THE
EPISCOPAL STANDARDS (CHILD PROTECTION)
AMENDMENT NO 1 CANON 2017**

EXPLANATORY MEMORANDUM

GENERAL

1. This Bill for an *Episcopal Standards (Child Protection) Amendment No 1 Canon 2017 (the Amendment No 1 Bill)* amends the *Episcopal Standards (Child Protection) Canon 2017 (the Principal Canon)* and will only come into force on adoption by a diocese.
2. The purpose of this Bill is, as the name suggests, to amend the Principal Canon to insert those provisions which were intentionally excluded from it so that the canon does not affect the discipline of the Church and can operate immediately without adoption by the Synod of a diocese. The relevant provisions have been identified, taking into account the determination of the Appellate Tribunal dated 4 April 2007 in relation to the *Special Tribunal Canon 2004*. For like reasons, the Short Form Episcopal Standards Bill 2017 excludes certain provisions of the *Episcopal Standards Act 2007*.

Clause Notes

- | | |
|----------|--|
| Clause 1 | provides for the short title. |
| Clause 2 | gives definitions of the Principal Canon and other terms used in this canon. |
| Clause 3 | <p>provides that the Principal Canon, modified as provided in this canon—</p> <ul style="list-style-type: none">(a) applies as a canon of General Synod;(b) as so applying may be referred to as the <i>Episcopal Standards (Child Protection) Modified Canon 2017</i>; and(c) comes into force upon adoption by a diocese by ordinance of the synod of the Diocese. |

- Clause 4 provides that the Principal Canon is modified as provided in this canon.
- Clause 5 inserts section 6 into the Principal Canon to provide for a code of conduct for observance by Bishops in relation to safe ministry to children, which does not make provision for any matter concerning faith, ritual or ceremonial.
- Clause 6 inserts section 8 into the Principal Canon to place a duty on a Bishop to report certain matters relating to child abuse to the Director of Episcopal Standards.
- Clause 7 inserts sections 9 and 10 into the Principal Canon to specify the duties of a Bishop with respect to responding to a complaint or complying with an undertaking or direction.
- Clause 8 inserts section 27 into the Principal Canon to provide that the ESC may require a respondent to take certain specified steps.
- Clause 9 amends section 29 of the Principal Canon by adding a subparagraph authorising the ESC to institute, amend or withdraw proceedings by way of charge against a Bishop before the Special Tribunal, to that extent it has jurisdiction, alleging an offence in relation to misconduct as may be specified by canon or by an ordinance of the Synod of a diocese by which the Bishop was bound.
- Clause 10 inserts in section 60 of the Principal Canon subsection (3) -
(3) The Board may take into account the failure of the Bishop to comply with his or her undertaking under subsection (1) in deciding on any recommendation on a complaint.
- Clause 11 inserts after section 89 the provisions of section 90 which provides that if the Board or the Review Board is satisfied that there is no reasonable likelihood that the Special Tribunal would find the respondent guilty of any offence, the Board or the Review Board shall take no further action by way of recommending the appointment of a person to lay a charge against the respondent. It also amends section 92 by inserting as paragraph (g)—
(g) any failure of the Bishop to comply with a provision of this canon; and
- Clause 12 In Schedule 1, modifies the form by substituting “*Episcopal Standards Modified Canon 2017*” for “*Episcopal Standards (Child Protection) Canon 2017*”.

Clause 13

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

**A BILL FOR THE
EPISCOPAL STANDARDS (CHILD PROTECTION)
AMENDMENT NO 1 CANON 2017**

The General Synod prescribes as follows:

PART 1 – PRELIMINARY

Short title

1. This Canon may be cited as the Episcopal Standards (Child Protection) Amendment No 1 Canon 2017.

Interpretation

2. (1) In this canon, unless the context otherwise requires—
- (a) “Principal Canon” means the *Episcopal Standards (Child Protection) Canon 2017*.
- (b) Terms used in this canon have the same meanings as they are given in the Principal Canon.

PART 2 – APPLICATION OF PRINCIPAL CANON AS MODIFIED

Application of the Principal Canon

3. The Principal Canon, modified as provided below—
- (a) applies as a canon of General Synod;
- (b) as so applying may be referred to as the *Episcopal Standards (Child Protection) Modified Canon 2017*; and
- (c) comes into force upon adoption by a diocese by ordinance of the synod of the Diocese.

Modifications

4. The Principal Canon is modified by the following provisions:
5. Insert the following after section 5 as headings and sections 6 and 7—

PART 2 – CODE OF CONDUCT**Approval of code of conduct**

- 5 6. (1) There shall be a code of conduct for observance by Bishops in
relation to safe ministry to children, which does not make provision
for any matter concerning faith, ritual or ceremonial.
- 10 (2) The code of conduct applicable to a Bishop shall be that approved
pursuant to the *Safe Ministry to Children Canon 2017* if the Synod of
a diocese has adopted that canon, and until that adoption, then a
code of conduct approved from time to time by the Standing
Committee under subsection (3);
- 15 (3) Subject to subsections (1) and (2), the Standing Committee may from
time to time by resolution carried by a two-thirds majority approve a
code of conduct for observance by Bishops in relation to safe
ministry to children, which does not make provision for any matter
concerning faith, ritual or ceremonial.

Promotion of code of conduct

- 25 7. The Standing Committee must take such steps as may be necessary or
desirable to promote the knowledge, understanding and observance in the
Church of any code of conduct approved by Standing committee for the
purposes of this canon.

- 30 6. Insert the following after section 7 (as introduced by the amendment effected by clause
5 of this canon) as a heading and section 8—

PART 3 – DUTY TO REPORT

- 35 8. (1) Subject to subsection (2), if a Bishop—
 (a) believes on reasonable grounds that a child has suffered harm
or is at risk of harm as a result of abuse by a person who is
subject to a canon of General Synod or an ordinance of a
Diocese relating to discipline or professional or episcopal
standards; and
- 40 (b) has no reason to believe that a Director of Professional
Standards of a diocese or a Director of Episcopal Standards
(as the case may be) appointed under this canon or an
ordinance of a diocese, or any member of the Professional
Standards Committee or Episcopal Standards Commission
appointed under this canon or that ordinance, is aware of those
45 facts

the Bishop must as soon as possible report the matter to the Director of Episcopal Standards appointed under this canon.

(3) This section does not affect the operation of the *Canon Concerning Confessions* 1989 of General Synod or any other canon or legislative instrument relating to confessions in force.

7. Insert the following after section 8 (as introduced by the amendment effected by clause 6 of this canon) as headings and sections 9 and 10—

Duties concerning the process

9. (1) The Bishop must subject to subsection (2)–

- (a) comply with a requirement of the ESC pursuant to section 27(a) of this canon to meet with an investigator to answer questions in relation to a complaint;
- (b) comply with a requirement of the ESC pursuant to section 27(b) and (c) of this canon to provide a verified detailed report to the ESC within a reasonable time; and
- (c) truthfully answer any question put by or on behalf of the ESC in the exercise of powers conferred by this canon.

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

- (3) The Bishop must–

- (a) not mislead the ESC or a member or delegate of the ESC;
- (b) not unreasonably delay or obstruct the ESC, or a member or delegate of the ESC in the exercise of powers conferred by this canon; and
- (c) attend a mediation, conciliation, neutral evaluation or other dispute resolution meeting arranged by the ESC in relation to a complaint.

Duty to comply with an undertaking or direction

10. (1) The Bishop must -

- (a) comply with any undertaking given to the Board, the Review Board or the Council of Bishops; and
- (b) comply with a direction made by the Council of Bishops to give effect to a recommendation of the ESC, the Board or the Review Board (as the case may be) or any permitted variation or modification of that recommendation.

(2) Failure of the Bishop to comply with an undertaking or direction is an offence.

(3) The ESC may institute proceedings forthwith in the Special Tribunal against the Bishop in respect of an offence against this section to the extent of the jurisdiction of the Special Tribunal at that time.

8. In Part 9, insert the following after section 26 as a heading and section 27—

Respondent to respond to ESC

27. The ESC may by notice in writing to the respondent require the respondent—

- (a) to meet with an investigator to answer questions in relation to a complaint;
- (b) to provide a detailed report to the ESC within a reasonable time specified in the notice in relation to any matter relevant to the investigation; and
- (c) to verify the report by statutory declaration or another specified manner.

9. In Part 10, amend section 29 by inserting “(a)” before – “must, if required” and inserting new paragraph (b) as follows—

- (b) may institute, amend or withdraw proceedings by way of charge against a Bishop before the Special Tribunal, to that extent it has jurisdiction, alleging an offence in relation to misconduct as may be specified by canon or by an ordinance of the Synod of a diocese by which the Bishop was bound.

10. In Part 13, amend section 60 by inserting the following subsection—

- (3) The Board may take into account the failure of the Bishop to comply with his or her undertaking under subsection (1) in deciding on any recommendation on a complaint.

11. In Part 16—

- (a) insert after section 89 as a heading and section 90—

No further action where Special Tribunal unlikely to find respondent guilty

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

(b) amend section 92 by inserting as paragraph (g)—

(g) any failure of the Bishop to comply with a provision of this canon; and

- 5 12. In Schedule 1, modify the form by substituting “Episcopal Standards Modified Canon 2017” for “*Episcopal Standards (Child Protection)* Canon 2017”.

PART 3 – ADOPTION

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

**A BILL FOR THE
EPISCOPAL STANDARDS (CHILD PROTECTION)
AMENDMENT NO 2 CANON 2017**

EXPLANATORY MEMORANDUM

GENERAL

1. This Bill for an *Episcopal Standards (Child Protection) Amendment No 2 Canon 2017* (**the Amendment No 2 Canon**) amends the *Episcopal Standards (Child Protection) Canon 2017* (**the Principal Canon**) and will only come into force on adoption by a diocese.
2. The Bill is drawn on the basis that the Synod of a diocese will have adopted *Episcopal Standards (Child Protection) Amendment No 1 Canon 2017* (**the Amendment No 1 Canon**).
3. The purpose of this Bill is to amend the Principal Canon to extend the jurisdiction conferred by the Principal Canon beyond child protection matters to broadly that of the *Model Episcopal Standards Ordinance* and the *Episcopal Standards Canon 2007*. All complaints of ‘misconduct’ within the meaning of that extended definition would be dealt with by the Episcopal Standards Commission under the Modified Principal Canon. If the Synod of a diocese adopts this canon, the diocese will not need a diocesan Episcopal Standards regime of its own. The single General Synod regime will handle all complaints of misconduct against a Bishop in their diocese.

Clause Notes

- | | |
|----------|---|
| Clause 1 | provides for the short title. |
| Clause 2 | gives definitions of the Principal Canon and Modified Principal Canon and other terms used in this canon. |
| Clause 3 | <p>provides that the Modified Principal Canon, modified as provided in this canon—</p> <ul style="list-style-type: none">(a) applies as a canon of General Synod;(b) as so applying may be referred to as the <i>Episcopal Standards Canon 2017</i>; and |

- (c) comes into force upon adoption by a diocese by ordinance of the synod of the Diocese.
- Clause 4 provides that the Modified Principal Canon is further modified by the provisions that follow in the canon.
- Clause 5 amends the definition of ‘misconduct’ in the Principal Canon. It extends the canon to the abuse of an adult. It also inserts in paragraphs (e) to (l) other instances which will qualify under the canon as misconduct provided that if established, they would on their face call into question the fitness of the Bishop. These reflect the paragraphs in the corresponding definition of ‘misconduct’ in the Model Episcopal Standards Ordinance, with the exception of paragraph (g) which has been added. Paragraph (g) states—
- (g) any offence under a law of the State or Territory or the Commonwealth for which the maximum penalty prescribed is imprisonment for at least 6 months;
- Clause 6 inserts section 6A after section 6 to provide that the Diocesan Council may from time to time by resolution approve a code of conduct in respect of matters other than in relation to safe ministry to children, and which does not make provision for any matter concerning faith, ritual or ceremonial, for observance by a Bishop in the diocese.
- Clause 7 amends section 8(1) (a) by substituting “person” for “child” so that the duty to report would arise where the Bishop believes on reasonable grounds that any person has suffered harm or is at risk of harm as a result of abuse...
- Clause 8 amends paragraph (a) of section 85 by substituting for “(a) to (d)” — “(a) to (g) and (j)”, an amendment consequential on the amendments made by clause 5 above.
- Clause 9 amends the form in Schedule 1 by substituting “*Episcopal Standards Canon 2017*” for “*Episcopal Standards (Child Protection) Modified Canon 2017*”.
- Clause 10 provides that the provisions of this canon affect the order and good government of this Church within a diocese and shall not come into force in a diocese unless and until the diocese adopts this canon by ordinance of the synod of the Diocese.

5 **A BILL FOR THE**
 EPISCOPAL STANDARDS (CHILD PROTECTION) AMENDMENT
 NO 2 CANON 2017

10 The General Synod prescribes as follows:

PART 1 – PRELIMINARY

15 **Short title**

1. This Canon may be cited as the Episcopal Standards (Child Protection) Amendment No 2 Canon 2017.

20 **Interpretation**

2. (1) In this canon, unless the context otherwise requires—
 (a) “Principal Canon” means the Episcopal Standards (Child Protection) Canon 2017.
 (b) “Modified Principal Canon” means the Principal Canon as modified by the
25 *Episcopal Standards (Child Protection) Amendment No 1 Canon 2017*
 (c) Terms used in this canon have the same meanings as they are given in the Principal Canon.

30 **PART 2 – APPLICATION OF PRINCIPAL CANON AS MODIFIED**

Application of the Principal Canon

3. The Modified Principal Canon, modified further as provided below—
35 (a) applies as a canon of General Synod;
 (b) as so applying may be referred to as the *Episcopal Standards Canon 2017*; and
 (c) comes into force upon adoption by a diocese by ordinance of the synod of the Diocese.

40 **Modifications**

4. The Modified Principal Canon is further modified by the following provisions:

5. In Part 1, modify section 3(7) (Misconduct)—

(a) by adding after paragraph (a)

(aa) abuse of an adult;

(b) by adding after paragraph (d)—

(e) any offence under the Offences Canon 1962 or any canon in substitution or amendment of that canon as adopted by an ordinance of a Diocese in which at the time of the offence the Bishop was a member of the Church in that diocese;

(f) any other offence under an ordinance of a Diocese in which at the time of the offence the Bishop was a member of the Church in that diocese;

(g) any offence under a law of the State or Territory or the Commonwealth for which the maximum penalty prescribed is imprisonment for at least 6 months;

(h) wilful or reckless failure to comply with a condition imposed by the Council of Bishops under section 100 of this canon;

(i) wilful or reckless failure to comply with an undertaking given to the Board, the Review Board or the Council of Bishops;

(j) an act or omission, or series of acts or omissions, made inappropriately or unreasonably in response to a complaint about the conduct of a person who is subject to a canon of General Synod or an ordinance of a diocesan synod relating to discipline or professional or episcopal standards;

(k) any breach of the duty to report a matter referred to below in section 8 or of a like duty to report under any ordinance or protocol of a diocese to which the Bishop was subject at the time of the breach;

(l) any other conduct (other than excluded conduct) that is unbecoming or inappropriate to the office and duties and functions of a diocesan bishop

and modify section 4 by adding after “safe ministry to children” the words “and ministry for the protection of other members of the community”.

6. In Part 2, insert after section 6 the following—

6A. The Diocesan Council may from time to time by resolution approve a code of conduct in respect of matters other than in relation to safe ministry to children, and which does not make provision for any matter concerning faith, ritual or ceremonial, for observance by a Bishop in the diocese.

7. In Part 3, amend section 8(1) (a) by substituting “person” for “child”.

8. In Part 16, amend paragraph (a) of section 85 by substituting for “(a) to (d)” — “(a) to (g) and (j)”.

9. In Schedule 1, amend the form by substituting “Episcopal Standards Canon 2017” for “Episcopal Standards (Child Protection) Modified Canon 2017”.

PART 4 – ADOPTION

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

APPENDICES



Faithfulness in Service

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

General Synod of the Anglican Church of Australia
Child Protection Committee

As adopted by General Synod 2004
Amended July 2005
Amended March 2006
Amended October 2006
Amended April 2011
Amended November 2011
Amended May 2016
Amended November 2016

© The Anglican Church of Australia Trust Corporation, 2004.

This work is copyright. Apart from its use as permitted under the *Copyright Act 1968*, no part may be reproduced by any process without written permission from the General Secretary of the General Synod of the Anglican Church of Australia. Enquiries should be directed to:

The General Secretary
General Synod Office
The Anglican Church of Australia
Suite 4, Level 5
189 Kent Street, Sydney NSW 2000

33/04 CHILD PROTECTION – 1

The General Synod:

- (a) receives the report of the Child Protection Committee;
- (b) adopts as the Church's *Safe Ministry Policy Statement*:
"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."
- (c) adopts the *Safe Ministry Check* in the Report of the Child Protection Committee 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;
- (d) authorises the revision of the *Safe Ministry Check* by the Standing Committee;
- (e) adopts *Faithfulness in Service* in the Report of the Child Protection Committee as the national code for personal behaviour and the practice of pastoral ministry by clergy and lay church workers; and
- (f) authorises the revision of *Faithfulness in Service* by the Standing Committee.

Garth Blake – 4 Oct 04

CONTENTS

1	About this Code.....	5-169
	Faithfulness in service.....	5-169
	Purpose.....	5-169
	Implementation	5-169
	Format and presentation.....	5-170
2	Key Terms	5-171
3	Putting this Code into Practice.....	5-177
	Preamble	5-177
	Standards for clergy and church workers	5-177
	Guidelines	5-177
4	Pastoral Relationships	5-179
	Preamble	5-179
	Standards for clergy and church workers	5-179
	Guidelines	5-180
	<i>Boundaries</i>	<i>5-180</i>
	<i>Personal and professional development.....</i>	<i>5-181</i>
	<i>Confidentiality and confessions</i>	<i>5-181</i>
	<i>Conversations in a ministry context.....</i>	<i>5-182</i>
	<i>Record-keeping and privacy.....</i>	<i>5-184</i>
5	Children	5-185
	Preamble	5-185
	Standards for clergy and church workers	5-185
	Guidelines	5-186
	<i>Recognising the characteristics and effects of child abuse.....</i>	<i>5-186</i>
	<i>Recognising the characteristics of sexual offenders</i>	<i>5-187</i>
	<i>Ensuring the safety of children</i>	<i>5-188</i>
6	Personal Behaviour.....	5-196
	Preamble	5-196
	Standards for clergy and church workers	5-196
	Guidelines	5-197
7	Sexual Conduct.....	5-200
	Preamble	5-200
	Standards for clergy and church workers	5-200
	Guidelines	5-200
8	Financial Integrity	5-202
	Preamble	5-202
	Standards for clergy and church workers	5-202
	Guidelines	5-203
	<i>Financial management practices</i>	<i>5-203</i>
	<i>Gifts</i>	<i>5-203</i>
	<i>Personal financial obligations.....</i>	<i>5-203</i>

1 ABOUT THIS CODE

Faithfulness in service

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

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

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

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

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

Purpose

This Code is intended to identify the personal behaviour and practices of pastoral ministry that will enable clergy and church workers to serve faithfully those among whom they minister. If the behaviour and practices it outlines are followed, our communities will be safer places for everyone, where integrity is honoured, accountability is practised and forgiveness encourages healing and does not conceal misconduct.

Implementation

This Code was adopted by the General Synod of the Anglican Church of Australia in 2004 as the national code for personal behaviour and the practice of pastoral ministry by clergy and church workers.

It is important that this Code be understood by clergy and church workers. Each diocese will need to ensure that its clergy and church workers are trained in the Code and its application to personal behaviour and pastoral ministry. Clergy and church workers undertaking pastoral ministry will need to apply the standards and guidelines of this Code in their specific circumstances.

