



ANGLICAN CHURCH OF AUSTRALIA

Introductory Guide

Making a complaint or providing information
about the conduct of a bishop
in the Anglican Church of Australia

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Episcopal Standards Commission
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| <i>I want to know whether the ESC can investigate a specific example of misconduct. Where can I go to find out?</i> | See the companion document to this 'Introductory Guide'. It is called 'Additional Information. Making a complaint or providing information about the conduct of a bishop in the Anglican Church of Australia'. | On the Anglican Church of Australia website |



REFERENCES

The Constitution of the Anglican Church of Australia

The Offences Canon 1962
The Special Tribunal Canon 2007
The Episcopal Standards Canon 2007
The Episcopal Standards (Child Protection) Canon 2017

Faithfulness in Service.
 A national code
 for personal behaviour
 and the practice of pastoral
 ministry by clergy and church
 workers, November, 2016

1. Standards of conduct

The Church expects bishops to meet specific standards of conduct.

The conduct of a bishop is governed by the Constitution of the Church, any applicable Church canons (laws) and the national code of conduct called *Faithfulness in Service*.



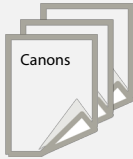
ACTION

The documents listed at left can be accessed from the Anglican Church of Australia website.

Before making a complaint or providing information about the conduct of a bishop you may wish to review one or more of these documents.



Among other things, the **Constitution** outlines the composition of different categories or classes of bishop. It also sets out, for specific classes of bishop, how breaches of faith, ritual, ceremonial or discipline and other specific offences should be dealt with.



Different **canons** outline, in relation to certain classes of bishops, offences that may result in a charge being brought before a church tribunal. Other canons outline how the church will deal with conduct that may call into question whether a bishop is fit for office or fit to remain in Holy Orders.

Whether or not a specific canon governs the investigation and resolution of a complaint may depend on whether the canon has been adopted and not excluded by the diocese with which the Bishop has a relevant connection.



Faithfulness in Service is the Church's code of conduct that applies to all clergy and church workers, including bishops.

2. Conduct for which a bishop is accountable

The various canons identify **conduct** for which bishops may be held accountable—and the **process** to be followed for investigating and resolving any allegations of misconduct. An allegation of misconduct in relation to the specific matters listed below is treated as a '**complaint**'.

| Scope of potential misconduct | Complainant | Applies to | Comments | Determining body |
|--|----------------------|--|--|------------------------|
| <p>The bishop has breached his or her obligations in matters of faith, ritual, ceremonial or discipline*.</p> | ...makes a complaint | A current diocesan Bishop, National Indigenous Bishop or a Bishop Assistant to the Primate | <p>A diocese can by ordinance exclude the power of the ESC to bring a charge against a diocesan Bishop.</p> <p>*The ESC is not able to take action in respect of allegations of</p> <ul style="list-style-type: none"> • a breach of faith, ritual or ceremonial, or • drunkenness, or • wilful failure to pay just debts, if the alleged conduct occurred more than 12 months before the ESC received the complaint. | The Special Tribunal |
| <p>The bishop has committed one or more of the following offences:</p> <ol style="list-style-type: none"> 1. Unchastity 2. Drunkenness* 3. Willful failure to pay just debts* 4. Conduct, whenever occurring, <ol style="list-style-type: none"> a) which would be disgraceful if committed by a member of the clergy, and b) which at the time the charge is preferred is productive, or if known publicly would be productive, of scandal or evil report. 5. Willful violation of the constitution or of the canons made thereunder or of the ordinances of provincial synod or of the bishop's diocesan synod. 6. Any conduct involving willful and habitual disregard of his or her consecration vows. 7. Child abuse. 8. Failure without reasonable excuse to comply with the laws of the Commonwealth or a State or territory requiring the reporting of child abuse to the police or other authority. 9. Failure to comply with a direction of the Episcopal Standards Board established under the <i>Episcopal Standards Canon 2007</i> or the the <i>Episcopal Standards (Child Protection) Canon 2017</i> 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. | | | | ...continued next page |

