

ANGLICAN CHURCH OF AUSTRALIA
DIOCESE OF NEWCASTLE
PROFESSIONAL STANDARDS ORDINANCE 2005

AN ORDINANCE RELATING TO PROFESSIONAL STANDARDS WITHIN THE CHURCH,
AND FOR OTHER PURPOSES

PREAMBLE

THE MISSION STATEMENT OF THE ANGLICAN DIOCESE OF NEWCASTLE

The Church exists to:

- ✧ Provide for the worship of God in Christ Jesus
- ✧ Proclaim the Gospel
- ✧ Teach, Baptise and Nurture believers
- ✧ Provide compassionate care to all in need
- ✧ Change unjust social structures
- ✧ Care for all God's creation

POSITION STATEMENT

- ✧ The Anglican Diocese of Newcastle in its Mission Statement is committed to providing compassionate care to all in need and to changing unjust social structures.
- ✧ The Diocese regards any professional misconduct by a church worker, especially sexual misconduct as very serious.
- ✧ The Diocese is committed to support, seek justice for and promote the welfare of those who suffer because of sexual misconduct, abuse or harassment, including the complainant, members of the complainant's family and close associates, the parish and the wider Church community.
- ✧ The Diocese is also committed to support, seek justice for and promote the welfare of those who are accused of sexual misconduct, abuse or harassment, including accused workers, members of their families and close associates, the parish, and the wider Church community.
- ✧ The Diocese will be open and accountable. In dealing with these matters it will act with integrity and transparency.

THEOLOGICAL STATEMENT

The Diocese is convinced that every person must be respected, and treated with respect. For all people are created in the image of God and the object of God's love revealed in the reconciling life, death and resurrection of Jesus Christ.

The manner in which we deal with abuse, pain or distress is part of our witness to the truth of God who loves and cares for the world. The manner in which we deal with allegations of misconduct is part of our witness to the truth of God who requires integrity, justice, mercy and humility in God's people.

HISTORICAL STATEMENT

In 1994 the Diocesan Committee for Allegations of Sexual Misconduct (CASM) was established in the Diocese of Newcastle. It arose out of the reality that there are times when those who care for others fail to act with respect towards the other person and cause harm.

There are situations where this failure to care is unacceptable. During its time, through the work of this Committee, its Chair, and Contact People across the Diocese, we have had in place a structure for dealing with allegations of sexual harassment, abuse or misconduct. The focus of the policy and procedures document was to facilitate resolution between parties. Issues of a criminal nature were referred to NSW Police and/or DoCS by the Bishop of the Diocese.

In October 2004 the General Synod of the Anglican Church of Australia passed legislation providing for Safety in Ministry to be enacted by each Diocese. In response to these new measures from the National Church the following Ordinance, Protocols, Code of Conduct and Regulations are presented to the Synod of the Diocese of Newcastle in order that our legislation and practices might conform to those in the wider church and provide ethical protocols for Church Workers and an open and effective way of receiving and providing a just outcome for allegations of harassment, abuse, assault or misconduct.

The Professional Standards Ordinance 2005

Be it therefore ordained and ruled by the Bishop, Clergy and Laity of the Diocese of Newcastle in Synod assembled as follows:

Part 1 - Preliminary

1. This Ordinance may be cited as the ***“Professional Standards Ordinance 2005-2007”***.

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

“Board” means the Professional Standards Board established under Part 9;

“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;

Amended 2006

“Church body” includes a parish, experimental pastoral area, provisional district or defined ministry area, a corporate school body, organisation or association constituted by Synod or approved by Synod or licensed by the Bishop to exercise ministry on behalf of the diocese.

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

(a) a member of the clergy; or

Amended 2006

(b) a person holding a licence issued by the Bishop;

Added 2006

(c) any person who is or has at any time been elected to or appointed to any position by the Bishop, Synod, Diocesan Council, Parish Council, Incumbent, Rector or Priest-in-Charge.

“Code of Conduct” means a code of conduct approved from time to time under Part 3;

“Diocesan Council” means the Bishop meeting in Council, as defined under the Diocesan Council Ordinance 1929. For the purposes of this Ordinance no powers are to be delegated to the Diocesan Council Executive.