Format and presentation

Each section of this Code consists of three parts:

- a *preamble* which introduces the section;
- *standards* which state the Church's expectations for personal behaviour and the practice of pastoral ministry;
- *guidelines* which explain and illustrate best practice and highlight practical ways to achieve it.

Throughout the Code, all key terms appear in **bold text** the first time they appear in a section and their definitions are contained in the section headed 'Key Terms'. Some additional educational material and advice is included in Section 5²³, Children.

²³ Amended by Standing Committee, November 206 – SC2016/2/29

2 KEY TERMS

abuse in relation to an adult means the following conduct:

- bullying;
- emotional abuse;
- harassment;
- physical abuse;
- sexual abuse; or
- spiritual abuse.

bullying²⁴ means behaviour directed to a person or persons which:

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

Bullying can include:

- making derogatory, demeaning or belittling comments or jokes about someone's appearance, lifestyle, background, or capability;
- communicating in an abusive manner;
- spreading rumours or innuendo about someone or undermining in other ways their performance or reputation;
- dismissing or minimising someone's legitimate concerns or needs;
- 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 someone, or playing pranks or practical jokes on someone;
- displaying or distributing written or visual material that degrades or offends.

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

- disagreeing with or criticising someone's belief or opinions or actions in an honest and respectful way;
- giving information about inappropriate behaviour in an objective way to the person or persons concerned and to any other person with a proper reason for having that information;
- setting reasonable performance goals, standards or deadlines;
- giving information about unsatisfactory performance in an honest and constructive way;
- taking legitimate disciplinary action.

Cyberbullying is a form of bullying which involves the use of information and communication technologies.

²⁴ Approved by Standing Committee, November 2016 – SC2016/2/29

child means anyone under the age of 18.

child abuse means the following conduct in relation to a child:

- bullying;
- emotional abuse;
- harassment;
- neglect;
- physical abuse;
- sexual abuse; or
- spiritual abuse.

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

- engaged in sexual activity; or
- in a sexual context; or
- as the subject of torture, cruelty or abuse (whether or not in a sexual context)

in a way that a reasonable person would regard as being, in all the circumstances, offensive. Child exploitation material can include any film, printed matter, electronic data, computer image and any other depiction.

child pornography means sexually explicit or suggestive material depicting children. Child pornography is a form of child exploitation material.

Church means the Anglican Church of Australia.

church authority means the person or body having authority to ordain, license, appoint, dismiss or suspend a member of the clergy or church worker.

church body includes a parish, school, or any body corporate, organisation or association that exercises pastoral ministry within, or on behalf of, or in the name of, the Church.

church worker means a lay person:

- who is licensed or authorised by the bishop of a diocese;
- who is employed by a church body in respect of whom this Code is part of their employment contract; or
- who, for payment or not, holds a position or performs a function with the actual or apparent authority of a church authority or church body, including an office, position or function:
 - of leadership in a parish, diocese or General Synod body;
 - as a member of the General Synod or a diocesan synod;
 - as a member of a body incorporated by the General Synod, a diocese or a diocesan synod;
 - as a churchwarden, member of any parish council or member of any committee constituted by or by the authority of the General Synod, a diocesan synod or a parish council;

in respect of whom the diocesan synod, the diocesan council, the church authority or the church body has adopted this Code.

civil authorities means the police and the relevant State or Territory government child protection authority.

clergy means bishops, priests and deacons of the Church.

corporal punishment means any punishment inflicted on the body.

Director of Professional Standards means the person in a diocese who has responsibility for the maintenance of professional standards of clergy and church workers.

emotional abuse means acts or omissions that have caused, or could cause emotional harm or lead to serious behavioural or cognitive disorders. It includes:

- subjecting a person to excessive and repeated personal criticism;
- ridiculing a person, including the use of insulting or derogatory terms to refer to them;
- threatening or intimidating a person;
- ignoring a person openly and pointedly; and
- behaving in a hostile manner or in any way that could reasonably result in another person feeling isolated or rejected.

grooming²⁵ refers to actions deliberately undertaken with the aim of engaging and influencing an adult or a child for the purpose of sexual activity.

In the case of sexual abuse of a child, an offender may groom not only the child, but also those close to the child, including the child's parents or guardians, other family members, clergy and church workers. Grooming can include providing gifts or favours to the child or their family.

In the case of sexual abuse of an adult, an offender may groom not only the adult, but also those close to them, including their children, clergy and church workers.

harassment means unwelcome conduct, whether intended or not, in relation to another person where the person feels with good reason in all the circumstances offended, belittled or threatened. Such behaviour may consist of a single incident or several incidents over a period of time. It includes:

- making unwelcome physical contact with a person;
- making gestures or using language that could reasonably give offence, including continual and unwarranted shouting;
- making unjustified or unnecessary comments about a person's capacities or attributes;
- putting on open display pictures, posters, graffiti or written materials that could reasonably give offence;
- making unwelcome communication with a person in any form (for example, phone calls, email, text messages); and
- stalking a person.

individual pastoral ministry means pastoral ministry carried out one-to-one. It includes spiritual direction, or pastoral counselling arising out of bereavement, divorce or other life crises.

neglect means the failure to provide the basic necessities of life where a child's health and development are placed at risk of harm. It includes being deprived of:

²⁵ Approved by Standing Committee, November 2016 – SC2016/2/29

- food;
- clothing;
- shelter;
- hygiene;
- education;
- supervision and safety;
- attachment to and affection from adults; and
- medical care.

offensive language includes blasphemy, verbal harassment, racial and other forms of vilification, personal insult or comment and obscene words.

pastoral ministry means the work involved or the situation which exists when a member of the clergy or church worker has responsibility as part of their role for the wellbeing of others. This includes the provision of spiritual advice and support, education, counselling, medical care, and assistance in times of need.

pastoral relationship means a relationship between clergy or church workers and any person for the purposes of pastoral ministry.

physical abuse means any intentional or reckless act, use of force or threat to use force causing injury to, or involving unwelcome physical contact with, another person. This may take the form of slapping, punching, shaking, kicking, burning, shoving or grabbing. An injury may take the form of bruises, cuts, burns or fractures. It does not include lawful discipline by a parent or guardian.

professional supervision/consultation is a formal, collaborative process which a more senior or experienced person uses to develop and support a person in their ministry. This relationship is confidential, evaluative, and extends over time. It is preferable if the supervisor:

- has no other pastoral or personal relationship with the person being supervised; and
- has been trained in professional supervision.

prohibited material means:

- publications, films and computer games that have been classified by the Office of Film and Literature Classification as being unsuitable for a child to read, see or play;
- any other images or sounds not subject to classification by the Office of Film and Literature Classification that are considered with good reason within the Church to be unsuitable for a child to see or hear; and
- any substance or product whose supply to or use by children is prohibited by law, such as alcohol, tobacco products, illegal drugs and gambling products.

prohibited substance means any substance banned or prohibited by law for use or consumption by adults.

restricted material means:

- publications, films, and computer games that have been classified as Category 1 or 2 restricted, X or RC classification by the Office of Film and Literature Classification; and
- any other images or sounds not subject to classification by the Office of Film and Literature Classification (for example, internet material) that are considered with good

reason within the Church as being offensive on the grounds of violence, sex, language, drug abuse or nudity.

sexual abuse of an adult means sexual assault, sexual exploitation or sexual harassment of an adult.

sexual abuse of a child²⁶ means the use of a child by another person for his or her own sexual stimulation or gratification or for that of others. It includes:

- making sexual advances to a child using any form of communication;
- exposing oneself indecently to a child;
- having or attempting to have vaginal or anal intercourse with a child;
- penetrating or attempting to penetrate a child's vagina or anus with an object or any bodily part;
- kissing, touching, holding or fondling or attempting to kiss, touch, hold or fondle a child in a sexual manner;
- staring at or secretly watching a child for the purpose of sexual stimulation or gratification;
- making any gesture or action of a sexual nature in a child's presence;
- making sexual references or innuendo in a child's presence using any form of communication;
- discussing or inquiring about personal matters of a sexual nature with a child;
- possessing, creating or exposing children to child exploitation material of a sexual nature;
- exposing a child to any form of sexually explicit or suggestive material including clothing with sexually explicit images or messages;
- giving goods, money, attention or affection in exchange for sexual activities with a child;
- giving goods, money, attention or affection in exchange for images of a child for the purpose of sexual gratification of themselves or others; and
- encouraging, or forcing or attempting to encourage or force a child:
 - to sexually touch or fondle another person;
 - to perform oral sex;
 - either to masturbate self or others, or to watch others masturbate; and
 - to engage in or watch any other sexual activity.

Sexual abuse of a child does not include:

- sex education with the prior consent of a parent or guardian; or
- age appropriate consensual sexual behaviour between peers (i.e. the same or a similar age).

sexual assault²⁷ means any intentional or reckless act, use of force or threat to use force involving some form of sexual activity against an adult without their consent. It includes:

- having or attempting to have vaginal or anal intercourse with a person without their consent;
- penetrating or attempting to penetrate another person's vagina or anus with an object or any bodily part without that person's consent;

²⁶ Approved by Standing Committee, November 2016 – SC2016/2/29

²⁷ Approved by Standing Committee, November 2016 – SC2016/2/29

- sexually touching and fondling or attempting to sexually touch or fondle a person without their consent;
- kissing or attempting to kiss another person without their consent;
- holding or attempting to hold another person in a sexual manner without their consent;
- forcing or attempting to force a person to sexually touch or fondle another person; and
- forcing or attempting to force a person to perform oral sex.

sexual exploitation refers to any form of sexual contact or invitation to sexual contact with an adult, with whom there is a pastoral or supervisory relationship, whether or not there is consent and regardless of who initiated the contact or invitation. It does not include such contact or invitation within a marriage.

sexual harassment²⁸ means:

- an unwelcome sexual advance, or an unwelcome request for sexual favours, to the other person, or
- other unwelcome conduct of a sexual nature in relation to the other person, in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated that the other person would be offended, humiliated or intimidated.

Such behaviour may consist of a single incident or several incidents over a period of time. It includes:

- asking a person for sex;
- giving a person to understand that you would like sexual favours from them;
- making any gesture, action or comment of a sexual nature to a person directly or making a comment of a sexual nature about them in their presence;
- making jokes containing sexual references or innuendo using any form of communication;
- exposing a person to any form of sexually explicit or suggestive material;
- making unwelcome physical contact such as touching, pinching, or patting;
- making unwelcome or unnecessary inquiries about or attempts to discuss personal matters of a sexual nature;
- deliberately intruding on an individual's personal space;
- staring at or secretly watching a person for the purpose of sexual stimulation or gratification; and
- stalking a person.

spiritual abuse means the mistreatment of a person by actions or threats when justified by appeal to God, faith or religion. It includes:

- using a position of spiritual authority to dominate or manipulate another person or group;
- using a position of spiritual authority to seek inappropriate deference from others;
- isolating a person from friends and family members; and
- using biblical or religious terminology to justify abuse.

²⁸ Approved by Standing Committee, November 2016 – SC2016/2/29

3 PUTTING THIS CODE INTO PRACTICE

Preamble

- 3.1 This Code will only be effective if it is widely known and available throughout the **Church**, practised consistently and implemented justly. **Clergy** and **church workers** will protect the safety of others and themselves by observing its standards and following its guidelines.
- 3.2 The absence of any reference to particular conduct in this Code does not imply that it is acceptable for clergy and church workers.
- 3.3 All clergy and church workers have a responsibility to ensure that personal behaviour and practices of pastoral ministry that are inconsistent with this Code are neither tolerated nor covered up.
- 3.4 Failure to meet the standards of this Code will indicate an area where clergy and church workers require guidance and specialised help. Such failures may result in formal disciplinary action if the conduct infringes an applicable disciplinary rule of the Church or is a breach of an employment contract.
- 3.5 Clergy and church workers are encouraged to follow the guidelines of this Code. Where this is impractical, the exercise of judgement will be required to ensure the safety of those to whom they minister and themselves. Wilful disregard of the guidelines may indicate an area where clergy and church workers require guidance and specialised help.

Standards for clergy and church workers

These standards state the Church's expectations for personal behaviour and the practice of pastoral ministry.

- 3.6 It is your responsibility to be aware of and meet the standards of this Code.
- 3.7 If you have overall authority in a **church body**, you are to ensure that all clergy and church workers for whom you are responsible are made aware of this Code.
- 3.8 You are not to penalise, discriminate or take action against other clergy or church workers because of any action taken in good faith under this Code.

Guidelines

These guidelines explain and illustrate best practice and highlight practical ways to achieve it.

- 3.9 If you know or have reason to believe that another member of the clergy or another church worker has failed to meet a standard of this Code, other than for **child abuse** (the reporting of child abuse is addressed in paragraphs 5.14 and 5.15) you should:

- Where you believe that a person has not suffered harm or is not at the risk of harm, approach the member of the clergy or church worker and identify the concern; or
- Where you believe that a person has suffered harm or is at the risk of harm, report this to the church authority having responsibility for the member of the clergy or church worker or the Director of Professional Standards.

If in doubt seek advice from a colleague or supervisor or the Director of Professional Standards without identifying the member of the clergy or church worker.

- 3.10 If you know or have reason to believe that another member of the clergy or another church worker has not followed a guideline of this Code, you should approach the member of the clergy or church worker and identify the concern. If you consider that the member of the clergy or church worker is persisting in disregarding the guideline without good reason and a person has suffered harm or is at the risk of harm, you should seriously consider reporting this to the church authority with responsibility for the member of the clergy or church worker or the Director of Professional Standards. If in doubt seek advice from a colleague or supervisor or the Director of Professional Standards without identifying the member of the clergy or church worker.

4 PASTORAL RELATIONSHIPS

Preamble

- 4.1 All people are created in the image of God and are of equal value. This is the foundation of all **pastoral relationships**.
- 4.2 Clergy have authority conferred upon them by their ordination, consecration and licensing. Church workers have authority conferred upon them by their appointment. The authority and training associated with their roles means that they have power in pastoral relationships which is always to be exercised in the service of others.
- 4.3 Trust is of primary importance in the creation and maintenance of an effective pastoral relationship. Trust grows with the maintenance of physical, sexual, emotional and psychological boundaries suitable to pastoral ministry. (The issues of Children and Sexual Conduct are addressed in Sections 3 and 5 respectively.) Clergy and church workers will enhance their ability to maintain these boundaries by attending to their own wellbeing.
- 4.4 While clergy and church workers often enjoy personal friendships with those to whom they minister, their pastoral ministry responsibilities take precedence.
- 4.5 Clergy and church workers are colleagues in **pastoral ministry**: the activity of one inevitably impacts upon the ministry of others.

Standards for clergy and church workers

These standards state the Church's expectations for personal behaviour and the practice of pastoral ministry.

- 4.6 If you have overall authority in a **church body**, you are to ensure that clergy and church workers for whom you are responsible are provided with:
- a safe working environment, including safe housing, where housing is provided;
 - opportunities to maintain and enhance their ministry skills; and
 - personal encouragement, support and regular feedback.
- 4.7 When exercising pastoral ministry you are to act in the best interests of those to whom you are ministering. You must recognise any potential conflict of interest and take steps to resolve it.
- 4.8 When exercising pastoral ministry you are not inappropriately to discriminate between people.

- 4.9 You are not to disclose confidential information received in pastoral ministry to your spouse, family, friends, colleagues or any other person without the consent of the person providing the information, except where:
- the information is known publicly;
 - as required or allowed by law; or
 - it is in the public interest (such as to avoid the risk of serious injury or harm to any person).
- 4.10 When you are on leave or unable to fulfil your responsibilities through illness or any other reason, you are to make alternative arrangements for pastoral ministry.

Guidelines

These guidelines explain and illustrate best practice and highlight practical ways to achieve it.

Boundaries

- 4.11 Make sure you are clear about the requirements of your role, including the hours to be worked and the nature of your responsibilities as well as your leave and other entitlements. You need to be sure that your legitimate personal needs can be met.
- 4.12 Recognise the limits of your skills and experience. Do not undertake any ministry (such as relationship counselling, counselling for abuse or addictions, or an exorcism) that is beyond your competence or the role for which you have been employed or trained. If in doubt seek advice. A person who requires specialised help should be referred to an appropriately qualified person or agency.
- 4.13 Where ministry responsibilities overlap, be aware of the activities, function and style of other clergy and church workers. Consult with these colleagues and co-operate wherever possible.
- 4.14 Where your ministry responsibility to one person may conflict with your responsibility to another person to whom you are ministering, or with your own needs, you should seek advice from a colleague or supervisor. Consider the possibility of transferring ministry responsibility for one or both of these to another minister.
- 4.15 If you are unable to act in the best interest of the person to whom you are ministering because of your own interests you should seek advice from a colleague or supervisor and transfer ministry responsibility for the person to another minister.
- 4.16 Avoid behaviour that could give the impression of favouritism and inappropriate special relationships, particularly with individual children.
- 4.17 Think carefully before providing pastoral ministry to a person with whom you already have a close personal relationship, such as a friend or member of your family. Care is needed because confusion between close personal relationships and pastoral relationships can lead to a loss of objectivity, failure to act in the other's best interest and harm to both parties.
- 4.18 Pastoral relationships can legitimately develop into romantic relationships. If this

begins to happen:

- acknowledge to yourself that your personal interest and the pastoral relationship are at risk of becoming confused;
- tell the other person that your relationship is changing and becoming romantic;
- disclose the nature of the relationship to a supervisor or colleague to ensure accountability and prevent misunderstanding; and
- where practicable:
 - disclose to a supervisor or colleague any proposed alternative arrangements for ongoing **individual pastoral ministry**;
 - make alternative arrangements for ongoing individual pastoral ministry; and
 - cease providing individual pastoral ministry to the person.

4.19 If you are providing ongoing individual pastoral ministry or counselling, engage someone to provide regular professional supervision. This will help protect you and those to whom you minister.

4.20 When you resign or retire, you should generally terminate existing pastoral relationships. You should do this in a sensitive and timely manner to allow these responsibilities to be undertaken by your successors. Consult with your successor where the other person wishes to maintain an ongoing pastoral relationship with you.

Personal and professional development

4.21 Maintain a healthy lifestyle and do not overcommit yourself. Make sure you have adequate leisure time, through regularly taking time off, including your full holiday entitlement annually.

4.22 Try to develop interests outside your main area of ministry and continue to care for yourself and your personal and family relationships.

4.23 Look for, and take advantage of, opportunities to maintain and enhance ministry skills appropriate to the responsibilities of your role, through:

- regular ministry development;
- professional supervision / consultation;
- peer support;
- having a mentor; and
- regular feedback including an annual ministry review.

Confidentiality and confessions

4.24 When you are seeking or providing professional supervision / consultation you should not identify any person and only disclose what is necessary to obtain the supervision or advice.

4.25 In most cases you should tell someone who is to give you confidential information of the limits to confidentiality and the arrangements for supervision or obtaining advice. This should be done before the disclosure of the confidential information, such as at the beginning of an interview.

- 4.26 The Confessions Canon 1989 or the proviso to Canon 113 of 1603 is in force throughout the Church. These Canons make provision for the confession of sins to clergy and for the confidentiality of this confession. If you are a member of the clergy, you should be aware of the scope of, and your obligations under, the applicable Canon. For example, absolution is not automatic and may be withheld. You may require of the person making the confession of sins some appropriate action of contrition and reparation before you give them absolution.
- 4.27 There is a distinction between disclosures made in ordinary pastoral situations and disclosures made as a confession as provided in the applicable pastoral service in the Church's authorised liturgies. This service should normally be heard in a public place at advertised times or by arrangement.
- 4.28 If you are a church worker, remember that only clergy have the authority to receive a special confession of sins as provided in the applicable pastoral service in the **Church's** authorised liturgies.
- 4.29 You may have a legal obligation to report criminal offences to the applicable civil authorities (the issue of **child abuse** is addressed in Section 5). You may be subpoenaed to produce documents or to attend court to give evidence, or both. In some States or Territories, clergy may be able to claim privilege from producing documents and/or disclosing information obtained in a confession referred to in paragraphs 4.26 to 4.28.
- 4.30 You should be aware of and, when appropriate, seek advice in regard to:
- your legal obligations with regard to confidential information received during an interview or a confession, particularly in relation to criminal offences and child abuse;
 - the pastoral consequences of breaching confidentiality; and
 - the risk of physical, financial or emotional harm or hardship to another person by disclosing or not disclosing such information, particularly in writings, sermons or other public media.
- 4.31 Exercise special care that any illustrative material you use from personal experience does not involve a breach of confidentiality.