Conduct for which a bishop is accountable

An allegation of misconduct in relation to the matters listed below is treated as **'information'**. The matters listed below constitute what the Church calls 'examinable conduct', that is, conduct that calls into question a bishop's fitness to hold office or to remain in Holy Orders.

| Scope of potential misconduct | Informant | Applies to | Comments | Determining body |
|--|-------------------------|--|--|-------------------------------|
| By having done something or having failed to do something, the bishop has engaged in 'examinable conduct', that is, conduct that calls into question his or her fitness to hold office or to be or to remain in Holy Orders. | ...provides information | A current diocesan Bishop, National Indigenous Bishop or a Bishop Assistant to the Primate | The ESC must consider that, on the face of it, the bishop's conduct meets the definition of 'examinable conduct'. 'Examinable conduct' <i>excludes</i> breaches of faith, ritual or ceremonial. | The Episcopal Standards Board |
| By having done something or having failed to do something—specifically in regard to matters of child protection—the bishop has engaged in 'examinable conduct' that calls into question his or her fitness to hold office or to remain in Holy Orders. | | A diocesan Bishop, National Indigenous Bishop or a Bishop Assistant to the Primate | As above, except that, in this case, 'examinable conduct' <i>excludes</i> 'exempt conduct'. 'Exempt conduct' means any conduct or omission which would be examinable conduct, had not the Bishop disclosed the material facts to the ordaining bishop prior to the Bishop's ordination as a deacon. | |
| For the purposes of child protection, here 'examinable conduct' means any conduct or omission involving: child abuse; or conduct that impedes or undermines a professional standards process; or the failure without reasonable excuse to perform a function under a professional standards process; or the failure without reasonable excuse to comply with the laws of the Commonwealth, a State or Territory requiring the reporting of child abuse to the police or other authority. | | A Bishop who was formerly in one of the categories immediately above. | Applies to 'examinable conduct' occurring while the Bishop was in office. | |

3. The Episcopal Standards Commission

There is no 'one-size-fits-all' process for receiving, investigating and resolving complaints about a bishop in the Anglican Church of Australia.

One body, however, functions to receive and investigate complaints and information about the conduct of bishops.



REFERENCES

The Offences Canon 1962
The Special Tribunal Canon 2007
The Episcopal Standards Canon 2007
The Episcopal Standards (Child Protection) Canon 2017

Episcopal Standards Protocol (General) 2011



ACTION

If you are uncertain about whether the ESC can receive and investigate your complaint, ask the Director to clarify the matter for you.

The **Episcopal Standards Commission (ESC)** was established to receive complaints and information about the conduct of bishops and, in appropriate cases, to investigate the matter.

However, the process of investigation and resolution of a specific matter depends on several factors, including:

- what 'type' of bishop is the subject of the complaint or information,
- whether that bishop is currently in office, and
- which canons have been formally adopted and not excluded by the diocese with which the Bishop has a relevant connection.

Subject to the canons and protocol governing its powers, the ESC may, after investigation, refer the matter to one of two determining bodies: either The Special Tribunal or the Episcopal Standards Board.

EPISCOPAL STANDARDS COMMISSION

COMPLAINTS
 Relating to breaches of faith, ritual, ceremonial or discipline OR offences specified by canon

INFORMATION
 Raising the question as to whether the bishop is fit to remain in office or fit to remain in Holy Orders

THE SPECIAL TRIBUNAL

THE EPISCOPAL STANDARDS BOARD

4. Determinations and recommendations

The functions of the ESC are primarily investigative. In appropriate cases the ESC will refer the results of its investigations to one of **two bodies** established to make **determinations and recommendations**.



