

PROFESSIONAL STANDARDS ORDINANCE 2015

An Ordinance relating to professional standards within the Church, and for other purposes

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The Synod hereby determines:

PART 1 - PRELIMINARY

Title

1. This Ordinance may be cited as the “Professional Standards Ordinance 2015”.

Interpretation

2. (1) In this Ordinance, unless the context otherwise requires:

"Board" means the Professional Standards Board established under Part 12.

"ceremonial" has the same meaning as that expression has in the Constitution;

"Certificate of Conviction" means a certificate of conviction given under or in accordance with sections 42 or 43 of the *Evidence Act 1929* (SA) certifying as to the conviction of a Church worker of a criminal offence referred to in Part 3, Divisions 11, 11A or 12 of the *Criminal Law Consolidation Act 1935* (SA) or Parts 6 or 7 of the *Summary Offences Act 1953* (SA) or any equivalent provision in legislation which repeals or replaces those Acts, or any equivalent provision in any Commonwealth, State or Territory legislation;

"child" means a person under the age of 18;

"Church" means the Anglican Church of Australia;

"Church authority" means the Bishop or a person or body having administrative authority of or in a Church body to license, appoint, authorise, dismiss or suspend a Church worker;

"Church body" includes a parish, school and any body corporate, organisation or association that exercises ministry within, or on behalf of, the Church;

"Church worker" means a person who is or who at any relevant time was:

- (a) a member of the clergy; or
- (b) a person employed by a Church body; or
- (c) a person holding a position or performing a function with the actual or apparent authority of a Church authority or Church body;

but excludes a bishop subject to the jurisdiction of the Special Tribunal of the Church;

"Code of Conduct" means the code adopted under Part 2;

"complainant" means a person who makes a complaint;

"complaint" means a complaint under section 19 of this Ordinance;

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

"Director" means the Director of Professional Standards appointed under Part 5;

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

"faith" has the same meaning as that expression has in the Constitution;

"information" means information of whatever nature and from whatever source relating to alleged misconduct on the part of a Church worker;

"member of the clergy" means a person in Holy Orders;

"misconduct" has the meaning in subsection (3) of this section;

"national register" means any national register established pursuant to a Canon of General Synod or a resolution of the Standing Committee of General Synod for the purpose of recording determinations of the Board and other equivalent bodies;

"Professional Standards Committee" or **"PSC"** means the Professional Standards Committee established under Part 4;

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

"protocol" means a protocol approved from time to time by the Diocesan Council under Part 3;

"respondent" means a Church worker whose alleged conduct is the subject of a complaint;

"Review Board" means the Professional Standards Review Board established under Part 14;

"ritual" has the same meaning as that expression has in the Constitution;

"suspension order" has the meaning in section 32.

(2) For the purposes of this Ordinance –

(a) a person employed by a Church body; or

(b) a person holding a position or performing a function with the actual or apparent authority of a Church authority or Church body;
will be taken to be engaged by a Church authority.

(3) The expression “**misconduct**” in relation to a Church worker means an activity or wilful or careless inactivity that –

- a) involves harassment, or causes harm to a person's physical, spiritual, emotional or financial well-being or, in the case of a child, to his or her development; or
- b) is carried out by a person in a position of power or authority over another –
 - (i) for the inappropriate gratification of that person; or
 - (ii) for the exploitation of the other; or
- c) involves the exploitation of an office or position within the Church or a Church body; or
- d) brings an office within the Church or a Church body or, if relevant, brings the Church or a Church body more generally into disrepute; or
- e) involves a breach of the standards of sexual conduct prescribed in the Code of Conduct;
and includes:
 - f) wilful or careless failure to comply with an undertaking given to or a direction imposed by a Church authority under section 104 of this Ordinance;
 - g) wilful or careless failure to comply with an undertaking given to the Board, the Review Board or the Church authority;
 - h) wilful or careless failure to comply with the provisions of section 17; and
 - i) a breach of the Offences Canon 1962 or any Canon amending or replacing that Canon which is in force in and is not excluded from this diocese;¹

by the Church worker whenever occurring which, if established, would on its face call into question:

- (i) the fitness of the Church worker, whether temporarily or permanently, to hold a particular or any office, licence or position of responsibility in the Church or to be or remain in the employment of a Church body, or in Holy Orders; or
- (ii) whether, in the exercise of the Church worker's ministry or

¹ . Section 1 of the *Offences Canon 1962* provides for the following offences in respect of a person licensed by the Bishop:

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

employment, or in the performance of any duty or function, the Church worker should be subject to any condition ;

but excludes for the purposes of this Ordinance any breach of faith ritual or ceremonial.

Membership of equivalent bodies

3. 1) The Director, the members of the PSC, the Board and the Review Board may constitute or be members of an equivalent body either generally or for a particular case or matter.
- 2) The Diocesan Council may enter into such agreements or arrangements as it sees fit with the relevant authority of another diocese as to the terms on which the powers and functions of the equivalent bodies or persons of that diocese are to be exercised by the persons holding office in or as delegates of the PSC, or by the members or the secretary of the Board or of the Review Board.

Overriding Purposes

4. The overriding purposes of this Ordinance and of any protocol made under this Ordinance, in their application to any complaint under this Ordinance, are 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.

Purposes to be given effect

5. The Director, the PSC, the Board and the Review Board must each seek to give effect to the overriding purposes when exercising any power given by this Ordinance or by any protocol and when interpreting any provision of this Ordinance or of any such protocol.

PART 2 – CODE OF CONDUCT

Adoption of Code of Conduct

6. (1) There will be a Code of Conduct for observance by Church workers in the diocese.
- (2) *Faithfulness in Service*, as adopted by the Synod from time to time, is the Code of Conduct.
- (3) The Synod may adopt *Faithfulness in Service* with any modifications determined to be appropriate by the Synod.

Promotion of Code of Conduct

7. The Diocesan Council through the PSC and by such other means as may be considered appropriate shall take such steps as may be necessary or desirable to promote the knowledge, understanding and observance in this Church of any code of conduct applicable in the diocese.

with the conditions of employment, remuneration or performance of the Director;

- (f) to provide advice about the code of conduct, the protocol and procedures under this Ordinance;
- (g) to provide or arrange care or treatment of the complainant and respondent;
- (h) to provide input into education and vocational training programs for Church workers;
- (i) to provide advice to complainants and the respondent about the operation of the protocol, with particular emphasis on helping the respondent to understand and discharge his responsibilities under the protocol;
- (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 a case of alleged illegal behaviour:
 - (i) to support a complainant in making a report to police or child protection authorities; or
 - (ii) if the Director or the PSC considers it to be necessary, appropriate or in the interests of a victim or alleged victim – make a report to police or child protection authorities;
- (m) to report to the PSC 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 Ordinance, as may be determined from time to time by the PSC.

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

Conflicts of interest

16A. If the Director has a personal interest in a matter that is, or forms part of, the subject matter of a complaint (including on account of their relationship with the complainant or the respondent), the Director must not act in relation to the matter.

PART 6 – INFORMATION

Disclosure of information

17. (1) ~~A Church worker or A member of the Clergy and~~ a Church authority in the diocese must as soon as possible refer any information in his her or its possession or knowledge to the Director unless there are reasonable grounds to believe that the information is already known to the Director or the PSC.
- (2) This section does not affect the operation of the Canon Concerning Confessions 1989 of the General Synod or any other Canon or legislative instrument relating to confessions in force in the diocese.