Conversations in a ministry context

- 4.32 Any communication in a ministry context, whether formal or informal, is a pastoral encounter. Communication may be face-to-face, in writing or involve some form of technology. Consider the appropriateness and impact of your words and actions.
- 4.33 Innuendoes or compliments of a sexual nature are always inappropriate. When a person asks questions or seeks advice around topics of a sexual nature, be aware that they may have motives or needs that you do not understand. Be realistic about your own ability to assist them.
- 4.34 To minimise the risk of being accused of or engaging in misconduct, particularly when conducting interviews, think carefully in advance about:
- the place of the meeting, the arrangement of furniture and lighting, and your dress;

- whether the physical location allows for privacy of conversation while maintaining the opportunity for supervision. (For example, doors to interview rooms, if closed, should not be locked.);
 - the physical distance between you and the other person to maintain both hospitality and respect;
 - whether the circumstances would suggest a social interaction;
 - the propriety and circumstances of the interview when you are visiting or being visited alone, especially at night;
 - the personal safety and comfort of all participants;
 - establishing at the outset the interview's purpose and the boundaries with respect to the subject matter, confidentiality and its duration;
 - the appropriateness of initiating or receiving any physical contact, such as gestures of comfort, that may be unwanted or misinterpreted; and
 - whether the presence of a child's parent, guardian or another person chosen by the child is appropriate.
- 4.35 When considering using technology for communication, you should apply the same principles as you would in any other form of communication. Minimise the risk of harming others or yourself by asking:
- is this an appropriate way to communicate about this matter?
 - should this communication be confidential? If so, do not use electronic media;
 - how will the language and images used impact upon the person receiving the communication and any other person who may access it?
 - could the circumstances of the communication, including the language and images used, suggest your relationship with the other person(s) is inappropriate?

Risks associated with using technology in communication

Clergy, church workers, and other participants in church activities – including children – may communicate using:

- text and picture messaging;
- email;
- instant messenger services and chat rooms;
- video conferencing;
- blogs and internet forums;
- websites;
- social networking sites; and
- other forms of electronic interaction.

Remember information posted online is tracked and can be retrieved. Dangers associated with the use of communication technology are not always appreciated by clergy and church workers. These dangers include:

- losing your privacy;
- losing control of information (such as photographs or emails);
- ignoring personal security settings on social networking sites;
- being unable to determine if people are who they say they are;
- being exposed to unwanted information; and
- becoming a victim of cyberbullying when someone sends or

spreads threatening or embarrassing information.

Record-keeping and privacy

- 4.36 If you are engaged in individual pastoral ministry, consider keeping a factual record of your daily pastoral activity. Record details such as the date, time, place, participants, subject, and any proposed action arising from each activity. Record personal remarks accurately.
- 4.37 You need to know the relevant principles of the applicable privacy legislation in relation to the collection, use, disclosure and management of personal information. These have implications for:
- the publication of personal information in church directories, newsletters, rosters and websites;
 - the recording and publication of voices and images of individuals; and
 - the use and security of all personal information, and especially sensitive information, held by clergy and church workers or in church offices.

5 CHILDREN

Preamble

- 5.1 **Children** are entitled to be safe and protected. They have the right to be respected, listened to and their particular needs addressed in all church activities, whether mixed aged or child specific.
- 5.2 Ministry where children are involved requires absolute trustworthiness.
- 5.3 **Clergy** and **church workers** with overall authority in a **church body** (e.g. incumbents and school principals) have a responsibility that cannot be delegated for the implementation and maintenance of proper systems for the safety and welfare of children participating in its pastoral ministry.
- 5.4 When they are exercising a pastoral ministry involving children in a church body, clergy and church workers (e.g. Sunday school teachers, youth group leaders) have responsibility for the safety and welfare of children in their care.
- 5.5 Clergy and church workers have *authority* over children because of their position and *power* because of their greater age, maturity, physical size and life experience. Abuse arises from the misuse of authority or power. Any form of **child abuse** is always wrong.
- 5.6 Due to the inherent imbalance of power, children are incapable of giving valid consent to abuse.
- 5.7 Appropriate physical contact is important for children's healthy development.

Standards for clergy and church workers

These standards state the Church's expectations for personal behaviour and the practice of pastoral ministry.

- 5.8 If you have overall authority in a church body, you are to ensure that:
- proper systems for the safety and welfare of children participating in the church's pastoral ministry are implemented and maintained;
 - all applicable requirements of the civil authorities, the church authority and the church body are complied with; and
 - all clergy and church workers for whom you have responsibility and who work with children:
 - comply with all civil and Church screening and selection requirements;
 - receive regular training in child protection; and
 - are aware of the provisions of this Code relating to children.
- 5.9 If you are exercising a pastoral ministry involving children in a church body you are to take reasonable steps to ensure the safety and welfare of the children in your care.

- 5.10 You are to not abuse children.
- 5.11 When engaged in pastoral ministry you are not to administer **corporal punishment** to children in your care.
- 5.12 You are not to make available to children any **prohibited material**, except wine in the context of a Holy Communion service.
- 5.13 Before you allow a person who is currently charged with or convicted of an offence against a child to participate in activities involving children, you are to:
- consult the **Director of Professional Standards**;
 - ensure that a risk assessment is undertaken; and
 - be satisfied that no child will be at an increased risk of harm.
- 5.14 If you know or reasonably suspect that a child is at risk of harm from child abuse, you are to report this to the appropriate civil authorities.
- 5.15 If you know or reasonably suspect that another member of the clergy or a church worker has abused a child, you are to report this to the appropriate civil authorities and the Director of Professional Standards.

Guidelines

These guidelines explain and illustrate best practice and highlight practical ways to achieve it.

Recognising the characteristics and effects of child abuse

- 5.16 You need to be aware of the signs, symptoms and characteristics of child abuse and its impact on children.

Characteristics and effects of child abuse

Abuse of a child can be categorised as emotional, physical, sexual, or spiritual. It can also arise from neglect, bullying or harassment.

The signs and symptoms can include:

- **emotional abuse**—low self esteem, apathy, an over readiness to relate to anyone even strangers, unduly aggressive behaviour, withdrawn behaviour;
- **physical abuse**—bruises, bites, burns and scalds, fractures;
- **sexual abuse**—a level of sexual knowledge or desire for either contact or distance inappropriate to the child's age, self-harm, social isolation, and a sudden onset of soiling, wetting or other behavioural changes;
- **spiritual abuse**—low self esteem, high levels of anxiety and fear, excessive deference to a leader and isolation from former friends and family members;
- **neglect**—failure of a child to grow within the normally accepted pattern, failure of a parent or guardian to provide adequate food, clothing, shelter, medical care and supervision;

Grooming actions are designed to establish an emotional connection to lower the child's inhibitions through the development of a relationship with the child, and increased opportunity to see the child. Grooming involves psychological manipulation that is usually very subtle, drawn out, calculated, controlling and premeditated. Typically, grooming occurs incrementally: accessing the victim, initiating and maintaining the abuse, and concealing the abuse.²⁹

All Australian jurisdictions have grooming offences, which vary in scope and application. Grooming offences may target online or other electronic communications, subjecting children to child exploitation material, and/or using intoxicating substances to engage children for the purpose of sexual activity.³⁰

Characteristics and effects of child abuse

- **bullying or harassment**—low self-esteem, loss of trust in others, apathy, an over readiness to relate to anyone even strangers, unduly aggressive behaviour, withdrawn behaviour.

Sexual abuse of a child is often preceded by **grooming**.

The sexual abuse of a child commonly has the following characteristics:

- it usually starts with something minor and gradually builds up to more involved behaviours through a process of grooming;
- it is secretive and generally known only to the abuser and victim making it extremely difficult to detect;
- it is perpetrated by someone known to the child and/or held in a position of trust by the child or their parents or guardians; and
- it is rarely a self-contained or one-off incident but rather part of an ongoing relationship that is corrupting and distorting.

The abuse of a child commonly causes psychological and spiritual harm and is likely to lead to the impairment of their social, emotional, cognitive, spiritual and intellectual development and/or disturbed behaviour.

The effects of child abuse extend well beyond the abuser and their primary victims. The families of the victim and abusers as well as their communities can also experience a high degree of distress when revelations of abuse emerge. Often they can deny the disclosure and so reject the victim rather than face reality. Once the reality is confronted, the community will commonly experience profound shock, guilt about failing to protect the primary victim, deep hurt and disillusionment.

Recognising the characteristics of sexual offenders

5.17 You need to be aware of the characteristics of sexual offenders. A sexual offender may be a friend, a family member, a neighbour, a peer, or a person in authority.

Characteristics of sexual offenders

Sexual offenders generally:

- do not stop unless there is some intervening factor;

²⁹ Approved by Standing Committee, November 2016 – SC2016/2/29

³⁰ Approved by Standing Committee, November 2016 – SC2016/2/29

Characteristics of sexual offenders

- believe or assert that the victim is complicit or a willing participant;
- attempt to deny, justify, minimise or excuse their behaviour by:
 - claiming their behaviour was an expression of love for the victim;
 - claiming their behaviour was a result of their childhood abuse;
 - claiming their behaviour was influenced by stress, the use of alcohol or other substances; and
 - blaming the victim;
- enjoy the activity, despite claims to the contrary; and
- are repeat offenders.

Sexual offenders who target vulnerable adults and children will often undertake a grooming process as a precursor to abusive behaviour.

Ensuring the safety of children

5.18 Taking all reasonable steps to ensure the safety and welfare of children for whom you have overall responsibility or are in your care requires you prepare a risk management plan which considers the following issues:

- screening and selection of personnel;
- your role and capacity to perform it;
- use of external service providers;
- supervision ;
- planning and conduct of activities;
- venue;
- health and safety;
- transport;
- disciplinary arrangements;
- physical contact;
- photographs and images; and
- record keeping.

These issues are considered in paragraphs 5.19 and 5.47.

Screening and selection of personnel

5.19 If you have responsibility for compliance with civil and Church screening and selection requirements, you should exercise care with the selection of leaders involved in mixed age or children's activities. You should ensure that any parents or guardians assisting with these activities are screened.

5.20 Consult the Director of Professional Standards as to whether a risk assessment is required before you appoint someone who has:

- been acquitted of a charge of an offence against a child;
- had a charge of an offence against a child not proceed;

had a prohibited status under applicable child protection legislation lifted; or been the subject of Church disciplinary proceedings involving child abuse.

Your role and capacity to perform it

- 5.21 You need to recognise your own limits and not undertake any ministry that is beyond your competence or certification or that is not part of the role for which you have been or are being trained. Arrange for any such ministry to be provided by an experienced person or specialist agency. This applies particularly to outdoor or adventure activities such as canoeing, abseiling and hiking. Refer any child who requires specialised help (e.g. counselling for depression, abuse or addiction) to an appropriately qualified person or agency.
- 5.22 While children should be able to trust and confide in clergy and church workers—and you should expect to develop relationships of this character with children—avoid fostering inappropriate dependence on the part of a child.
- 5.23 Encourage children to develop leadership skills and undertake leadership roles that are appropriate for people of their age.

Use of external service providers

- 5.24 When you engage or use an external service provider for an activity (e.g. when you engage a specialist in outdoor education or a speaker for a camp), you should:
- make reasonable enquiries as to whether they have been screened and selected in accordance with civil and any Church requirements;
 - ensure that they are only used in a supplemental capacity; and
 - wherever practicable, ensure that they are not left alone with any child.

Supervision

- 5.25 The degree of supervision required will vary according to the nature and environment of the activity, the age and maturity of the children and the size of the group. Having multiple leaders to ensure that supervision and accountability standards are maintained is vitally important. You should:
- clearly distinguish the different levels of responsibility between you and any other supervisor and ensure that these differences are understood;
 - consider the extent of supervision required taking into account:
 - the age, number, ability and gender mix of the children; and
 - the venue, time, duration and nature of the activity;
 - have a register of all children with contact details and parents' or guardians' names for emergencies; and
 - monitor and periodically review the application of Church child protection procedures.

Activities

- 5.26 You should identify and minimise all potential hazards before embarking on any activity with children. This would include:
- being aware of the fire safety and evacuation procedures;
 - ensuring that emergency exits on church premises are clearly marked and never obstructed or internally locked;
 - not permitting smoking in any church premises where the activity is held; and
 - not knowingly permitting children with serious contagious diseases to attend the activity.
- 5.27 Games or activities that emphasise gender, physical, intellectual or ethnic differences should be assessed for their appropriateness. Think about what message children may learn from the way events are organised and conducted.
- 5.28 You should review in their entirety aural and visual materials, such as videos, films, computer games, graphics, photographs and lyrics, to ensure that any elements containing violence, sexual activity or lifestyle are appropriate for the intended audience. Exercise care if a film or computer game has been recommended by the Office of Film and Literature Classification as unsuitable for viewing or playing by children of a particular age (e.g. MA, M and PG classifications). In assessing whether something is suitable you should take into account the age of the youngest child present. If in doubt, seek the advice of a supervisor or colleague.
- 5.29 To minimise the possibility of children being harmed, give careful consideration to any activities or games that require children to act alone or in pairs independent of leaders.
- 5.30 Ensure that no children's activity includes:
- secret initiation rites and ceremonies;
 - nudity or engagement in sexual conduct;
 - the use or availability of prohibited materials, except wine in the context of a Holy Communion service.
- 5.31 When taking children away from church premises, obtain the written consent of a parent or guardian and keep them informed of the place and timing of the event. If you can, include parents or guardians in a leadership team of mixed gender.
- 5.32 When meeting a child privately, you should:
- have parental or guardian consent, where practicable;
 - ensure where appropriate that a parent, guardian or suitable adult is present;
 - inform another member of the clergy, an adult church worker or another adult of the time, location and duration of the meeting; and
 - not invite or have children to your home or visit children in their home when no other adult is present; and
 - make a record of the time, location, duration and circumstances of any meeting where it is impracticable to follow these guidelines.

Venue

- 5.33 Avoid working alone or in isolation with children. You should ensure that:

- all activities have defined boundaries that are easily observed or patrolled;
- all aspects of children's activities are open to observation;
- children are not permitted to leave church premises unsupervised; and
- where individual or small group ministry is needed, it occurs in the presence of adults, a public place or a location with high visibility.

5.34 When events require children to sleep over, you should ensure that where possible:

- parents or guardians are involved in the events and their supervision;
- sleeping accommodation is segregated between males and females;
- sleeping accommodation is supervised by more than one person, preferably including a parent or guardian or another adult of each gender; and
- supervisors do not sleep in close personal proximity to a child, unless they are a parent or guardian of the child.

5.35 Venues should allow for the privacy of all parties to be respected, particularly when changing clothes, washing and toileting. If you need to wash or toilet a child, tell another adult what you are doing.

Health and safety

5.36 Ensure that the risk management plan includes relevant contact details (e.g. emergency services and specialised help) and that a first aid kit appropriate to the activity is available. In the case of camps and similar activities, ensure that at least one adult present has first aid training.

5.37 Do not administer prescription medications to a child without the written consent of a parent or guardian.

5.38 Obtain information from parents or guardians about the particular physical and mental health or safety needs of children in your care (e.g. allergies, depression).

Transport

5.39 When making transport arrangements, take reasonable steps to ensure that:

- all drivers or operators are licensed, responsible, experienced and are not impaired by alcohol or any other mind-altering or addictive substance; and
- all motor vehicles and other forms of transport used are registered, insured, safe and fitted with appropriate child restraints or safety devices (e.g. seat belts, life jackets).

5.40 To the extent practicable, avoid being alone with a child in a motor vehicle or driving a child home unaccompanied. If such a situation is unavoidable, inform another adult of the trip and the reason for it.

Discipline

- 5.41 If you have overall responsibility in a Church body, you should ensure that:
- there is a strategy to prevent child abuse from occurring during church activities. This includes giving age-appropriate warnings to children about their own behaviour; and
 - parents or guardians are advised that abuse of any child during children's activities will not be tolerated
- 5.42 If you have overall authority for children's ministry in a Church body you should ensure that a disciplinary strategy is developed, made known and implemented.

Disciplining children

When a child's behaviour requires correction, either for the safety and welfare of themselves or the group, it is important that:

- a warning precedes any discipline, where the situation permits;
- the discipline is explained to the child;
- the child is given an opportunity to explain;
- the discipline is appropriate to the occasion and age of the child;
- the form of discipline is not corporal punishment, does not ridicule or humiliate, or is not otherwise abusive;
- very young children are not isolated as a form of discipline;
- physical restraint is only used to protect children from harm or to avoid an accident;
- when physical restraint is used, a record is kept that identifies the restraint used, the member of the clergy or church worker and child involved and any witnesses, and sets out the incident's circumstances; and
- the child's parents or guardians are informed of the circumstances of the incident and discipline; and
- you make a record of the circumstances of the incident and discipline; and
- you make a record of the circumstances of the incident and discipline.

Physical Contact

- 5.43 In general—excluding circumstances such as immediate physical danger or medical emergency—physical contact should be initiated by the child or occur with their permission. When you make physical contact with a child, be very careful that you respect the child's feelings and privacy.
- 5.44 Ensure that any physical contact you have with children is of a non-sexual nature and appropriate to the situation. Avoid any physical contact that is sexually stimulating, or that may be construed as sexually stimulating. Children may or may not be aware of creating such situations. It is your responsibility to be alert for such situations and to cease any inappropriate physical contact immediately.

Children and physical contact

You need to be very careful when making physical contact with children.

Appropriate contact includes:

- bending down to the child's eye level, speaking kindly and listening attentively;
- gaining permission before hugging a child and respecting their right to refuse;
- taking a child's hand and leading them to an activity;
- comforting a child by placing an arm around their shoulder and giving a gentle squeeze from the side;
- praising or welcoming a child by holding the child's two hands in yours;
- patting the child on the head, hand, back or shoulder in affirmation; and
- holding a preschool child who is crying, provided that they want to be held.

Inappropriate contact includes:

- kissing or coaxing a child to kiss you;
- extended hugging or tickling;
- touching any area of the body normally covered by a swimming costume, specifically the buttocks, thighs, breasts or groin areas; and
- carrying older children, sitting them on your lap or having them rub up next to you.

Communication

5.45 If you have overall responsibility in a Church body, you should ensure there is a policy for clergy and church workers which deals with the use of technology to communicate with children in pastoral ministry.

5.46 When considering using technology for communication, you should apply the same principles as you would in any other form of communication with children. You should take care that:

- it is an appropriate way to communicate with a child;
- it is an appropriate way to communicate about the matter;
- you are sensitive to the impact of your words, images and actions on the child and any other person who may access it;
- you do not use sexually suggestive, explicit or offensive language or images; and
- the circumstances of the communication, including the language and images used, do not suggest your relationship with the child is inappropriate.

Risks associated with using technology in communication with children

Clergy, church workers and other participants in church activities – including children – may communicate using:

- texting and picture messaging;
- email;
- instant messenger services and chat rooms;
- video conferencing;

- blogs and internet forums;
- websites; and
- group social networking sites.

Remember information posted online is tracked and can be retrieved. Dangers associated with the use of communication technology with children are not always appreciated by clergy and church workers. These dangers include:

- ignoring personal security settings on social networking sites;
- disclosing contact details or images of the child in the communication;
- being unable to determine if people are who they say they are;
- exposing the child to unwanted or inappropriate information;
- the child becoming a victim of cyberbullying; and
- sexual predators gaining access to the child.