REFERENCES

The Constitution of the Anglican Church of Australia

The Special Tribunal Canon 2007
The Episcopal Standards Canon 2007

The Episcopal Standards (Child Protection) Canon 2017

The current members of both the Special Tribunal and the Episcopal Standards Board are listed on the website of the Anglican Church of Australia.

The Special Tribunal

The composition, powers, functions and operational procedures of the Special Tribunal are set out in *The Constitution of the Anglican Church of Australia* and the *Special Tribunal Canon 2007*.

Typically, though not always, the Tribunal will consist of three persons appointed from a panel consisting of:

- a senior presidential member and another presidential member;
- three Bishops; and
- three priests of at least 7 years standing.

Following its deliberations the Tribunal may determine that a charge is either proven or not proven and may make recommendations, if appropriate, for any sentence.

The Appellate Tribunal may grant leave for an appeal in relation to a determination of the Tribunal, except in respect to a breach of faith, ritual or ceremonial.

The Episcopal Standards Board

The composition, powers, functions and operational procedures of the Board are set out in the following canons:

- the *Episcopal Standards Canon 2007*; and
- the *Episcopal Standards (Child Protection) Canon 2017*.

Typically, though not always, the Board will consist of three persons (ideally including at least one man and one woman), appointed from a panel consisting of:

- a President and a Deputy President;
- five persons in bishop's orders; and
- five members of the Church not in bishop's orders.

Following its deliberations the Board may determine that:

- a bishop should be counselled;
- the bishop's continuation in office should be subject to conditions or restrictions;
- the bishop is unfit, whether temporarily or permanently, to hold office; or
- the bishop is unfit to remain in Holy Orders.

The Board can then make consequent determinations and directions. Under the Canons there are rights of appeal.



ACTION

When a matter is referred to either the Special Tribunal or The Episcopal Standards Board, the ESC acts as the prosecutor.

As the person who has made a complaint or provided information, you may observe the proceedings and may be called as a witness.

5. Making a complaint or providing information



REFERENCES

*Episcopal Standards Protocol
(General) 2011*

*The Special Tribunal Canon 2007
The Episcopal Standards Canon
2007*

*The Episcopal Standards (Child
Protection) Canon 2017*

The Church is committed to making the process of **making a complaint or providing information** as easy as it can be—but there are still several matters you should consider before proceeding.



ACTION

Write a letter

The easiest and best way to lodge a complaint or provide information about the conduct of a bishop is to write and sign a letter providing a brief outline of the issue.

Address the letter to:
The Director
Episcopal Standards Commission
Anglican Church of Australia
Suite 4, Level 5
189 Kent Street
Sydney NSW 2000

Note that, if the only information the ESC receives is from an anonymous informant, and there are no means to contact the informant, there is no obligation on the part of the ESC to act on the information. However, if the information alleges criminal conduct, the ESC will forward the information to a relevant authority.

Assist investigators

You can help to make the process of investigation efficient by:

- providing accurate details about yourself, the person who is the subject of the complaint and any third party involved;
- establishing a clear and accurate chronology of events—dates and times when you allege that relevant conduct took place;
- identifying specific people involved, including any witnesses, that is, people who saw or heard what happened;
- endeavouring to provide quotations of exactly what people said—such as 'I said *'(write the exact words)'*', then he said, *'(write the exact words)'*;
- including documentary material such as statements, letters, emails, texts, photos, voice and video recordings, social media posts and messages.

Help ensure the matter progresses

The ESC may decide not to investigate or may cease investigating the matter you have raised if it considers that:

- the allegations are vexatious or misconceived, or their subject matter is trivial;
- the subject matter is under investigation by some other competent person or body or is the subject of legal proceedings;
- there is insufficient reliable evidence to warrant an investigation or further investigation.

If you make a complaint about any conduct constituting an offence, you may be asked at a later stage to provide further evidence, including relevant Statutory Declarations.