“Director” means the Director of Professional Standards appointed under Part 6;

“equivalent body” means a body of another diocese exercising powers, duties or functions equivalent to those of the PSC or the Board as the case may be;

“examinable conduct” means conduct wherever or whenever occurring the subject of information which, if established, might call into question:

- (a) the fitness of a 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 Holy Orders or in the employment of a Church body; or
- (b) whether, in the exercise of a Church worker’s ministry or employment, or in the performance of any function, the Church worker should be subject to certain conditions or restrictions;

“information” means information of whatever nature and from whatever source relating to:

- (a) alleged conduct of a Church worker wherever or whenever occurring including any harassment, assault [including physical, spiritual or psychological abuse], or any sexually inappropriate behaviour;
- (b) alleged inappropriate or unreasonable conduct or omission of a Church worker who had knowledge of conduct of another Church worker including any harassment, assault [including physical, spiritual or psychological abuse], or any sexually inappropriate behaviour; or
- (c) an alleged process failure;

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

“national register” means any national register established pursuant to a Ordinance 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;

“process failure” means the failure by a Church body or Church authority prior to this Ordinance coming into effect to deal appropriately with or to investigate matters referred to in paragraphs (a) or (b) of the definition of information;

“Professional Standards Committee” or **“PSC”** means the Professional Standards Committee established under Part 5;

“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;

“protocol” means the protocol approved from time to time by the Diocesan Council under Part 4;

“referring body” means the PSC or an equivalent body which refers a question or questions under section 59 to the Board;

“respondent” means a Church worker whose alleged conduct or omission is the subject of information.

“Synod” means the Synod of the Anglican Diocese of Newcastle.

3. 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.

Part 2 – Application

Amended 2010

4. 1. This Ordinance applies to all church workers, except in sub-section (2)

Amended 2006

2. The Diocesan Council may exempt a church body if that church body certifies to the Synod each year that the laws of the state of NSW and the Commonwealth of Australia have been complied with relating to professional standards.

Part 3 – Code of Conduct

5. The Synod or the Diocesan Council shall from time to time by resolution approve a Code of Conduct for observance by Church workers in the diocese.
6. 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.

Part 4 – The Protocol

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

Part 5 – Professional Standards Committee

9. There shall be a Professional Standards Committee for the diocese.
10. There shall be a Chair of the PSC who is not the Director.
11. The members of the PSC shall be appointed and hold office on such terms and conditions as may be determined by the Diocesan Council from time to time or in accordance with any Regulations of the Diocesan Council.

12. (1) The PSC shall have at least five members one of whom one is the Director and another of whom is the Chair.
 - (2) The membership of the PSC shall be constituted so as collectively to provide:
 - (a) experience in law;
 - (b) experience in the ordained Ministry; and
 - (c) experience and appropriate professional qualifications in child protection, social work or counselling.
 - (3) So far as it is reasonably practicable the PSC shall have an equal number of men and women and may include a person who is not a member of this Church.
 - (4) Except in the first instance, membership of the PSC shall be upon the advice of the PSC but at the invitation of the Bishop.
13. (1) The Director in consultation with the Chair shall be the convenor of the PSC.
 - (2) The PSC may meet from time to time as determined by the Director and Chair or a majority of its members and may conduct its business by telephone or electronic communication.
 - (3) The procedures of the PSC shall be as determined by the PSC.
 - (4) A majority of the members shall constitute a quorum.
 - (5) A decision supported by a majority of members of the PSC constitutes a decision of the PSC.
 - (6) The PSC shall act in all things as expeditiously as possible.
14. An act or proceeding of the PSC is not invalid by reason only of a vacancy in its membership and, notwithstanding the subsequent discovery of a defect in the nomination or appointment of a member, any such act or proceeding is as valid and effectual as if the member had been duly nominated or appointed.
15. The Synod indemnifies any member or delegate of the PSC for any act or omission by the member or delegate or by the PSC in good faith and in the exercise or purported exercise of powers or functions, or in the discharge or purported discharge of duties under this Ordinance.
16. The members of the PSC may constitute an equivalent body, either generally or for a particular case or matter.
17. Subject to the provisions of this Ordinance, a member of the PSC, a Church authority or a person employed or engaged on work related to the affairs of the PSC must not divulge information that comes to his or her knowledge by virtue of that office or position except:
 - (a) in the course of carrying out the duties of that office or position;
 - (b) as may be authorised by or under this Ordinance;
 - (c) in any proceedings before a diocesan tribunal, a provincial tribunal or the special tribunal; or
 - (d) as may be required by law.
18. Members of the PSC will be required to sign a statement of confidentiality
19. The PSC must disclose to an equivalent body relevant details of information in its possession concerning the alleged conduct of a Church worker:
 - (a) presently residing in the diocese of the equivalent body; or