Clergy and church workers can assist children to stay safe when using technology to communicate with others by:

- educating children and their parents or guardians about the risks associated with the use of this technology;
- encouraging children to exercise care in disclosing personal information about themselves and others such as their contact details;
- encouraging children to talk about anything that worries them with their parents or guardians, older siblings, friends, and clergy and church workers with whom they have a pastoral relationship instead of posting their problems in a chat room or blog; and
- encouraging children to talk about anything they see or experience online that worries them.

Photographs and images

- 5.47 If you have overall authority in a church body, you should ensure that there is a policy requiring clergy and church workers to obtain the permission of relevant parents and guardians before making or using images (including photographs and videos) of children who are engaged in children's activities. The form of permission should clearly indicate the intended use of the images.

Record keeping

- 5.48 If you have overall authority in a church body, you should ensure that any Church screening documents:
- are treated with confidentiality and never left where they can be accessed by unauthorised persons;
 - where kept on computer, are password protected and stored for an indefinite period of time with access limited to authorised persons; and
 - where kept in paper form, are stored separately from any other documents and locked in secure place for an indefinite period of time, with access limited to authorised persons.

- 5.49 If you have overall authority in a church body, you should:

- ensure that a register of attendance of children and leaders and their emergency contact details is kept for each pastoral ministry involving children;
- consider including such registers in the church archives; and
- keep and store in a secure place all permission forms and records relating to discipline and private meetings.

5.50 If you are exercising a pastoral ministry involving children in a church body, you should keep a register of attendance of the children for whom you are responsible.

6 PERSONAL BEHAVIOUR

Preamble

- 6.1 The personal behaviour and relationships of **clergy** and **church workers** have a significant impact on the **Church** and the community because they are a model to others. In a context where their responsibility is to care for others, people will especially observe the way in which clergy and church workers exercise power.
- 6.2 Abuse of power is at the heart of many relationship problems in the Church and the community. In essence, abuse is one person's misuse of power over another. Sometimes abuse will be a one off event and at other times it will be a pattern of behaviour.
- 6.3 **Abuse** can take any of several overlapping forms: **bullying, emotional abuse, harassment, physical abuse, sexual abuse or spiritual abuse**. Abuse in a family or domestic context is commonly known as "family and domestic violence."³¹
- 6.4 It is important for clergy and church workers to be good citizens and obey the laws of the community, except where those laws conflict with Christian convictions.

Standards for clergy and church workers

These standards state the Church's expectations for personal behaviour and the practice of pastoral ministry.

- 6.5 You are not to engage in:
- bullying;
 - emotional abuse;
 - harassment;
 - physical abuse;
 - sexual abuse; or
 - spiritual abuse.
- 6.6 You are not to **abuse** your spouse, children or other members of your family.
- 6.7 You are to be responsible in your use of alcohol and other mind altering or addictive substances or services.
- 6.8 You are not to undertake any pastoral ministry when you are impaired by alcohol or any other mind-altering or addictive substances.
- 6.9 You are not to use any **prohibited substance**.
- 6.10 You are not to take property belonging to others, including intellectual property.
- 6.11 You are not knowingly to make statements that are false, misleading or deceptive.

³¹ Approved by Standing Committee, November 2016 – SC2016/2/29

- 6.12 You are not knowingly to use **offensive language**.
- 6.13 Without a legitimate purpose you are not to view, possess, produce or distribute **restricted material**.
- 6.14 You are to observe the law, other than any law that:
- is contrary to the Holy Scriptures;
 - unjustly prohibits the practice of religion; or
 - prohibits civil disobedience.

Guidelines

These guidelines explain and illustrate best practice and highlight practical ways to achieve it.

- 6.15 You need to be aware of the impact that abuse can have on people.

The impact of abuse

A person who is abused may suffer emotionally, psychologically, physically, socially and spiritually. The impact can be life long and affect the person, their relationships and their capacity for ministry.

How abuse affects the person and their relationships

The person who is abused may experience:

- feelings of shame, humiliation, rejection, powerlessness, insecurity, anger and resentment;
- sadness, tearfulness, depression, anxiety;
- fatigue, disturbed sleep, changed appetite and ill health;
- substance abuse, gambling and use of pornography;
- becoming more withdrawn or aggressive;
- burn out;
- suicidal thinking and action;
- loss of self-esteem and self-confidence;
- marital and family problems;
- breakdown in community and collegial relationships.

How abuse affects ministry

Clergy or church workers who are abused may experience:

- loss of coping skills;
- disillusionment;
- inability to concentrate;
- loss of motivation;
- decreased productivity and competence;
- bad decision-making and poor judgement;
- loss of faith or crisis of vocation;

- difficulty trusting others;
- diminished employability;
- premature desire to cease employment.

6.16 You need to be able to identify bullying and the cultures and environments which encourage it.

Cultures and environments which encourage bullying

Contexts in which bullying is likely to flourish are characterised by:

- overbearing or inadequate leadership;
- poor management;
- a high level of competition;
- a climate of uncertainty and insecurity;
- lack of support and governance structures;
- poor handling of conflict;
- rigid structures;
- low level of participation or consultation;
- excessive demands on time;
- unclear role description and processes;
- inadequate grievance procedures.

6.17 If another person indicates by their words or actions that they feel bullied or harassed by you, review your conduct. If in doubt, cease the conduct and seek advice. When teaching, admonishing or exercising discipline as part of your pastoral ministry, be sure you do it respectfully.

6.18 Love and care for your family and pay particular attention to the effect of your ministry on your family relationships. Ensure that your behaviour in family relationships is consistent with this Code.

6.19 Take steps to prevent your spouse or children or other members of your family becoming victims of your stress. If you find yourself acting violently or abusively to any member of your family, seek professional help immediately.

6.20 Monitor your consumption or use of alcohol and other mind altering or addictive substances or product (e.g. gambling) to ensure your wellbeing and that of others. Seek professional help if the use of these substances or products adversely affects your ministry, personal wellbeing or relationships.

6.21 You should be sensitive to the effect of your language on others. Avoid using language that may be misunderstood or that bullies, threatens, belittles, humiliates or causes unnecessary offence or embarrassment. Take care when using:

- any swear word;
- language which has sexual connotations; and
- racial, religious or other group descriptions.

6.22 Exercise discretion when viewing or using restricted material. You should:

- consider the legitimate purpose of viewing or using the restricted material;

- consider whether your conduct will damage your reputation and impair your ministry; and
- disclose the purpose and circumstances of your conduct to a supervisor or colleague to avoid any misunderstanding.

6.23 When engaged in civil disobedience, do not act violently or intentionally provoke violence.

6.24 Be sensitive to the effect of your dress on others. Dress appropriately to the context.

6.25 You should comply with copyright legislation. Ensure that any licences for the use of copyright material are current and complied with and that copyright is duly acknowledged.

7 SEXUAL CONDUCT

Preamble

- 7.1 The sexual conduct of clergy and church workers has a significant impact on the **Church** and the community.
- 7.2 Sexuality is a gift from God and is integral to human nature. It is appropriate for **clergy** and **church workers** to value this gift, taking responsibility for their sexual conduct by maintaining chastity in singleness and faithfulness in marriage.
- 7.3 It is part of the role of clergy and church workers to care for, protect and respect all with whom they have a **pastoral relationship**. It is never appropriate for clergy and church workers to take advantage of their role to engage in sexual activity with a person with whom they have a pastoral relationship. Consent to such activity will not be regarded by the Church as valid, except within marriage.

Standards for clergy and church workers

These standards state the Church's expectations for personal behaviour and the practice of pastoral ministry.

- 7.4 You are to be chaste and not engage in sex outside of marriage and not engage in disgraceful conduct of a sexual nature.
- 7.5 You are not to:
- sexually abuse an adult;
 - sexually abuse a child;
 - engage in prostitution;
 - visit brothels and other places associated with the sex industry without a legitimate purpose;
 - view, possess, produce or distribute **restricted material** containing sex or nudity without a legitimate purpose; and
 - view, possess, produce or distribute any form of child pornography or **child exploitation material**.

Guidelines

These guidelines explain and illustrate best practice and highlight practical ways to achieve it.

- 7.6 If you intend to make physical contact with another adult or speak to them about a sexual matter you should:
- take responsibility for your own actions;
 - seek permission;
 - respect the person's wishes;
 - notice and respond to the person's non-verbal communication; and

- refrain from such conduct if in doubt about the person's wishes.
- 7.7 You should avoid situations where you are vulnerable to temptation or where your conduct may be construed as a breach of the standards of sexual conduct in this Code.
- 7.8 Any involvement in pastoral ministry to persons in the sex industry requires safeguards and a high level of accountability and collegial support. If in pastoral ministry you intend to visit people or places associated with the sex industry, you should:
- consider the legitimate purpose of visiting the person or place;
 - consider whether your conduct will damage your reputation and impair your ministry; and
 - to avoid any misunderstanding, disclose the purpose and circumstances of what you are doing to a supervisor or colleague.

8 FINANCIAL INTEGRITY

Preamble

- 8.1 In both their personal capacity and their pastoral ministry **clergy** are involved in matters of a financial nature. The ministry of **church workers** may include financial management. The financial dealings of clergy and church workers have a significant impact on the **Church** and the community.
- 8.2 Financial integrity is essential to all financial processes and transactions.
- 8.3 Clergy and church workers with overall authority for financial management in a church body are responsible for the implementation and maintenance of proper systems for financial integrity and accountability. They cannot delegate this responsibility to anyone else.

Standards for clergy and church workers

These standards state the Church's expectations for personal behaviour and the practice of pastoral ministry.

- 8.4 You are not to avoid payment of your just debts and family support obligations.
- 8.5 You are not to engage in tax avoidance.
- 8.6 You are not to seek personal advantage or financial gain for yourself or your family from your position or from a **pastoral relationship**, beyond your stipend or wage and recognised allowances and deductions.
- 8.7 You are not to allow yourself to be influenced by offers of money or financial reward.
- 8.8 You are to avoid situations of conflict between your personal financial interest and your pastoral ministry responsibilities.
- 8.9 You are to arrange your personal and church finances to ensure that clear account and transaction boundaries are maintained.
- 8.10 You are to fully disclose and be publicly accountable for all church monies which you handle.
- 8.11 If you have overall authority for financial management in a church body, you are to ensure that:
- proper systems for financial integrity and accountability are implemented and maintained;
 - all clergy and church workers for whom you have responsibility and who have authority for financial management in a church body are informed of their roles and responsibilities; and
 - all stipends, wages and allowances payable are adequate, and paid promptly and in full.

Guidelines

These guidelines explain and illustrate best practice and highlight practical ways to achieve it.

Financial management practices

- 8.12 You should ensure that your salary packaging and the accounts of any church body for which you have responsibility are in accordance with Church and civil taxation and accounting requirements.
- 8.13 If you have overall authority for financial management in a church body, you should minimise the risk of you and other clergy and church workers being accused of or engaging in financial impropriety by:
- having two persons unrelated by family to handle church money received;
 - not involving paid clergy or paid church workers in the counting of church offertories;
 - ensuring that church money on church premises is kept safely and securely;
 - avoiding church money being taken home wherever possible;
 - ensuring that all church money received is banked promptly;
 - ensuring that proper accounting records are kept for church transactions, in the form of receipts, diary entries, tax invoices, accounts and account statements;
 - ensuring that all church accounts have more than one signatory;
 - ensuring that any accounts paid by cash are duly receipted; and
 - ensuring that those with the responsibility for handling money have suitable training in financial matters.

Gifts

- 8.14 If you are offered or receive a gift, whether monetary or otherwise, from a person with whom you have a pastoral relationship, you should:
- establish for whom the gift is intended and exercise discretion as to whether the gift should be personally accepted;
 - consider:
 - the size of the gift;
 - the intentions and circumstances of the giver;
 - the risk of your integrity being compromised; and
 - whether acceptance of the gift would cause scandal and embarrassment if known publicly;
 - if it is substantial, disclose the offer or receipt to a supervisor or colleague; and
 - if there is any uncertainty as to the gift's appropriateness, seek advice from a supervisor or colleague.

Personal financial obligations

- 8.15 You should manage your finances so that personal debts, including those to any church body, are paid when due and in full.

- 8.16 You should avoid borrowing money from, or lending money to, a person with whom you have a pastoral relationship as this may place you in a position where your personal interest conflicts with your pastoral responsibilities. If you do, then disclose the circumstances to a supervisor or colleague. In some cultures where there are communal ownership and kinship obligations, this guideline may be applied differently.



ANGLICAN CHURCH OF AUSTRALIA

SAFE MINISTRY CHECK

**<INSERT NAME OF DIOCESE, PARISH OR CHURCH
ORGANISATION>**

APPLICANT'S SCREENING QUESTIONNAIRE

**FOR ORDINATION CANDIDATES, CLERGY AND PAID OR
LICENSED OR AUTHORISED CHURCH WORKERS**

*[Adopted by the General Synod in October 2004. Last revision in May
2017]*

CONFIDENTIAL APPLICATION FOR MINISTRY

PERSONAL DETAILS:

Title: _____

Surname: _____

Christian Names: _____

Previous Names: _____ **Male/Female**

Address: _____

Home Phone No: _____ **Work Phone No:** _____

Mobile Phone No: _____ **Email:** _____

Date of Birth: _____

Marital Status: _____

Occupation: _____

Applicant's Screening Questionnaire

For Ordination Candidates, Clergy and Paid or Licensed or Authorised Church Workers

The Anglican Church of Australia has established standards of conduct for clergy and church workers to maintain a safe and healthy ministry environment.

Our commitment to these standards requires that we conduct background referencing for all persons who intend to engage in ordained and lay ministry in Australia. **This request for information is being made to comply with Anglican Church of Australia policies, and not because we have any reason to believe that any applicant has in fact engaged in inappropriate conduct.** What follows is our Screening Questionnaire for those who intend to carry out ordained or paid or licensed or authorised lay ministry in Australia.

As part of this process, we request you to answer a series of questions which are, of necessity, intimate in nature. If you do not understand the question or would like to discuss your answer further, please feel free to call <INSERT NAME>. The completed questionnaire should be sent directly to the address below and will be kept secure in our confidential files, in accordance with the Privacy Act. Except as may be required by law, or by church disciplinary procedures, the information you supply will be used only for screening and disciplinary purposes. Where required by law, the information you supply will be produced.

You must answer all questions. You should add any additional information under the question or on a separate page. Please note that a yes answer to a question will not automatically rule an applicant out of selection.

Please note. We do not interpret a yes answer to a question as a charge of professional misconduct. Each Diocese in Australia provides a formal process for making such a charge.

Thank you for your time.

Yours

<INSERT NAME>

Please return this Questionnaire in the enclosed, stamped, pre-addressed envelope directly to:

<INSERT NAME AND ADDRESS>

.....

APPLICANT'S SCREENING QUESTIONNAIRE

FOR ORDINATION CANDIDATES, CLERGY AND PAID OR LICENSED OR AUTHORISED CHURCH WORKERS

Please tick either "yes" or "no" for each question.

If the answer to any of the following questions is "yes", please indicate the question number, provide relevant information regarding your response and indicate current status of the issue(s) if any.

A yes answer will not automatically rule an applicant out of selection.

Throughout this document **charged*** or **charges*** indicates *allegations made in writing and known to you OR allegations made to a court, disciplinary tribunal or employer in Australia or in any other country.*

Throughout this document **child exploitation material*** means material that describes or depicts a person who is or who appears to be a child –

- engaged in sexual activity; or
 - in a sexual context; or
 - as the subject of torture, cruelty or abuse (whether or not in a sexual context)
- in a way that a reasonable person would regard as being, in all the circumstances, offensive.

Child exploitation material can include any film, printed matter, electronic data, computer image and any other depiction.

Before completing this document please read your diocesan policy for selection of ordination candidates, clergy and paid church workers.

1. Have you ever, since the age of eighteen, been known by any name other than the one given above?
 ▪ **Yes** ☐ **No** ☐
2. Do you have any health problem(s), which may affect your work with children or young persons?
 ▪ **Yes** ☐ **No** ☐
- 3 a. Has disciplinary action of any sort ever been taken against you by a licensing board, professional or community association, employer, educational institution, Church or any other body?
 ▪ **Yes** ☐ **No** ☐
- 3 b. Have there been charges* against you to the above named bodies that did not result in discipline?
 ▪ **Yes** ☐ **No** ☐
- 3 c. Are there charges* pending against you before any of the above-named bodies?
 ▪ **Yes** ☐ **No** ☐
4. Have you ever been convicted of a criminal offence?
 ▪ **Yes** ☐ **No** ☐
5. Have you ever been charged* with a criminal offence?

▪ **Yes** ☐ **No** ☐

6. Have you ever been asked to resign or been terminated by a training program, employer or Church body?

▪ **Yes** ☐ **No** ☐

7. Have you ever had permission to undertake paid or voluntary work with children refused, suspended or withdrawn in Australia or any other country?

▪ **Yes** ☐ **No** ☐

- 8 a. Have you ever had a civil suit brought against you arising out of alleged professional misconduct, or is any such pending?

▪ **Yes** ☐ **No** ☐

- 8 b. Have you ever had professional indemnity insurance declined, suspended or revoked for any reason?

▪ **Yes** ☐ **No** ☐

9. Have you ever been charged* with having engaged in sexual conduct or attempted sexual conduct with a person with whom you had a pastoral or professional relationship (e.g., a parishioner, a client, a patient, an employee, a student, a subordinate)?

▪ **Yes** ☐ **No** ☐

Sexual conduct includes sexually motivated touch and conversation through to sexual intercourse of any kind. The context of the conduct includes personally, virtually or by any electronic means.

10. Have you ever been charged* with having engaged in sexual conduct with persons under the legal age of consent?

▪ **Yes** ☐ **No** ☐

11. Have you ever been charged* with the production, sale or distribution of, or illegal access to child exploitation material*?

▪ **Yes** ☐ **No** ☐

12. Have you ever been charged* with an offence related to sexual misconduct?

▪ **Yes** ☐ **No** ☐

Sexual misconduct includes:

- abuse of power or role for sexual purposes
- sexual conduct with a person under the age of consent or an adult incompetent to give consent
- sexual assault (e.g., rape)
- soliciting for sexual purposes
- an offence related to child exploitation material* or public indecency (e.g., indecent exposure)

13. Have you ever been charged* with an offence related to sexual harassment?

▪ **Yes** ☐ **No** ☐

Sexual harassment includes:

- sexual advances
- requests for sexual favours
- sexually motivated physical contact

- verbal or physical domination of a sexual nature?
14. Have you ever engaged in any of the following conduct, even though never having been charged*?
- sexual contact with a parishioner, client, patient, student, employee or subordinate
 - sexual contact with a person under the age of consent
 - illegal use, production, sale or distribution of child exploitation material*
 - conduct likely to cause harm to a child or young person, or to put them at risk of harm.
- **Yes** ☐ **No** ☐
- The context of the contact and conduct includes personally, virtually or by any electronic means.
15. Have you ever been charged* with verbal or physical harassment?
- **Yes** ☐ **No** ☐
16. Do you have a history of alcohol abuse?
- **Yes** ☐ **No** ☐
17. Do you have a history of substance abuse including prescription, over-the-counter, recreational or illegal drugs?
- **Yes** ☐ **No** ☐
18. Do you have a history of problem gambling?
- **Yes** ☐ **No** ☐
19. Have you ever been charged* with any offence related to cruelty to animals?
- **Yes** ☐ **No** ☐
20. Have you ever been charged* with a traffic offence which required you to attend court?
- **Yes** ☐ **No** ☐
21. Has your driver's licence ever been revoked or suspended?
- **Yes** ☐ **No** ☐
22. Have you ever had an apprehended violence order, order for protection or the like issued against you as a result of allegations of violence, abuse, likely harm, harassment, stalking, etc?
- **Yes** ☐ **No** ☐
23. Have you ever had a licence to own firearms refused or revoked?
- **Yes** ☐ **No** ☐
24. Has a child or dependent young person in your care (as a parent or in any other capacity) ever been removed from your care, or been the subject of a risk assessment by the authorities?
- **Yes** ☐ **No** ☐
25. Have you ever been charged* with misappropriating funds, or otherwise breaching fiduciary duties in any capacity?
- **Yes** ☐ **No** ☐

26. Have you ever been charged* with an offence under the taxation laws?
▪ **Yes** ☐ **No** ☐
27. Have you ever had an order made against you or entered into a composition with creditors or an assignment for the benefit of creditors under the Bankruptcy Act or have you ever had an order made against you under any Act regulating corporations?
▪ **Yes** ☐ **No** ☐
28. Have you done anything in the past or present that may result in allegations being made against you of child abuse?
▪ **Yes** ☐ **No** ☐

Child abuse means:

- the following conduct in relation to a child:
 - bullying;
 - emotional abuse;
 - harassment;
 - neglect;
 - physical abuse;
 - sexual abuse;
 - spiritual abuse;
 - grooming; or
 - the wilful or reckless failure to comply with the laws of the Commonwealth, a State or Territory requiring the reporting of child abuse to the police or other authority; or
- the possession, production or distribution of child exploitation material*.