The ESC may not proceed with its investigation if it has requested that you provide a Statutory Declaration or further particulars to accompany your allegations—and you fail to do so.

When you write to the ESC to make a complaint or provide information, be sure to include the following contact details:

- your title and full name;
- your street and postal address;
- your email address; and
- your home, work and mobile phone numbers.

If you are under 18, you must ask a parent or guardian to:

- state that they consent to your making a complaint;
- print their full name and phone contact details;
- sign their statement; and
- co-sign your letter.

6. Procedures for dealing with allegations of misconduct

Under the Constitution and relevant canons, there are **formal procedures** for receiving and investigating complaints or information about the conduct of bishops. These procedures are framed to ensure that all parties are treated with respect and fairness.



REFERENCES

*Episcopal Standards Protocol
(General) 2011*

The Church is committed to ensuring that where its clergy and other church workers—especially those who hold the office of bishop—do not meet required standards of conduct, they are called to account.

Further, the Church is committed to providing avenues for redress to people who consider that they—or people they know—have been the subject of misconduct or omission by a bishop.

When you are making a complaint or providing information about the conduct of a bishop, you should be aware that:

- all complaints and information will be taken seriously;
- the Church will treat you with respect and may, if appropriate, offer pastoral support and professional counselling to you and to others affected.
- if your information appears to relate to ‘examinable conduct’, the Director may offer you the services of a support person to explain procedures and assist you in preparing relevant documentation;
- the Church will be as open, transparent and accountable as possible while respecting your right to privacy and that of the respondent and others affected;
- the Church will respect and not abuse confidentiality and will not use confidentiality in a way that seeks to protect the Church;
- if your allegation involves alleged child abuse, officers of the Church will report the abuse to a relevant authority and will comply with any mandatory reporting requirements under State or Territory law; and
- if your allegation relates to other forms of illegal behaviour, the Church will support you and/or the person affected to report the matter to the police or other appropriate authority.



ACTION

If you have been adversely affected by the conduct or omission of a bishop, no matter when, **we invite you to come forward and make the matter known** so that your ongoing needs can be addressed and appropriate action taken.

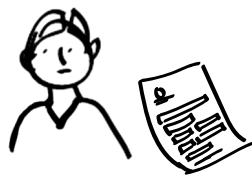
Lodging a complaint with the Church does not prevent you from pursuing any legal process or right of action at law.

If the ESC forms the view that the matter you have raised is not properly a ‘complaint’ or ‘information’ that relates to examinable conduct, the Director will refer you to a person or body that may be able to assist you.

7. Outline of the investigation process

7.1 Lodgment and initial assessment of a complaint or information

START



You prepare and send to the Director of the ESC a letter of complaint or a letter providing information about the conduct of a bishop.



The Director of the ESC receives and records the complaint or information.



The Director undertakes an initial assessment:

- is the matter trivial or misconceived?
- is there a need to inform police or other authority?
- are potential witnesses willing to participate in the process?
- should the ESC offer you and/or key persons affected the assistance of a support person?



The Director will inform the ESC if the matter is, on the face of it:

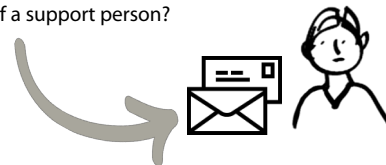
- likely to lead to a charge being promoted in the Special Tribunal
- 'examinable conduct' that may result in a referral of the matter to the Episcopal Standards Board.



If the ESC considers that the matter can be dealt with by an informal personal apology or other informal means, the Director may advise you accordingly.