- (b) which is alleged to have occurred in the diocese of the equivalent body;
and shall co-operate with such other equivalent body.
20. (1) Subject to subsection (2), the PSC may release to the public such material as it may determine with respect to any information.
- (2) In relation to a matter that is the subject of a reference to the Board the PSC shall make public such information concerning the matter as the Board may direct or approve.
21. (1) Without disclosing the identity of any informant, complainant or the respondent, the PSC shall report annually to the Diocesan Council [or Synod] on its activities for that calendar year.
- (2) Notwithstanding subsection (1), the report of the PSC pursuant to that subsection may identify a respondent who has been exonerated from an allegation the subject of information or who has been the subject of a determination or recommendation by the Board.
- (3) The PSC shall, in respect of every matter with which it is dealing, report either orally or in writing to the Bishop with such frequency and as fully as the Bishop shall reasonably require.
22. (1) Subject to sub-section (2), the PSC may delegate, upon such terms and conditions as the PSC may approve, any of its powers or functions under this Ordinance to any person.
- (2) The PSC cannot delegate:
- (a) its powers under subsection (1); or
- (b) the power to refer a matter to the Board; or
- Added 2010
(c) its powers under section 35
- (3) A delegation under this Section must be made by instrument in writing signed by the Chair of the PSC.
23. (1) Subject to the provisions of this Ordinance the PSC has the following powers and duties:
- (a) to implement the protocol to the extent that the protocol is not inconsistent with this Ordinance;
- (b) to receive information;
- (c) to offer advice to the Director of Professional Standards
- (d) to act on information in accordance with the provisions of this Ordinance, and the protocol to the extent that it is not inconsistent with this Ordinance;
- (e) to appoint suitable persons to fulfil the several roles required to implement the protocol in each particular case;
- (f) where appropriate, to arrange for the conciliation or mediation of any complaint the subject of information;
- (g) to investigate information in a timely and appropriate manner;
- (h) where appropriate, to recommend to the Diocesan Council any changes to the protocol;
- (i) subject to any limit imposed by the Diocesan Council to authorise such expenditure on behalf of the Synod or the Church body as may be

- necessary to implement, in a particular case, the protocol and the provisions of this Ordinance;
- (j) to advise any relevant Church authority or Church body as to the financial or other needs of a person affected by conduct the subject of information and as to any possible or actual legal proceedings against such Church body or Church authority arising out of the alleged conduct of a Church worker;
 - (k) to refer any information in its possession to a member of a law enforcement, prosecution or child protection authority of a State or Territory or of the Commonwealth of Australia to which the information is or may be relevant;
 - (l) to maintain proper records of all information received, meetings held and of action taken in relation to such information; and to keep such records in a secure place;
 - (m) to exercise such other powers and functions as are conferred on it by this or any other Ordinance.
- (2) The Professional Standards Committee shall:
- (a) ensure appropriate training for the Contact Persons
 - (b) ensure training for all clergy and church workers in matters relating to the provisions of this ordinance
 - (c) ensure that all matters of compliance with child protection legislation are complied with by the Anglican Diocese of Newcastle
 - (d) report training and accreditation to the Diocesan Council.
- (3) The power and duty of the PSC to exercise its functions under this Ordinance arises in respect of:
- (a) conduct wherever it is alleged to have been engaged in by a Church worker resident or licensed in the diocese;
 - (b) an omission, whenever it is alleged to have occurred, by a Church worker resident or licensed in the diocese;
 - (c) conduct which is alleged to have occurred within the diocese wherever the Church worker involved in the alleged conduct may reside;
 - (d) conduct, wherever it is alleged to have been engaged in, or an omission, wherever it is alleged to have occurred, by a Church worker, wherever the Church worker may reside -
 - (i) in respect of or affecting a person resident in the diocese; or
 - (ii) that may affect a Church body or Church authority in the diocese, or Church property or property held in trust for the benefit of or in connection with the Church or a Church body in the diocese.

Part 6 – Director of Professional Standards

24. (1) There shall be a Director of Professional Standards.
- (2) The Director shall be appointed by and shall hold office in accordance with a resolution or any Regulation of the Diocesan Council.
25. The Director shall have the following functions:

- (a) to manage the implementation of the protocol in respect of any information;
 - (b) to be the executive officer of the PSC;
 - (c) to convene but not to chair meetings of the PSC;
 - (d) to ensure that the Professional Standards Committee carries out its responsibilities for training and accreditation.
 - (e) such other functions and duties as may be determined by the Diocesan Council or the PSC.
26. The Director may act in a corresponding capacity for another diocese either generally or for a particular case or matter.

Part 7 – The Chaplain

27. The Bishop shall appoint a Chaplain. The Chaplain is to:
- (1) give pastoral care to Contact People and members of the PSC
 - (2) to be available to offer, or provide, spiritual care to all parties involved in an issue.
- Such a person would not be a member of the PSC and not part of the complaint process. The role of the Chaplain is that of spiritual carer and not therapeutic counsellor.
28. The Chaplain shall be a priest, appointed by the Bishop under terms and conditions agreed by the Diocesan Council.