The context of the conduct includes personally, virtually or by any electronic means.

ORDINATION (complete if applicable)

I was ordained as a Deacon in the Diocese of _____
on _____

I was ordained as a Priest in the Diocese of _____
on _____

I was consecrated as a Bishop in the Diocese of _____
on _____

RECORD OF BISHOP'S LICENCES OR AUTHORITIES: (complete if applicable)

List any positions where you have previously held a Bishop's Licence or Authority.

Position	Diocese	Bishop

RECORD OF CHRISTIAN CHURCH MEMBERSHIP AND CHRISTIAN MINISTRY

List the following information regarding any church you have attended regularly during your adult life, excluding positions detailed above.

Church	Position	Location	Senior Minister	Date From Month/Year	Date To Month/Year

RECORD OF EMPLOYERS

Employer	Position	Location	Date From Month/Year	Date To Month/Year

INTERSTATE / INTERNATIONAL RESIDENCE

Have you ever resided in any other Australian State or Territory, or any other country?

▪ **Yes** ☐ **No** ☐

If **YES** please list all the countries and states

State or Country	Address	Dates

AUTHORITY TO PROVIDE INFORMATION AND RELEASE FROM LIABILITY OF REFEREES AND OTHERS AND CONSENT TO NATIONAL POLICE HISTORY CHECK AND/OR WORKING WITH CHILDREN CHECK OR WORKING WITH VULNERABLE PEOPLE CHECK

I understand that it is the policy of the Anglican Church of Australia to ask:

- those who serve or have served as my bishop;
- churches I have regularly attended as an adult; and
- my employers;

whether to the best of their knowledge I have engaged in specified conduct that is relevant to the assessment of whether I am a suitable person for to undertake ministry in the Church.

I have identified all positions in which I have held a bishop's licence or authority, all churches which I have regularly attended as an adult and my employers. I hereby authorise you and your delegates to contact and exchange information with them. I further hereby authorize every one of those bishops, churches and employers to inform you and your delegates of any knowledge they may have relevant to the assessment of whether I am a suitable person for to undertake ministry in the Church.

I hereby authorise my referees to answer the Referee's Screening Questionnaire and to provide any information relevant to my application to you and your delegates.

I hereby release from liability any person or organisation that provides such information. I also agree to release you and your delegates from any and all liability as it relates to any investigation by you or them regarding the information contained in this application, or any action by you or them as a result of such investigation.

I hereby consent to provide an Australian Federal Police Check if I have resided in another country. I also consent to provide a <INSERT NATIONAL POLICE HISTORY CHECK OR WORKING WITH CHILDREN CHECK OR WORKING WITH VULNERABLE PEOPLE CHECK>.

Signature

Print Name

Date

STATUTORY DECLARATION

I _____
of _____

do solemnly and sincerely declare that:

- (1) the information I have provided in this application and the information contained in any documents accompanying this application are true and correct to the best of my knowledge and belief.
- (2) I understand that any material misstatement in or omission from this questionnaire may render me unfit to hold a particular or any office in the Church or to remain in employment in a Church body.

Applicant's signature: _____ Date: _____

Declared at: _____ this _____ day of _____ 20 _____

Signature: _____

WITNESS TO THE APPLICANT'S SIGNATURE

Name of Witness: _____

Address of Witness: _____

Title / Office held: _____

Your signature must be witnessed by a person (who is not required to read the document) authorised to witness a Statutory Declaration.

IF YOU ARE INVITED to an INTERVIEW, please bring for sighting PROOF OF IDENTITY - two (2) documents, one of which includes a photograph and one of which is either a Birth Certificate, Passport or current Driver's Licence.

ID sighted ☐

ID approved ☐

ID not approved ☐

CHARACTER REFERENCE

Please provide three (3) referees. Referees must be over eighteen years of age and be able to give a report on your good character and suitability for ministry among children and young people. They must NOT be a relative, close friend or a member of the Selection panel. If you have lived in another state or country, please include a referee from your last parish or placement in that state and/or country.

REFEREE 1 *(Senior Church Leader e.g. rector, church warden, elder)*

Name: _____

Address: _____

State: _____ Country: _____ Postcode _____

Email: _____

Phone: (home) _____ (work) _____

REFEREE 2 *(Employer or teacher if no work history)*

Name: _____

Address: _____

State: _____ Country: _____ Postcode _____

Email: _____

Phone: (home) _____ (work) _____

REFEREE 3 *(Person who has known you for longer than 3 years and knows you well)*

Name: _____

Address: _____

State: _____ Country: _____ Postcode _____

Email: _____

Phone: (home) _____ (work) _____



ANGLICAN CHURCH OF AUSTRALIA

SAFE MINISTRY CHECK

<INSERT NAME OF DIOCESE, PARISH OR CHURCH
ORGANISATION>

REFEREE'S SCREENING QUESTIONNAIRE

FOR ORDINATION CANDIDATES, CLERGY AND PAID OR
LICENSED OR AUTHORISED CHURCH WORKERS

*[Adopted by the General Synod in October 2004.
Last revision in May 2017]*

CONFIDENTIAL APPLICATION FOR MINISTRY

PERSONAL DETAILS OF PERSON APPLYING FOR MINISTRY:

Title: _____

Surname: _____

Christian Names: _____

Address: _____

Phone No: _____ Email: _____

PERSONAL DETAILS OF REFEREE:

Title: _____

Surname: _____

Christian Names: _____

Address: _____

Home Phone No: _____ Work Phone No: _____

Mobile Phone No: _____ Email: _____

Referee's Screening Questionnaire
For Ordination Candidates, Clergy and Paid or Licensed or
Authorised Church Workers

Reference request for <INSERT NAME>

The Anglican Church of Australia has established standards of conduct for Church workers in order to maintain a safe and healthy ministry environment.

Our commitment to these standards requires that we conduct background referencing for all persons who intend to engage in ordained and lay ministry in Australia. **This request for information is being made to comply with Anglican Church of Australia policies, and not because we have any reason to believe that the applicant has in fact engaged in inappropriate conduct.** What follows is our Screening Questionnaire for those who intend to carry out ordained and paid or licensed or authorised lay ministry in Australia.

As part of this process, we request persons named as referees to answer a series of questions which are, of necessity, intimate in nature. If you do not understand the question or would like to discuss your answer further, please feel free to call <INSERT NAME>. The completed questionnaire should be sent directly to the address below and will be kept secure in our confidential files, in accordance with the Privacy Act. Except as may be required by law, or by church disciplinary procedures, the information you supply will be used only for screening and disciplinary purposes. Where required by law, the information you supply will be produced.

Please answer each question to the best of your knowledge. If you are unfamiliar with an area raised in the question, please say so and go on. If you have no knowledge of this person and/or have no access to records, you may so state on page 3, sign and return the form.

Please note. We do not interpret an adverse answer to a question as a charge of professional misconduct. Each Diocese in Australia provides a formal process for making such a charge.

A 'yes' answer to a question will not automatically rule the applicant out of selection.

Thank you for your time.

Yours

<INSERT NAME>

Please return this Questionnaire in the enclosed, stamped, pre-addressed envelope directly to:

<INSERT NAME AND ADDRESS>

.....

REFEREE'S SCREENING QUESTIONNAIRE FOR ORDINATION CANDIDATES, CLERGY AND PAID OR LICENSED OR AUTHORISED CHURCH WORKERS

Please answer each question by ticking one response. If you have had no opportunity to gain the knowledge required by a particular question or there is no record on file tick "don't know". If you give an adverse answer to any of the following questions, please indicate the question number, provide relevant information regarding your response and indicate current status of the issue(s) if any. Any adverse information will not automatically rule an applicant out of selection.

Throughout this document **charged*** or **charges*** indicates allegations made in writing and known to you OR allegations made to a court, disciplinary tribunal or employer in Australia or in any other country.

Throughout this document **child exploitation material*** means material that describes or depicts a person who is or who appears to be a child –

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

- In what capacity have you known this person and for how long (include dates)?
-

- If you have no knowledge of this person and/or have no access to records state so here and sign the Declaration on the last page.
-

1. To the best of your knowledge, has this person ever, since the age of eighteen, been known by any name other than the one given above?

Yes ☐ **No** ☐ **Don't know** ☐

2. To the best of your knowledge, has this person ever had any health problem(s), including alcohol or drug abuse, which may affect their work with children or young persons?

Yes ☐ **No** ☐ **Don't know** ☐

- 3a. To the best of your knowledge, has this person ever had disciplinary action of any sort taken against them by a licensing board, professional or community association, employer, educational institution, Church or any other body?

Yes ☐ **No** ☐ **Don't know** ☐

- 3b. To the best of your knowledge, has this person ever had charges* made against them that did not result in discipline?

Yes ☐ **No** ☐ **Don't know** ☐

- 3c. To the best of your knowledge, does this person have charges* pending against them before any of the above-named bodies?

Yes ☐ **No** ☐ **Don't know** ☐

4. To the best of your knowledge, has this person ever been convicted of a criminal offence?
Yes ☐ **No** ☐ **Don't know** ☐
5. To the best of your knowledge, has this person ever been charged* with a criminal offence?
Yes ☐ **No** ☐ **Don't know** ☐
6. To the best of your knowledge, has this person ever been asked to resign or been terminated by a training program, employer or Church body?
Yes ☐ **No** ☐ **Don't know** ☐
7. To the best of your knowledge, has this person ever had permission to undertake paid or voluntary work with children refused, suspended or withdrawn in Australia or any other country?
Yes ☐ **No** ☐ **Don't know** ☐
- 8a. To the best of your knowledge, has this person ever had a civil suit brought against them arising out of alleged professional misconduct, or is any such pending?
Yes ☐ **No** ☐ **Don't know** ☐
- 8b. To the best of your knowledge, has this person ever had professional indemnity insurance declined, suspended or revoked for any reason?
Yes ☐ **No** ☐ **Don't know** ☐
9. To the best of your knowledge, has this person ever been charged* with having engaged in sexual conduct or attempted sexual conduct with a person with whom they had a pastoral or professional relationship (e.g., a parishioner, a client, a patient, an employee, a student, a subordinate)?
Yes ☐ **No** ☐ **Don't know** ☐
- Sexual conduct includes sexually motivated touch and conversation through to sexual intercourse of any kind. The context of the conduct includes personally, virtually or by any electronic means.
10. To the best of your knowledge, has this person ever been charged* with having engaged in sexual conduct with persons under the legal age of consent?
Yes ☐ **No** ☐ **Don't know** ☐
11. To the best of your knowledge, has this person ever been charged* with the production, sale or distribution of, or illegal access to child exploitation material*?
Yes ☐ **No** ☐ **Don't know** ☐
12. To the best of your knowledge, has this person ever been charged* with an offence related to sexual misconduct?
Yes ☐ **No** ☐ **Don't know** ☐
- Sexual misconduct includes:
 - abuse of power or role for sexual purposes
 - sexual conduct with a person under the age of consent or an adult incompetent to give consent
 - sexual assault (e.g., rape)
 - soliciting for sexual purposes
 - an offence related to child exploitation material* or public indecency (e.g., indecent exposure)

13. To the best of your knowledge, has this person ever been charged* with an offence related to sexual harassment?

Yes ☐ **No** ☐ **Don't know** ☐

- Sexual harassment includes:
- sexual advances
- requests for sexual favours
- sexually motivated physical contact
- verbal or physical domination of a sexual nature

14. To the best of your knowledge, has this person ever engaged in any of the following conduct, even though never having been charged*?

- sexual contact with a parishioner, client, patient, student, employee or subordinate
- sexual contact with a person under the age of consent
- illegal use, production, sale or distribution of child exploitation material*
- conduct likely to cause harm to a child or young person, or to put them at risk of harm

Yes ☐ **No** ☐ **Don't know** ☐

The context of the contact and conduct includes personally, virtually or by any electronic means.

15. To the best of your knowledge has this person ever been charged* with verbal or physical harassment?

Yes ☐ **No** ☐ **Don't know** ☐

16. To the best of your knowledge, does this person have a history of alcohol abuse?

Yes ☐ **No** ☐ **Don't know** ☐

17. To the best of your knowledge, does this person have a history of drug abuse with prescription, over-the-counter, recreational or illegal drugs?

Yes ☐ **No** ☐ **Don't know** ☐

18. To the best of your knowledge, does this person have a history of problem gambling?

Yes ☐ **No** ☐ **Don't know** ☐

19. To the best of your knowledge, has this person ever been charged* with any offence related to cruelty to animals?

Yes ☐ **No** ☐ **Don't know** ☐

20. To the best of your knowledge, has this person ever been charged* with a traffic offence which required them to attend court?

Yes ☐ **No** ☐ **Don't know** ☐

21. To the best of your knowledge, has this person ever had a driver's licence revoked or suspended?

Yes ☐ **No** ☐ **Don't know** ☐

22. To the best of your knowledge, has this person ever had an apprehended violence order, order for protection or the like issued against them as a result of allegations of violence, abuse, likely harm, harassment, stalking, etc?

Yes ☐ **No** ☐ **Don't know** ☐

23. To the best of your knowledge, has this person ever had a licence to own firearms refused or revoked?
Yes ☐ **No** ☐ **Don't know** ☐
24. To the best of your knowledge, has this person ever had a child or dependent young person in their care (as a parent or in any other capacity) removed from their care, or been the subject of a risk assessment by the authorities?
Yes ☐ **No** ☐ **Don't know** ☐
25. To the best of your knowledge, has this person ever been charged* with misappropriating funds, or otherwise breaching fiduciary duties in any capacity?
Yes ☐ **No** ☐ **Don't know** ☐
26. To the best of your knowledge, has this person ever been charged* with an offence under the taxation laws?
Yes ☐ **No** ☐ **Don't know** ☐
27. To the best of your knowledge, has this person ever had an order made against him or her or entered into a composition with creditors or an assignment for the benefit of creditors under the Bankruptcy Act or ever had an order made against him or her under any Act regulating corporations?
Yes ☐ **No** ☐ **Don't know** ☐
28. To the best of your knowledge, has this person ever done anything in the past or present that may result in allegations being made against them of child abuse?
Yes ☐ **No** ☐ **Don't know** ☐

Child abuse means:

- the following conduct in relation to a child:
 - bullying;
 - emotional abuse;
 - harassment;
 - neglect;
 - physical abuse;
 - sexual abuse;
 - grooming; or
 - the wilful or reckless failure to comply with the laws of the Commonwealth, a State or Territory requiring the reporting of child abuse to the police or other authority; or
- the possession, production or distribution of child exploitation material*.

The context of the conduct includes personally, virtually or by any electronic means.

- 29a. If you were an employer, is there any reason why you would not employ this person?
Yes ☐ **No** ☐ **Don't know** ☐
- 29b. Is there any reason why you would not leave your children in the care of this person?
Yes ☐ **No** ☐ **Don't know** ☐
- 29c. Is there any reason why you would not regard this person as suitable to hold the position for which they have applied?
Yes ☐ **No** ☐ **Don't know** ☐
30. In your opinion, is this person able to work with others?
Yes ☐ **No** ☐ **Don't know** ☐

31. In your opinion, is the person suited for work with children?

Yes ☐ **No** ☐ **Don't know** ☐

32. Would you like an opportunity to speak with the Bishop or a member of the Selection Panel?

Yes ☐ **No** ☐ **Don't know** ☐

I declare that the information I have provided in this application and the information contained in any documents accompanying this application are true and correct to the best of my knowledge and belief.

Referee's Name: _____

Address: _____

Phone: _____ Email: _____

Referee's Signature: _____ Date: _____

Declared at: _____ this _____ day of _____



ANGLICAN CHURCH OF AUSTRALIA

**<INSERT NAME OF DIOCESE, PARISH OR CHURCH
ORGANISATION>**

SAFE MINISTRY CHECK

[Adopted by the General Synod in October 2004. Last revision in May 2017]

**APPLICANT'S SCREENING QUESTIONNAIRE
FOR VOLUNTARY CHURCH WORKERS**

CONFIDENTIAL APPLICATION FOR MINISTRY

PERSONAL DETAILS:

Title: _____

Surname: _____

Christian Names: _____

Previous Names: _____ **Male/Female**

Address: _____

Home Phone No: _____ **Work Phone No:** _____

Mobile Phone No: _____ **Email:** _____

Date of Birth: _____

Marital Status: _____

Occupation: _____

Drivers Licence number: _____ **expiry date** _____ **type:** _____
(a copy of a current driver's photo licence issued within Australia must be provided)

or Other Identification: _____

(a copy of a birth certificate, a current Australian passport, an Australian citizenship document or Australian immigration papers, a current credit card or account card from an Australian financial institution, OR a current student identity card from an educational institution must be provided)

Applicant's Screening Questionnaire For Voluntary Church Worker

The Anglican Church of Australia has established standards of conduct for voluntary church workers to maintain a safe and healthy ministry environment. Our commitment to these standards requires that we conduct background referencing for all persons who intend to engage in voluntary ministry having direct and regular involvement with children and young people (0 to 18 years) in Australia.

This request for information is being made to comply with Anglican Church of Australia policies, and not because we have any reason to believe that any applicant has in fact engaged in inappropriate conduct. What follows is our Screening Questionnaire for those who intend to engage in voluntary ministry having direct and regular involvement with children and young people in Australia.

This Screening Questionnaire is to be retained by <INSERT NAME OF THE PARISH OR CHURCH ORGANISATION> in a secure place. Except as may be required by law, or by church disciplinary procedures, the information you supply will be used only for screening and disciplinary purposes. Where required by law, the information you supply will be produced.

You must answer all questions. You should add any additional information under the question or on a separate page. Please note that a yes answer will not necessarily result in your application being unsuccessful.

We do not interpret a yes answer to a question as an admission of misconduct. Each Diocese in Australia provides a formal process for making such a charge.

Thank you for your time.

Yours

<INSERT NAME>

Please return this Questionnaire to:

<INSERT NAME AND ADDRESS>

**APPLICANT'S SCREENING QUESTIONNAIRE
FOR VOLUNTARY CHURCH WORKERS**

Please tick either "yes" or "no" for each question. If the answer to any of the following questions is "yes", please give details. **A yes answer will not automatically rule an applicant out of selection.**

In this document **charged*** indicates allegations made in writing and known to you OR allegations made to a court, disciplinary tribunal or employer in Australia or in any other country.

In this document **child exploitation material*** means material that describes or depicts a person who is or who appears to be a child –

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

Before completing this document please read your diocesan policy for selection of volunteers.