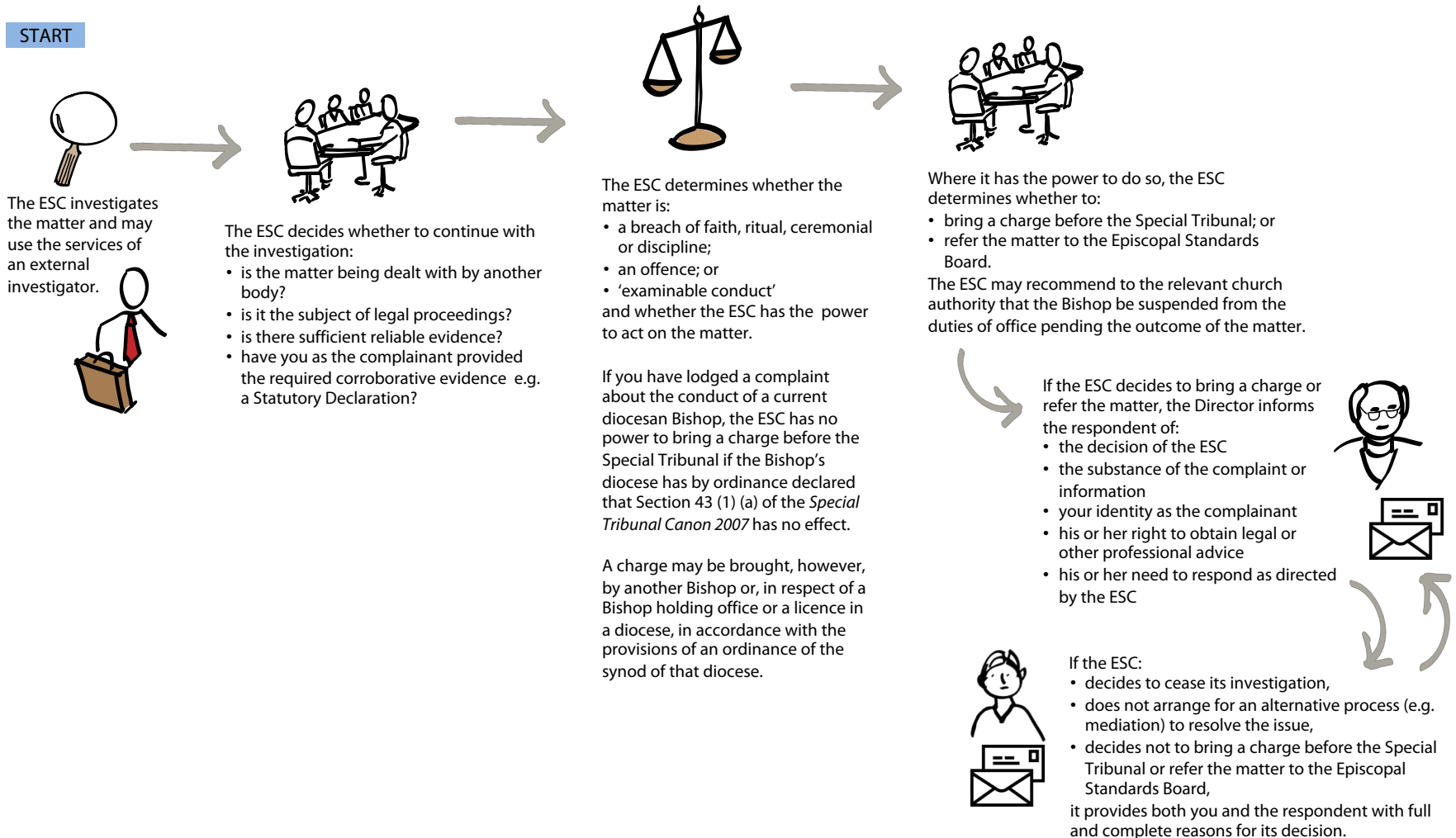
If the ESC considers that the matter can be dealt with by a process of mediation or conciliation, the Director may seek your consent, that of other key person(s) affected and that of the respondent to pursue such an alternative process.



If appropriate, the Director of the ESC may inform you that the matter might be better addressed by another body or through another process.

7.2 Investigation of the complaint or information

START



7.3 Determination of the matter