1. Do you have any health problem(s), which may affect your work with children or young people?
Yes ☐ **No** ☐
2. Have you ever been convicted of a criminal offence?
Yes ☐ **No** ☐
3. Have you ever been charged with a criminal offence?
Yes ☐ **No** ☐
4. Have you ever had permission to undertake paid or voluntary work with children refused, suspended or withdrawn in Australia or any other country?
Yes ☐ **No** ☐
5. 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.
Yes ☐ **No** ☐
6. When in a pastoral or professional relationship, have you ever engaged in sexual contact (personally, virtually, or by any electronic means) with a parishioner, client, patient, student, employee or subordinate (other than with your spouse)?
Yes ☐ **No** ☐
7. Has your driver's licence ever been revoked or suspended?
Yes ☐ **No** ☐
8. Have you ever had an apprehended violence order, order for protection or the like issued against you as a result of allegations of violence, abuse, likely harm, harassment, stalking, etc?
Yes ☐ **No** ☐

9. Has a child or dependent young person in your care (as a parent or in any other capacity) ever been removed from your care, or been the subject of a risk assessment by the authorities?
- Yes ☐ No ☐
10. Have you done anything in the past or present that may result in allegations being made against you of child abuse?
- Yes ☐ No ☐

Child abuse means:
the following conduct in relation to a child:

- bullying;
- emotional abuse;
- harassment;
- neglect;
- physical abuse;
- sexual assault;
- spiritual abuse;
- grooming; or
- the wilful or reckless failure to comply with the laws of the Commonwealth, a State or Territory requiring the reporting of child abuse to the police or other authority; or

the possession, production or distribution of child exploitation material*.

The context of the conduct includes personally, virtually or by any electronic means.

11. Have you a history of alcohol abuse or a history of substance abuse including prescription, over-the-counter, recreational or illegal drugs?
- Yes ☐ No ☐

RECORD OF CHRISTIAN CHURCH MEMBERSHIP

List all church organisations, churches, parishes or congregations of which you have been a member.

Church	Position	Location	Senior Minister	Date From Month/Year	Date To Month/Year

AUTHORITY TO PROVIDE INFORMATION AND RELEASE FROM LIABILITY OF REFEREES AND OTHERS AND CONSENT TO NATIONAL POLICE HISTORY CHECK AND/OR WORKING WITH CHILDREN CHECK OR WORKING WITH VULNERABLE PEOPLE CHECK

I understand that it is the policy of the Anglican Church of Australia to ask my referees:

whether to the best of their knowledge I have engaged in specified conduct that is relevant to the assessment of whether I am a suitable person for to undertake ministry in the Church.

I have identified all church organisations, churches, parishes or congregations of which I have been a member. I hereby authorise you and your delegates to contact and exchange information with them. I further hereby authorise every one of them to inform you and your delegates of any knowledge they may have relevant to the assessment of whether I am a suitable person for to undertake ministry in the Church.

I hereby authorise my referees to provide any information relevant to my application to you and your delegates.

I hereby release from liability any person or organisation that provides such information. I also agree to release you and your delegates from any and all liability as it relates to any investigation by you or them regarding the information contained in this application, or any action by you or them as a result of such investigation.

I hereby consent to provide a National Police History Check if I have resided in another country. I also consent to provide a <INSERT NATIONAL POLICE HISTORY CHECK OR WORKING WITH CHILDREN CHECK OR WORKING WITH VULNERABLE PEOPLE CHECK>.

 Signature

 Print Name

 Date

DECLARATION

I _____
of _____

do solemnly and sincerely declare that:

- (1) the information I have provided in this application and the information contained in any documents accompanying this application are true and correct to the best of my knowledge and belief.
- (2) I understand that any material misstatement in or omission from this questionnaire may render me unfit to hold a particular or any office in the Church.

Applicant's signature: _____ Date: _____

OR online form of authorisation

For applicants 16 years and under a counter-signature from either a parent or guardian is required.

To the best of my knowledge, the information in this application form is correct.

Signed

Parent or Guardian: _____ Date: _____

OR online form of authorisation

CHARACTER REFERENCE

Please provide two (2) referees. Referees must be over eighteen years of age and be able to give a report (by telephone only) on your good character and suitability for ministry among children and young people. Referees will be contacted by telephone. They must NOT be a relative or a close friend. If you have lived in another state or country, please include a referee from your last parish or placement in that state and/or country.

REFEREE 1 (*Church leader e.g. rector, church warden, parish councillor, youth minister*)

Name: _____

Address: _____

State: _____ Country: _____ Postcode: _____

Email: _____

Phone: (home) _____ (work) _____

REFEREE 2 (*Employer or teacher if no work history or adult person who has known you for longer than 3 years and knows you well*)

Name: _____

Address: _____

State: _____ Country: _____ Postcode: _____

Email: _____

Phone: (home) _____ (work) _____

SAFE MINISTRY TRAINING BENCHMARKS**Introduction**

This document has been developed by the Professional Standards Commission as a set of national Benchmarks in Safe Ministry Training for the Anglican Church of Australia.

Safe Ministry:

- honours God;
- values and respects people; and
- is free from abuse and harm.

Purpose of the National Benchmarks

The purpose of the national Benchmarks is:

- to set a high and consistent standard in Safe Ministry training across the Anglican Church of Australia; and
- to facilitate mutual recognition of training between dioceses.

References to *Faithfulness in Service*

Many of these benchmarks in Safe Ministry training are linked to Standards or Guidelines in *Faithfulness in Service*.

Acknowledgement

The nature and content of Safe Ministry Training has been the topic of cross-denominational discussion in Australia since 2005. During 2006 and 2007 the National Council of Churches in Australia Safe Church Training Agreement produced a set of standards for Safe Ministry Training. These Benchmarks are built upon those standards.

Recommendations for delivery of Safe Ministry training

These Benchmarks address the specific content of Safe Ministry training. Given the sensitive nature of the material presented in Safe Ministry training, attention needs to be given to the style of delivery of training.

It is good practice for Safe Ministry Training to occur in a face-to-face workshop setting where participants are given the opportunity to experience the content through guided learning experiences, opportunities to explore the concepts through exercises and case studies over a period of at least 5 hours.

Because a number of persons who have been abused have made a disclosure at Safe Ministry Training events it is advisable to provide pastoral support at the training.

Each diocese should:

- ensure that the content of its Safe Ministry Training adequately deals with the contents of the Benchmarks;
- ensure that workshop presenters are appropriately qualified and experienced;
- ensure that the presentation is consistent across workshops, and
- regularly review and refresh their workshop material.

Workshop development guidelines

Each diocese should have regard to the following guidelines in developing workshops

- prepare workshop presenter session notes for consistency of presentation;
- provide each workshop participant with a workbook or handouts;
- provide resources for presenters – powerpoint presentation, overhead transparencies, additional scenarios, videos, DVDs, etc;
- encourage the use of a variety of workshop activities: group discussions, individual or group tasks – including scenarios, sample documents;
- provide a checklist for the suitability and safety of the training venue;
- provide and workshop evaluations (by participants), and
- provide support documents, eg. implementation kits.

Workshop ground-rules

Each workshop presenter should establish ground-rules for the workshop which will include:

- conducting an OH&S and hazard check of venue;
- providing a workshop overview which includes the topics covered, and if in a face-to-face workshop, breaks, housekeeping, including hazards;
- dealing with housekeeping issues(eg. mobile phones, punctuality after breaks, etc);
- outlining workshop standards for confidentiality, support , interaction, respecting opinions;
- providing an opportunity to explore the expectations of participants, and
- advising the availability of pastoral support for the participants.

Records, refresher training and evaluation

Each diocese should:

- establish a system for the retention of records of participants' completion of workshops;
- ensure records of participants' completion of workshops are kept in the prescribed manner;
- ensure refresher courses are undertaken every 3 years, and
- establish a system for the ongoing evaluation of its Safe Ministry Training: content, materials, delivery and effectiveness.

Course Content

The contents of a Safe Ministry Training course should include the following key concepts. Many of these are found in Faithfulness In Service (**FIS**) and appropriate references are identified in brackets.

1. The Church's responsibility for Safe Ministry

- (a) theological reflection on God's concern for the safety all people and God's call on our lives to care for and protect all people especially the vulnerable;
- (b) the church's duty of care in relation to ministry.

2. Clergy and church workers: pastoral relationships, boundaries and use of power

- (a) the nature of leadership and pastoral relationships (FIS 4).
- (b) appropriate boundaries in ministry and personal behaviour (FIS 6,7 and 8);
- (c) positional power within ministry & non-ministry settings;
- (d) communication in a ministry context including electronic communication (FIS 4.32-35; 5.45-46);
- (e) abiding by a code of conduct.

3. Children and vulnerable adults

- (a) values and behaviours relating to children, including rights & responsibilities (FIS 5);
- (b) vulnerable adults including situational vulnerability.

4. Safe environments

- (a) responsibilities of those in charge of programs and events (FIS 5.8);
- (b) social and cultural diversity issues;
- (c) identifying, assessing and managing health and safety risks (FIS 5.18, 5.33-38);
- (d) obtaining information e.g. health/medical, permission forms, privacy and record keeping (FIS 4.36-37);
- (e) handling critical incidents;
- (f) first aid requirements, including personnel, skills and equipment (FIS 5);
- (g) food handling/hygiene;
- (h) transport (FIS 5.39-40);
- (i) group supervision (FIS 5.25);
- (j) discipline and physical contact (FIS 5.41-44);
- (k) photos and images (FIS 5.47);
- (l) activity safety (FIS 5.26);
- (m) external service providers (FIS 5.24).

5. Recruitment and supervision

- (a) role/task descriptions for clergy and church workers;
- (b) diocesan requirements for screening and selection of clergy and church workers including risk assessment (FIS 5.19-20);
- (c) government requirements- relevant legislation;
- (d) supervision of clergy and church workers;
- (e) support and self-care of clergy and church workers.

6. *Identifying suspected abuse/risk of harm*

- (a) perceptions about abuse;
- (b) values & attitudes about abuse;
- (c) possible barriers to protecting children and the vulnerable;
- (d) information about abuse, effects and offenders;
- (e) facts and myths surrounding abuse (FIS 5.16-17);
- (f) definitions and indicators of abuse/harm;
- (g) definitions of the types of abuse (including grooming behaviours) and possible indicators (FIS 5.16);
- (h) the role of power in abuse.

7. *Responding to abuse*

- (a) appropriate responses to disclosures including ensuring safety;
- (b) supporting children and vulnerable adults after a disclosure;
- (c) supporting people who have received a disclosure;
- (d) government requirements - relevant legislation;
- (e) diocesan requirements;
- (f) government agencies responsible for child protection and vulnerable adults;
- (g) details of relevant legislation pertaining to child protection and vulnerable adults;
- (h) information on what is to be reported and methods of reporting;
- (i) responsibilities of mandatory reporters;
- (j) opportunities for voluntary reporting;
- (k) diocesan reporting policy and procedures when, how and to whom;
- (l) confidentiality;
- (m) support for those reporting;
- (n) support and safety of church communities after a disclosure.



Anglican Church of Australia

Policy for Safe Ministry in a parish where there is a risk of sexual abuse by a Person of Concern

*Helping to ensure the safety of adults and children
where a Person of Concern is currently participating
or wishes to participate in the life of a parish*

Date of Issue: 16 June 2017

© The Anglican Church of Australia Trust Corporation, 2017

This work is copyright. Apart from its use as permitted under the *Copyright Act 1968*, no part may be reproduced by any process without written permission from the General Secretary of the General Synod of the Anglican Church of Australia.

Enquiries should be directed to:

The General Secretary
Anglican Church of Australia
General Synod Office
Suite 4, Level 5
189 Kent Street
Sydney NSW 2000

generalsecretary@anglican.org.au

Contents

1. Introduction	5-237
2. Key Terms	5-238
3. Key Features	5-241
4. Key Roles	5-243
5. Process	5-245
<i>STAGE 1 Identify a Person of Concern</i>	<i>5-245</i>
<i>STAGE 2 Notify the Director of Professional Standards</i>	<i>5-245</i>
<i>STAGE 3 Develop an Interim Safety Plan</i>	<i>5-246</i>
<i>STAGE 4 Decide whether to proceed further</i>	<i>5-247</i>
<i>STAGE 5 Conduct the necessary assessments</i>	<i>5-249</i>
<i>STAGE 6 Establish the necessary safeguards</i>	<i>5-252</i>
<i>STAGE 7 Monitor the arrangements made</i>	<i>5-253</i>
6. Legal Framework	5-259
Appendix A: Flow Chart of Stages 1-4 of the Process	5-261
Appendix B: Flow Chart of Stages 5-7 of the Process	5-262

1. Introduction

The purpose of this policy is to help ensure that, where a *Person of Concern* is currently participating or wishes to *participate in the life of a parish*, people in the parish are not placed at increased risk of being sexually abused.

This policy:

- replaces and updates Guidelines for Parish Safety where there is a Risk of Sexual Abuse by a Person of Concern—guidelines that were recommended by the Standing Committee of the General Synod in October 2009; and
- should be read in conjunction with the associated Checklist for adoption and implementation by a Diocese.

Under legislation requiring mandatory reporting of child abuse, the *Director of Professional Standards*, the *Minister*, a Churchwarden or a member of the *Parish Accountability Group* may have an obligation to report information about a *Person of Concern* to the applicable authority in their jurisdiction. This policy does not remove this obligation.

Key terms are defined in Section 2 and are italicised.

Section 3 sets out key features of a process for safe ministry with *Persons of Concern* and Section 4 summarises the roles of key participants in the process.

Section 5 outlines in detail the process to be followed before a *Person of Concern* can participate or continue to *participate in the life of a parish*. This process consists of seven stages:

- 1 Identify a *Person of Concern*;
- 2 Notify the *Director of Professional Standards*;
- 3 Develop an *Interim Safety Plan*;
- 4 Decide whether to proceed further;
- 5 Conduct the necessary assessments;
- 6 Establish the necessary safeguards; and
- 7 Monitor the arrangements made.

The legal framework within which this policy operates is set out in Section 6.

2. Key Terms

Alternative Ministry includes the identification of:

- a parish in whose life the Person of Concern may participate; or
- a member of the clergy who can provide pastoral ministry to the Person of Concern.

Bishop means the Bishop of the Diocese or their delegate.

Church means the Anglican Church of Australia.

Diocesan Accountability Panel or **DAP** means a panel of people with appropriate qualifications and experience appointed by the *DPS* to provide training and support and as required to become members of the *Parish Accountability Group*.

Diocesan Advisor is a person or body with appropriate qualifications and experience in the management of the risk of harm to people by *Persons of Concern*. The *Diocesan Advisor* is appointed by the *Bishop*. The Professional Standards Committee of the Diocese may act as the *Diocesan Advisor*.

Director of Professional Standards or **DPS** means the Director of Professional Standards or their delegate.

Expert Assessment of the *Person of Concern* is undertaken by a professional with appropriate qualifications and experience, usually a forensic psychologist or forensic psychiatrist, accredited by the *Bishop*. The Assessment should include identification of factors increasing the likelihood of the *Person of Concern* offending or reoffending, and may take into account information obtained from external sources such as sentencing comments, parole report, etc.

Interim Safety Plan is a document that specifies what is required to protect people in the parish during the *Process of Assessment*. The *Interim Safety Plan* should, as a minimum, state the conditions for participation of the *Person of Concern* in the life of the parish OR direct the *Person of Concern* not to participate in the life of the parish until the *Process of Assessment* is completed.

Minister means the incumbent of the parish by whatever name the person holding the office is called, such as rector, vicar or priest-in-charge.

Parish Accountability Group is appointed by the *Minister* and Churchwardens following consultation with the *Person of Concern* and the *DPS*. The *Parish Accountability Group* will implement the *Safety Agreement* or *Safety Plan* by monitoring the *Person of Concern* while he or she participates in the life of the parish, holding the *Person of Concern* accountable and supporting/helping the *Person of Concern* manage his or her personal risks and behaviour. The function of the *Parish Accountability Group* will vary according to the *Person of Concern's* level of risk, their offending history and the information gathered. It is not the role of the *Parish Accountability Group* to provide pastoral support.

Parish Council means the parish council or representatives of the parish council or the *Minister* and the Churchwardens if there is no separate parish council.

Participate in the life of a parish means attending public worship and/or otherwise participating in activities in a parish.

Person of Concern is a person whose presence constitutes a risk of sexual abuse to people in the parish and may include one or more of the following:

- a person who has pleaded guilty to, has been convicted of, or has admitted to having committed, a sexual criminal offence; or
- a person who is currently charged with a sexual criminal offence; or
- a person who has been disciplined or had other action taken against them under a *disciplinary* or professional standards process of the *Church because of Sexual Misconduct*, or who has been refused ordination, employment or appointment in the *Church* because of an adverse risk assessment arising from *Sexual Misconduct*; or
- a person against whom allegations of *Sexual Misconduct* are currently being dealt with under a disciplinary or professional standards process of the *Church*; or
- a person who has been disciplined by an organisation other than the Anglican Church of Australia for *Sexual Misconduct*; or
- a person who, as a result of *Sexual Misconduct*, has received an adverse risk assessment from a professional with appropriate qualifications and experience in accordance with the requirements of another church or a statutory authority; or
- a person who has received or is receiving treatment for disordered sexual behaviour.

Process of Assessment is the process specified in this policy for assessing whether a *Person of Concern* can participate in the life of a parish.

Safety Agreement is a written agreement between the *DPS* on behalf of the Diocese, the *Minister* and Churchwardens on behalf of the parish and the *Person of Concern*, and specifies the terms for the participation of the *Person of Concern* in the life of the parish. The *Safety Agreement* should, as a minimum, state:

- the conditions for participation of the *Person of Concern* in the life of the parish;
- any additional conditions (e.g. an obligation to undertake child protection training);
- the consequences of any breach of the Agreement by the *Person of Concern*; and
- what information should be released to whom.

A *Safety Agreement* must include a process for advising a new *Minister* and new Churchwardens in the parish of the existence and terms of the Agreement.

Safety Plan is a document that specifies the terms for the participation of the *Person of Concern* in the life of the parish if it is impractical to enter into a *Safety Agreement* (such as

when a *Person of Concern* has an intellectual disability). The *Safety Plan* should, as a minimum, state:

- the conditions for participation of the *Person of Concern* in the life of the parish;
- any additional conditions (e.g. an obligation to undertake child protection training);
- the consequences of any breach of the Plan by the *Person of Concern*; and
- what information should be released to whom.

A *Safety Plan* must include a process for advising a new *Minister* and new Churchwardens in the parish of the existence and terms of the Plan.

Situational Assessment is an assessment of the parish by the *DPS*.

Sexual Misconduct includes sexual abuse of a child and sexual abuse of an adult as defined in Faithfulness in Service.

3. Key Features

1. The *Church* is committed to the physical, emotional and spiritual wellbeing of all people, including any survivors of sexual abuse (whether known or unknown), who *participate in the life of a parish*.
2. When a *Person of Concern* participates in the life of the parish, the endeavour to meet this commitment raises complex issues which may not be appreciated by the *Person of Concern*, or the parish. It is essential that the Diocese, through the *Director of Professional Standards (DPS)*, is involved in decisions about the participation of a *Person of Concern* in the life of the parish. This will help ensure that people in the parish are protected from the risk of harm.
3. A *Person of Concern* can be invited to *participate in the life of a parish* provided that both the *Person of Concern* and the *Parish Council* are willing to proceed with the *Process of Assessment*, and the *Person of Concern* is willing to meet its requirements. The *DPS* will issue such an invitation only when an *Expert Assessment* of the *Person of Concern* (if necessary) and a *Situational Assessment* of the parish indicate that participation is appropriate and there is either a *Safety Plan* in place or the *Person of Concern* has signed a *Safety Agreement*.
4. The *DPS* must be included in the *Process of Assessment* because of the complexity of the issues. The *DPS* will inform the *Bishop* of:
 - the *Process of Assessment* and its outcome; and
 - the implementation or termination of a *Safety Agreement* or *Safety Plan*.
5. An *Expert Assessment* of a *Person of Concern* must be carried out by an accredited professional with appropriate qualifications and experience.
6. If any ONE or more of the following conditions applies, the *Minister* and Churchwardens, as directed by the *Bishop*, must take whatever steps are necessary to minimise the risk of harm to people in their parish:
 - A *Person of Concern* OR the parish does not wish to proceed with the *Process of Assessment*; or
 - The *Process of Assessment* indicates that it is inappropriate for the *Person of Concern* to participate in the life of the parish; or
 - The *Person of Concern* refuses to sign a *Safety Agreement*; or
 - The *Person of Concern* breaches an *Interim Safety Plan* OR a *Safety Plan* OR a *Safety Agreement*.

The steps to be taken may include directing the *Person of Concern* not to participate in the life of the parish. If such a direction is made, the *Minister* will discuss with the *Bishop* what form of *Alternative Ministry* will be offered to the *Person of Concern*.

7. If a *Person of Concern* is currently participating or seeks to *participate in the life of a parish*, the *Minister* and Churchwardens need to consider what degree of disclosure is appropriate to protect both people in the parish and the *Person of Concern*. This will arise at the following stages in the process under this policy:

- when the *Interim Safety Plan* allows the *Person of Concern* to participate in the life of the parish (Stage 3 or 7); or
- when the *DPS* decides that the *Person of Concern* may participate in the life of the parish (Stage 5).

Information should only be disclosed to the extent necessary for the proper implementation of this policy. The *Minister* and Churchwardens should take into account the following:

- the degree of risk of harm to people in the parish;
- the people who are at risk of harm;
- the importance of allowing people to make an informed decision of the extent of their own participation or that of their children in the life of the parish. (This factor will have greater weight when there is a specific risk to particular people, such as when the *Person of Concern* has been found guilty of or has been accused of sexually abusing children of a particular gender and age); and
- the extent to which the identity of, and information about, the *Person of Concern* is known publicly (such as through media reports).

Every disclosure of information should be made in a non-sensational manner and with careful consideration of the words used.

4. Key Roles

In consultation with the *Diocesan Advisor*, the **Director of Professional Standards** exercises major responsibility on behalf of the Diocese in the implementation of this policy. The role of the *DPS* includes, but is not limited to:

- confirming that a specific person is a *Person of Concern*;
- managing the process of obtaining formal assessments of *Persons of Concern* and of parishes in which they do, or wish to, participate and communicating the outcomes of those assessments to the relevant parties;
- deciding, on the basis of those assessments, whether a specific *Person of Concern* can participate in the life of a specific parish;
- assisting *Ministers* and Churchwardens to develop and implement *Interim Safety Plans, Safety Plans and Safety Agreements*;
- ensuring that Parish Accountability Groups have the necessary training and support; and
- monitoring the effective implementation of *Interim Safety Plans, Safety Plans and Safety Agreements* and dealing, as required, with any confirmed breaches by *Persons of Concern*.

The **Parish Council** decides whether to proceed with the *Process of Assessment* and, if it does, is kept informed by the *DPS* of the outcome. If it does not agree to proceed with the *Process of Assessment*, the *Parish Council* will in effect prevent a *Person of Concern* being allowed to participate in the life of the parish.

The **Minister** together with the **Churchwardens** is responsible for the implementation of this policy in a parish. When required, the *Minister* consults with the *Bishop* about the appropriate form of *Alternative Ministry* to be offered to a *Person of Concern*.

The **Parish Accountability Group** is appointed by the *Minister* and Churchwardens and monitors the participation of a *Person of Concern* in the life of the parish, including whether the *Person of Concern* continues to meet the conditions of the *Safety Plan* or *Safety Agreement*.

The **Diocesan Accountability Panel** is appointed by the *DPS* and comprises people with appropriate qualifications and experience. Members of the Panel provide training and support to assist implementation of this policy and, when required, may become members of a *Parish Accountability Group*.

The **Diocesan Advisor**, who is a person or body with appropriate qualifications and experience in the management of the risk of harm to people by *Persons of Concern*, is

appointed by the *Bishop* and provides advice to the *DPS* about the implementation of this policy.

The policy requires the ***Person of Concern*** to co-operate with the process for determining and managing their participation in the life of the parish. The *Person of Concern* can terminate their involvement by:

- refusing to proceed with the *Process of Assessment*; or
- refusing to agree with the conditions of any proposed *Safety Plan* or *Safety Agreement*.

The ***Bishop*** receives information about *Persons of Concern* and, when required, provides advice about the form of *Alternative Ministry* to be offered to *Persons of Concern*. When required the *Bishop* will:

- decide whether a *Person of Concern* should continue to participate in the life of the parish;
- decide whether a *Safety Agreement* or *Safety Plan* should be terminated; and
- direct the *Minister* and *Churchwardens* to take whatever steps are necessary to minimise any risk of harm to people in the parish.

Process

There are 7 stages in the process:



Each stage is elaborated below.

1						
---	--	--	--	--	--	--

STAGE 1 IDENTIFY A *PERSON OF CONCERN*

Minister or a Churchwarden

You may find out about a *Person of Concern* by receiving information from the Diocese, the *Person of Concern*, people in the parish or others.

	2					
--	---	--	--	--	--	--

STAGE 2 NOTIFY THE *DIRECTOR OF PROFESSIONAL STANDARDS*

Minister or a Churchwarden

As soon as practicable after you suspect or know that a *Person of Concern* is participating or wishes to participate in the life of the parish, notify the *DPS*. If you are unsure whether a person is a *Person of Concern*, consult the *DPS*.

If the person is not a *Person of Concern*, take no further action under this policy. Consider whether ongoing risk management action is required and, if you are unsure what to do, consult the *DPS*.

If at a later stage and because of new information you suspect or know that the same person is a *Person of Concern*, notify the *DPS*.

Director of Professional Standards

Make enquiries to determine whether the person is a *Person of Concern*, and advise the *Minister* and Churchwardens of the outcome of your enquiries.



STAGE 3 DEVELOP AN *INTERIM SAFETY PLAN*

Minister and Churchwardens

If you are advised by the *DPS* that a person is a *Person of Concern*, in consultation with the *DPS*, develop and put in place an *Interim Safety Plan*.

Developing an *Interim Safety Plan* is not an extended process. At a minimum, the *Interim Safety Plan* should be whatever is required to protect people in the parish from the risk of harm. It may include a direction that the *Person of Concern* does not participate in the life of the parish until the *Process of Assessment* is completed.

In consultation with the *DPS*, decide:

who in the parish needs to be informed of the *Interim Safety Plan*;

what information should be given; and

whether that information should include the identity of the *Person of Concern*.

If the *Person of Concern* fails to comply with the *Interim Safety Plan*, inform the *DPS* as soon as practicable. Take whatever steps the *Bishop* directs you to take. This may include directing the *Person of Concern* not to participate in the life of the parish.

Minister

If the *Interim Safety Plan* includes a condition that the *Person of Concern* not participate in the life of the parish until the *Process of Assessment* is completed,

inform the *Person of Concern* and, after consulting the *Bishop*, offer *Alternative Ministry* to the *Person of Concern*.

Director of Professional Standards

Assist the *Minister* and Churchwardens to develop and implement an *Interim Safety Plan* and to decide who in the parish should be informed.

If the *Person of Concern* fails to comply with the *Interim Safety Plan*, inform the *Bishop* and recommend what steps should be taken to minimise the risk of harm to people in the parish.

Bishop

If the *Person of Concern* fails to comply with the *Interim Safety Plan*, decide what steps should be taken to minimise the risk of harm to people in the parish and direct the *Minister* and Churchwardens to take those steps.



STAGE 4 DECIDE WHETHER TO PROCEED FURTHER

A *Person of Concern* cannot participate in the life of a parish on an ongoing basis unless he or she agrees to proceed with the *Process of Assessment*. In addition, the *Parish Council* needs to consider whether it has capacity to implement a *Safety Agreement* or *Safety Plan* to enable the *Person of Concern* to participate in the life of the parish.

The procedure for deciding whether to proceed with the *Process of Assessment* has the following components:

Director of Professional Standards

Meet with the *Person of Concern* to explain the *Process of Assessment* and the likely implications for the *Person of Concern* if participation in the life of the parish is approved.

If the *Person of Concern* is willing to proceed with the *Process of Assessment*, meet with the *Parish Council* to explain the *Process of Assessment* and the likely implications for the parish if participation by the *Person of Concern* in its life is

approved. Ascertain the view of the *Parish Council* as to whether there should be an *Expert Assessment* of the *Person of Concern*.

If the *Person of Concern* is not willing to proceed with the *Process of Assessment*, inform the *Minister*.

If the *Parish Council* is not willing to proceed with the *Process of Assessment*, inform the *Person of Concern*.

If either the *Person of Concern* or the *Parish Council* is not willing to proceed with the *Process of Assessment*, inform the *Bishop* and recommend what steps should be taken to minimise the risk of harm to people in the parish.

If both the *Person of Concern* and the *Parish Council* are willing to proceed with the *Process of Assessment*, arrange an *Expert Assessment* of the *Person of Concern* (if necessary) and a *Situational Assessment* of the parish.

Minister and Churchwardens

If the *Person of Concern* is willing to proceed with the *Process of Assessment*, arrange for the *DPS* to meet with the *Parish Council* to explain the *Process of Assessment* and the likely implications for the parish if the participation of the *Person of Concern* in its life is approved.

If either the *Person of Concern* or the *Parish Council* is not willing to proceed with the *Process of Assessment*, take whatever steps the *Bishop* directs you to take. This may include directing the *Person of Concern* not to participate in the life of the parish.

Parish Council

Determine your view as to whether an *Expert Assessment* of the *Person of Concern* is required. Decide whether the parish has the capacity to implement and monitor a *Safety Agreement* or *Safety Plan* to enable the *Person of Concern* to participate in the life of the parish.

Minister

If either the *Person of Concern* or the *Parish Council* is not willing to proceed with the *Process of Assessment* and the *Bishop* requires you to direct the *Person*

of Concern not to participate in the life of the parish, after consulting the *Bishop*, offer *Alternative Ministry* to the *Person of Concern*.

Bishop

If either the *Person of Concern* or the *Parish Council* is not willing to proceed with the *Process of Assessment*, decide what steps should be taken to minimise the risk of harm to people in the parish and direct the *Minister* and Churchwardens to take those steps.



STAGE 5 CONDUCT THE NECESSARY ASSESSMENTS

Assessment of the *Person of Concern*

Director of Professional Standards

After consulting the *Diocesan Advisor* and taking into consideration the view of the *Parish Council*, decide whether an *Expert Assessment* of the *Person of Concern* is required. It may not be required, for example, when the *Person of Concern* is perceived to represent a low risk of harm to people in the parish.

If an *Expert Assessment* is required, either obtain one that is current—exercising your judgement on the matter of currency—or arrange for an Assessment to be carried out and forwarded to you.

Assessment of the parish

Director of Professional Standards

Arrange for a *Situational Assessment* of the parish to be carried out.

The Assessment should address the following issues:

- Does the parish have the capacity to manage the *Person of Concern*?
- What safe ministry infrastructure currently exists in the parish?
- Are there suitable people willing to be members of any *Parish Accountability Group*?

- What activities does the *Person of Concern* want to be involved in? Do any of these activities involve children? Do any of these activities take place off site?
- What activities is the parish willing to have the *Person of Concern* involved in?
- Is any person in the parish a known survivor of abuse?
- Is a person in the parish a member of the family of a known survivor of abuse?
- Would the location or layout of the church buildings make monitoring of the *Person of Concern* difficult?
- What forms of support would there be for the *Person of Concern*?
- Are there any special circumstances, for example, the known presence of other *Persons of Concern*?

Outcome of the Assessments

Director of Professional Standards

Discuss the *Expert Assessment* and the *Situational Assessment* with the *Diocesan Advisor*. Then decide whether the *Person of Concern* may participate in the life of the parish and, if you decide they can, under what conditions.

Generally, the *Person of Concern* will not be permitted to participate in a leadership role such as reading the Bible or leading prayers in services, leading any youth or other group, or providing pastoral care. It is important to recognise that if a *Person of Concern* has a leadership role they will be perceived not to pose a risk to the safety of children and vulnerable adults.

You also need to decide:

- whether the *Person of Concern* should be required to sign a *Safety Agreement*, and if they should, the terms of that Agreement;
- whether the parish should devise a *Safety Plan*, and if they should, its terms; and
- whether the parish should form a *Parish Accountability Group*.

Keep a record of your decisions in writing.

If you decide that the *Person of Concern* **may participate** in the life of the parish, inform the *Minister* and Churchwardens and meet with the *Person of Concern* to explain the decision. Then, as arranged by the *Minister* and Churchwardens, explain the decision—and its implications—to the *Parish Council*. Your explanation should address the outcome of the *Expert Assessment*.

If you decide that the *Person of Concern* **may not participate** in the life of the parish, or the *Person of Concern* is not willing to accept the conditions for participation in the life of the parish, inform the *Minister* and Churchwardens. Inform the *Bishop* and recommend what steps should be taken to minimise the risk of harm to people in the parish.

Minister and Churchwardens

If the *DPS* decides that the *Person of Concern* **may participate** in the life of the parish, arrange with the *DPS* to explain the decision—and its implications—to the *Parish Council*. In consultation with the *DPS*, decide:
who in the parish needs to be informed of the decision;
what information should be given; and
whether that information should include the identity of the *Person of Concern*.

If the *DPS* decides that the *Person of Concern* **may not participate** in the life of the parish, or the *Person of Concern* is not willing to accept the conditions for participation in the life of the parish, take whatever steps the *Bishop* directs you to take. This may include directing the *Person of Concern* not to participate in the life of the parish.

Minister

If the *DPS* decides that the *Person of Concern* **may not participate** in the life of the parish, or the *Person of Concern* is not willing to accept the conditions for participation in the life of the parish, after consulting the *Bishop*, offer *Alternative Ministry* to the *Person of Concern*.

Bishop

If the *DPS* decides that the *Person of Concern* **may not participate** in the life of the parish, or the *Person of Concern* is not willing to accept the conditions for participation in the life of the parish, decide what steps should be taken to minimise the risk of harm to people in the parish and direct the *Minister* and Churchwardens to take those steps.

STAGE 6 ESTABLISH THE NECESSARY SAFEGUARDS***Director of Professional Standards***

Arrange for the signing of any *Safety Agreement* and provide copies to all parties. Alternatively, explain any *Safety Plan* to the *Minister* and Churchwardens and, if appropriate, to the *Person of Concern*. Let the *Bishop* know when any new *Safety Agreement* or *Safety Plan* is in place.

Provide training and support for the members of any *Parish Accountability Group*. Alternatively, arrange for someone from the *Diocesan Accountability Panel (DAP)* to provide the training and support.

(Note that any *Safety Agreement* or *Safety Plan* must include a process for advising a new *Minister* and new Churchwardens in the parish of the existence and terms of the Agreement or Plan.)

If the *Person of Concern* refuses to sign a *Safety Agreement*, inform the *Bishop* and recommend what steps should be taken to minimise the risk of harm to people in the parish.

Minister and Churchwardens

If a *Parish Accountability Group* is required, consult with the *DPS* and the *Person of Concern* concerning the suitability of potential members before finalising the membership. If a *Parish Accountability Group* is not required, discuss with the *DPS* how you will monitor the *Safety Agreement* or *Safety Plan*.

If the *Person of Concern* refuses to sign a *Safety Agreement*, take whatever steps the *Bishop* directs you to take. This may include directing the *Person of Concern* not to participate in the life of the parish.

Bishop

If the *Person of Concern* refuses to sign a *Safety Agreement*, decide what steps should be taken to minimise the risk of harm to people in the parish and direct the *Minister* and Churchwardens to take those steps.

STAGE 7 MONITOR THE ARRANGEMENTS MADE***Variation of any Safety Agreement or Safety Plan***

Director of Professional Standards

At least once a year, review the operation of the *Safety Agreement* or *Safety Plan*.

If at any time you consider that the *Safety Agreement* or *Safety Plan* is inadequate to protect people in the parish from the risk of harm, or otherwise requires variation, consult with the *Diocesan Advisor*.

If after this consultation you decide that the *Safety Agreement* or *Safety Plan* should be varied, meet with the *Person of Concern*, the *Minister* and Churchwardens—and at their discretion the *Parish Council*—to explain your decision.

Inform the *Bishop* of the proposed changes.

Minister and Churchwardens

Do not vary the terms of the *Safety Agreement* or *Safety Plan* without the prior agreement of the *DPS*.

Make any changes to the *Safety Agreement* or *Safety Plan* that the *Bishop* directs you to make, explain the changes to the *Person of Concern* and ensure that all parties sign and date the varied Agreement.

If necessary, arrange for the establishment, training and support of any *Parish Accountability Group*.

Bishop

If you are advised by the *DPS* that the *Safety Agreement* or *Safety Plan* needs to be varied, direct the *Minister* and Churchwardens to make the necessary changes.

Director of Professional Standards, Minister and Churchwardens, Bishop

If the *Person of Concern* refuses to sign the new or amended *Safety Agreement*, follow the procedure outlined under Stage 6 above that addresses this situation.

Variation of arrangements for support and accountability

Director of Professional Standards

At least once a year, review the operation of any *Parish Accountability Group*.

If at any time you consider that the *Parish Accountability Group* is not providing support and accountability to the *Person of Concern*, consult with the *Diocesan Advisor*.

If after this consultation you decide that the arrangements for providing support and accountability to the *Person of Concern* should be varied, meet with the *Person of Concern*, the *Parish Accountability Group*, the *Minister* and Churchwardens, and if required, the *Parish Council*, to explain your decision.

Inform the *Bishop* of the proposed changes.

Minister and Churchwardens

Make any changes to arrangements that the *Bishop* directs you to make and explain the changes to the *Person of Concern*.

Bishop

If you are advised by the *DPS* that the arrangements for providing support and accountability to the *Person of Concern* need to be varied, direct the *Minister* and Churchwardens to make the necessary changes.

Breach of a *Safety Agreement* or *Safety Plan*

Member of the Parish Accountability Group

If you know or reasonably suspect that the *Person of Concern* has breached the *Safety Agreement* or *Safety Plan* you must, as soon as practicable, notify the *Minister* or a Churchwarden with details of the breach or suspected breach. If

you are unsure whether the *Person of Concern* has breached the *Safety Agreement* or *Safety Plan*, then consult with the *Minister* or a Churchwarden.

Director of Professional Standards

If the *Person of Concern* breaches the *Safety Agreement* or *Safety Plan*, consult with the *Diocesan Advisor* and form an opinion as to whether the *Person of Concern*:

- may no longer participate in the life of the parish; or
- may be able to participate in the life of the parish after a further *Process of Assessment* is completed.

Minister and Churchwardens

If you know or reasonably suspect that the *Person of Concern* has breached the *Safety Agreement* or *Safety Plan* you must, as soon as practicable, notify the *DPS* with details of the breach or suspected breach.

Termination of a *Safety Agreement* or *Safety Plan*

Director of Professional Standards

If after consultation with the *Diocesan Advisor* you consider that the *Person of Concern* may no longer participate in the life of the parish because he or she has breached the *Safety Agreement* or *Safety Plan* or for any other reason (such as when the *Parish Accountability Group* is unable to provide support and accountability to the *Person of Concern*), inform the *Bishop* and the *Minister* and Churchwardens. Recommend to the *Bishop* what steps should be taken to minimise the risk of harm to people in the parish. Take whatever action the *Bishop* then directs you to take and inform the *Bishop* and the *Minister* and Churchwardens. Such action may include termination of the *Safety Agreement* or *Safety Plan*.

If the *Person of Concern* breaches the *Safety Agreement* or *Safety Plan* and after consultation with the *Diocesan Advisor* you decide that the *Person of Concern* may be able to participate in the life of the parish after a further *Process of Assessment* is completed and the *Person of Concern* agrees to a further *Process of Assessment*, terminate the *Safety Agreement* or *Safety Plan* and inform the

Bishop and the *Minister* and Churchwardens. Assist the *Minister* and Churchwardens to develop and implement an *Interim Safety Plan* and to decide who in the parish should be informed.

If after consultation with the *Diocesan Advisor* you decide at any time that the *Person of Concern* no longer constitutes a risk of sexual abuse to people in the parish (such as when a person is found to have made false allegations of a sexual criminal offence or *Sexual Misconduct*), terminate the *Safety Agreement* or *Safety Plan* and inform the *Bishop* and the *Minister* and Churchwardens.

Minister and Churchwardens

If a *Safety Agreement* or *Safety Plan* is terminated by the *DPS* at the direction of the *Bishop* because the *Bishop* decides for whatever reason that the *Person of Concern* may no longer participate in the life of the parish, take whatever steps the *Bishop* directs you to take. This may include directing the *Person of Concern* not to participate in the life of the parish.

If a *Safety Agreement* or *Safety Plan* is terminated by the *DPS* and the *DPS* decides that the *Person of Concern* may be able to participate in the life of the parish after a further *Process of Assessment* is completed and the *Person of Concern* agrees to a further *Process of Assessment*, develop and put in place an *Interim Safety Plan*. In consultation with the *DPS*, decide:

- who in the parish needs to be informed of the *Interim Safety Plan*;
- what information should be given; and
- whether that information should include the identity of the *Person of Concern*.

Take whatever steps are necessary to ensure the *Interim Safety Plan* is implemented and complied with (in accordance with the procedures in Stage 3). These steps may include a direction that the *Person of Concern* does not participate in the life of the parish during the *Process of Assessment*. (Following this, a new *Safety Agreement* or *Safety Plan* may be established in accordance with the procedures in Stages 4, 5 & 6.)

If a *Safety Agreement* or *Safety Plan* is terminated by the *DPS* because the *DPS* decides that the *Person of Concern* no longer constitutes a risk of sexual abuse to people in the parish, take no further action under this policy. Consider

whether ongoing risk management action is required, and if you are unsure what to do, consult the *DPS*.

Minister

After consulting the *Bishop*, offer *Alternative Ministry* to the *Person of Concern* when either:

- the *Bishop* decides the *Person of Concern* may no longer participate in the life of the parish and directs the *DPS* to terminate the *Safety Agreement* or *Safety Plan*; or
- the *DPS* decides that the *Person of Concern* may be able to participate in the life of the parish after a further *Process of Assessment* is completed, terminates the *Safety Agreement* or *Safety Plan* and assists you and the Churchwardens to put in place an *Interim Safety Plan* that does not allow the *Person of Concern* to participate in the life of the parish during the *Process of Assessment*.

Bishop

If you decide that the *Person of Concern* may no longer participate in the life of the parish because he or she has breached the *Safety Agreement* or *Safety Plan*, or for any other reason, direct the *DPS* to terminate the Agreement or the Plan. In addition, decide what steps should be taken to minimise the risk of harm to people in the parish and direct the *Minister* and Churchwardens to take those steps.

Movement of a *Person of Concern* to another parish or denomination

Minister and Churchwardens

If you know or reasonably suspect that the *Person of Concern* has moved or is proposing to move to another parish or denomination, you must, as soon as practicable, notify the *DPS*.

Director of Professional Standards

If you become aware, whether through information received from the *Minister* or a Churchwarden or otherwise, or you reasonably suspect that the *Person of Concern* has moved, or is proposing to move, to another parish or denomination, then you must, as soon as practicable, contact the *Minister* and Churchwardens of the other parish, and their *Bishop*, or the people responsible for safe ministry

in that denomination. Inform them of the material facts relating to the *Person of Concern* and their participation in the life of the parish.

6. Legal Framework

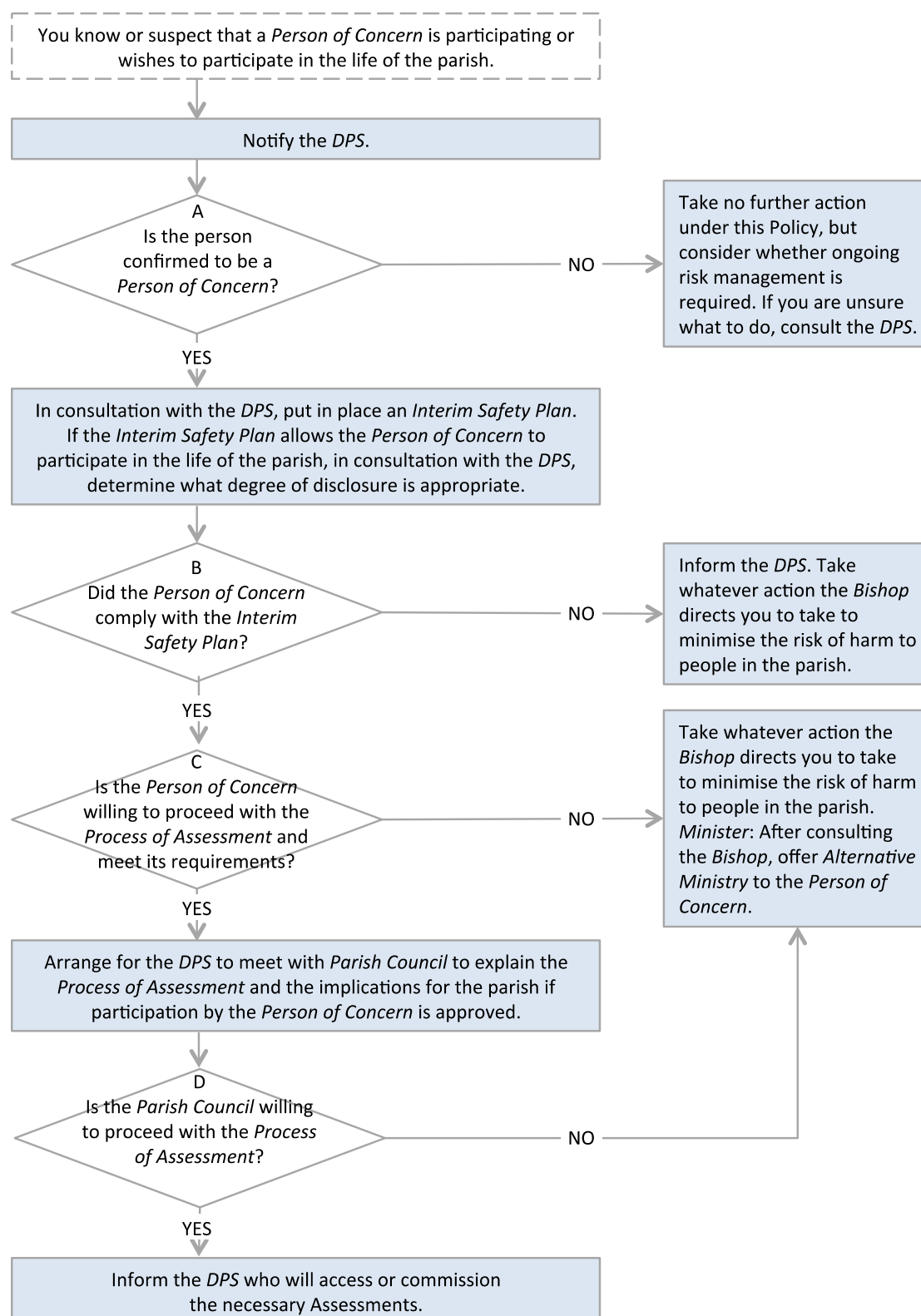
1. A *Person of Concern* may attend public worship and otherwise participate in the activities of a parish as a member of the *Church* or an attendee.
2. The right of a *Person of Concern*, whether as a member of the *Church* or as an attendee, to attend public worship and otherwise participate in the activities of a parish is that of a licensee. Under the law such a licence can be granted on both explicit and/or implicit terms and conditions. These terms and conditions can limit or regulate entry onto property for such public worship and/or activities. The effective implementation of this policy will require that the *Minister* and Churchwardens have power to revoke the licence of a *Person of Concern* to attend public worship and otherwise participate in the activities of a parish.
3. The *Church* has rules which bear upon the right of a *Person of Concern* to attend public worship in a parish and otherwise participate in its activities.
4. Section 6 of the Holy Communion Canon 2001, which is in force in every diocese, provides for the circumstances in which the *Minister* who has the cure of souls may refuse to admit a person to the Holy Communion. These circumstances include when a person has committed a 'grave sin without repentance'. Except in the case of 'grave and immediate scandal' any ordained minister must only refuse to admit a person to Holy Communion at the direction of the *Bishop*.
5. Normally the functions of the Churchwardens in a parish extend to keeping order in the church and grounds. The scope of these functions is set out in an ordinance of the applicable diocesan synod.
6. In the exercise of its powers for the order and good government of the *Church* in the diocese, a diocesan synod may adopt this policy and, to facilitate its implementation, pass an ordinance:
 - (a) conferring powers upon the *Minister* and the Churchwardens to limit the right of a *Person of Concern* to attend public worship and otherwise participate in the activities of a parish and specifying the circumstances in which they may direct a *Person of Concern* not to attend public worship and other activities in a parish;
 - (b) vacating any office such as a Churchwarden or member of the *Parish Council* held by a *Person of Concern* and making a *Person of Concern* ineligible to hold any such office; and

- (c) conferring power on the *Bishop* to give directions to the *DPS* and the *Minister* and Churchwardens as provided for in this policy and requiring the *DPS* and the *Minister* and Churchwardens to comply with any such directions.

Appendix A: Flow Chart of Stages 1-4 of the Process

The flow chart below represents a **summary** of the first phase of the process, that is, Stages 1-4, from the point of view of the *Minister* and Churchwardens.

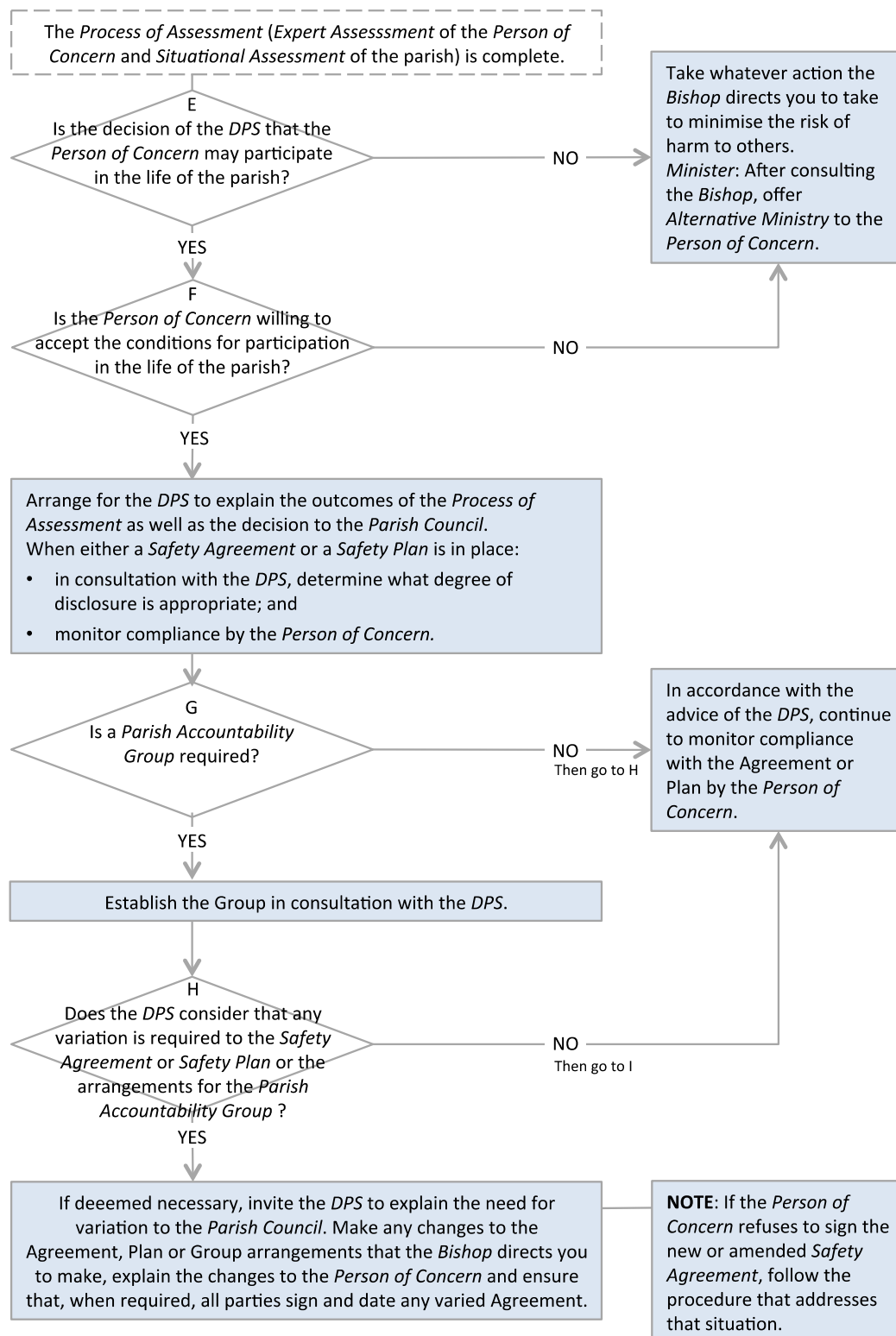
Minister and Churchwardens



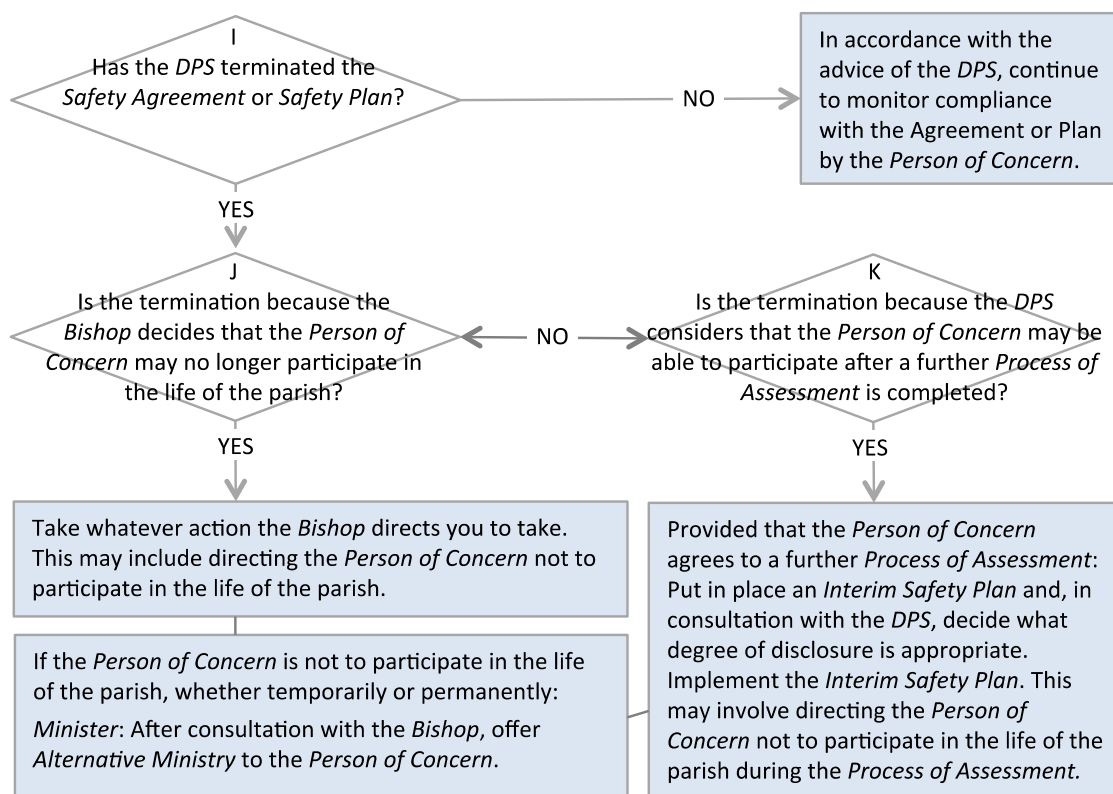
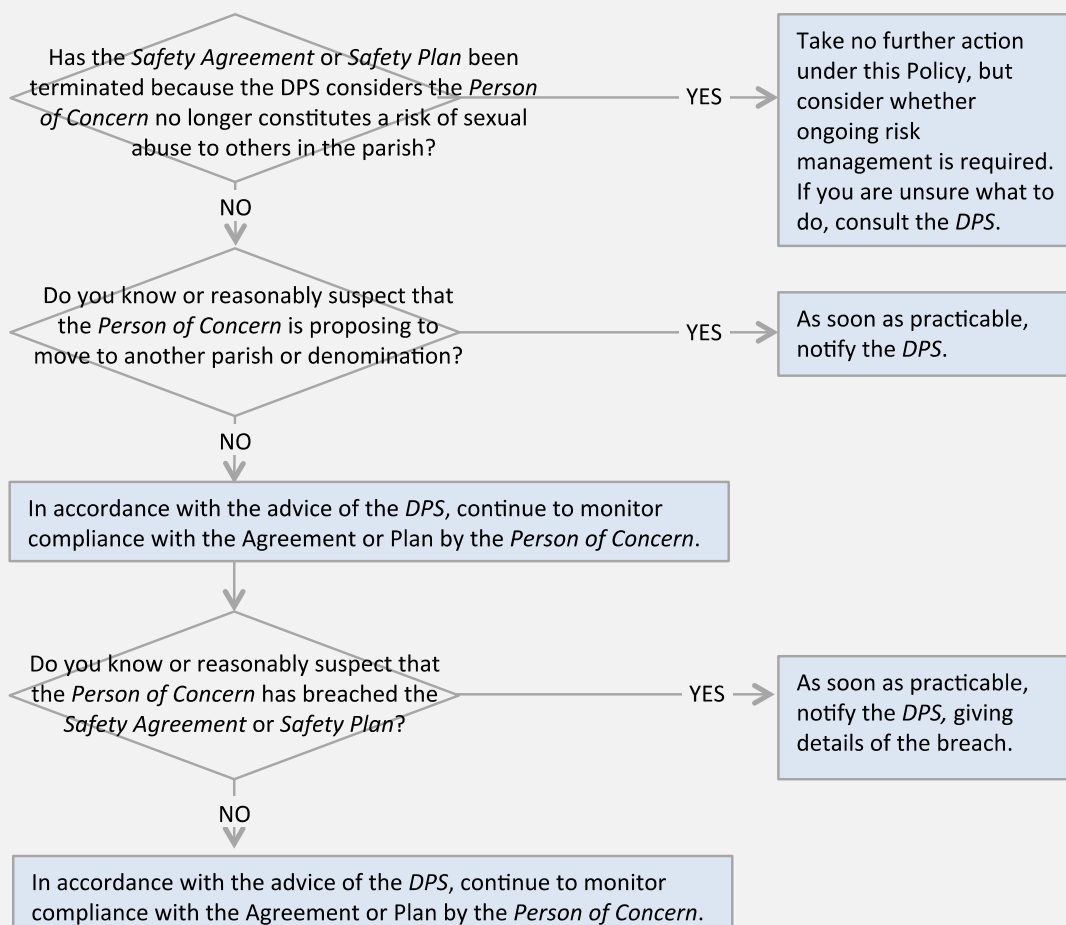
Appendix B: Flow Chart of Stages 5-7 of the Process

The flow chart below represents a **summary** of the second phase of the process, that is, Stages 5-7, from the point of view of the *Minister* and Churchwardens.

Minister and Churchwardens



[Continued on the next page]

**At any time...**

Then go to H