Part 8 – Examinable Conduct

29. (1) A member of the Clergy and a Church authority in the diocese shall as soon as possible refer any information in his her or its possession or knowledge to a member of the PSC unless that information is already known to the PSC.
- (2) This section does not affect the operation of the Ordinance Concerning Confessions 1989 of General Synod or any other Ordinance or legislative instrument relating to confessions in force in the diocese.
30. Subject to this Ordinance, where the PSC considers that the subject matter of information constitutes examinable conduct it shall investigate the information.
31. (1) The PSC may, if it thinks it appropriate to do so, refer the subject matter of information, or the investigation of information, to an equivalent body or bodies.
- (2) When the PSC and an equivalent body or equivalent bodies have the power and duty to investigate information concerning the alleged conduct or omission of the same Church worker and the respective bodies cannot agree on:
- (a) which body shall carry out the investigation or any parts of such investigation; or
 - (b) whether a question or questions specified in section 54 should be referred to the Board or to an equivalent body which has jurisdiction;
- then the PSC shall refer the disagreement for decision by the Director and the persons acting in a corresponding capacity for every other dioceses acting together.
- (3) The PSC shall act in accordance with the unanimous decision of the persons referred to in subsection (2) or, if such persons cannot agree within a reasonable

- time of the disagreement being referred, in accordance with the decision of the Primate or a member of the House of Bishops appointed by the Primate.
- (4) In all matters affecting the operation of this Ordinance the PSC and the Director shall cooperate with and assist an equivalent body and a person acting in the corresponding capacity of the Director in another diocese.
 - (5) In making a decision under subsection (2) the Director shall not be bound by the views or instruction of the PSC but shall take into account the most convenient course for all concerned and the best interest of the Church as a whole.
32. The PSC may decline to investigate or may refrain from further investigation of the information if:
- (a) in its opinion, the allegations the subject of the information are false, vexatious or misconceived, or their subject matter is trivial;
 - (b) the subject matter is under investigation by some other competent person or body or is the subject of legal proceedings;
 - (c) the person making allegations of examinable conduct or a person affected by the conduct the subject of the information has failed to provide further particulars or to verify the allegations by statutory declaration; or
 - (d) in its opinion there is insufficient reliable evidence to warrant an investigation or further investigation.
33. For the purpose of an investigation the PSC or an investigator shall obtain such statutory declarations, written statements, recorded conversations, reports, documents and other material as the PSC or its delegate considers necessary or advisable for presentation to the Board.
34. (1) The PSC may by notice in writing to a respondent require the respondent to provide a detailed report to the PSC within the time specified in the notice in relation to any matter relevant to the investigation.
- (2) It is the obligation of a respondent:
- (a) truthfully to answer any question put by or on behalf of the PSC in the exercise of powers conferred by this Ordinance;
 - (b) not to mislead the PSC or a member or delegate of the PSC;
 - (c) not unreasonably to delay or obstruct the PSC or a member or delegate of the PSC in the exercise of powers conferred by this Ordinance.
35. At any time after the PSC has commenced or caused to be commenced an investigation of information under this Part, it may, after giving the respondent an opportunity to be heard, recommend to the relevant Church authority one or more of the following:
- (a) that the respondent should be suspended from the duties or office or employment by a Church body;
 - (b) that a prohibition order be made against the respondent.
36. The relevant Church authority is authorised to give effect to a recommendation made under section 35.
37. Before making a recommendation under section 35 the PSC shall take into account:
- (a) the seriousness of the conduct alleged in the information;
 - (b) the nature of the material to support or negate the allegations;
 - (c) whether any person is at risk of harm;

- (d) after consultation with the relevant Church body or its representative, the effect on the respondent, a relevant Church body and on the Church in the diocese of acting and of not acting under section 34; and
 - (e) any other allegation of similar examinable conduct previously made to the PSC or to an equivalent body within the previous ten years;
- and may take into account any other relevant matter.
38. A suspension or prohibition order made by a Church authority pursuant to a recommendation under section 35 shall be terminated by the Church authority:
- (a) if the PSC terminates the investigation without referring the matter to the Board;
 - (b) upon any direction to that effect given by the Board; or
 - (c) upon the Church authority giving effect to a recommendation of the Board under section 74.
 - (d) upon the expiration of a period of three months from the date of the suspension or prohibition order, unless the PSC within that period has referred the matter to the Board for determination.
39. During a suspension or prohibition pursuant to the provisions of this Part or during a period when a person voluntarily stands down from a position while conduct the subject of information is dealt with under this Ordinance:
- (a) the respondent shall comply with the terms of any prohibition order;
 - (b) the respondent is ineligible for appointment to any position or function covered by any suspension or prohibition order;
 - (c) the relevant Church authority may fill the vacancy caused by any suspension or prohibition order, or while the respondent is standing down;
- Amended 2010**
- (d) the respondent is entitled to whatever stipend, salary, allowances and other benefits that he or she would otherwise have received and such payments are to be paid by the relevant church body provided that the Diocese shall pay, out of funds made available to it by Synod, such expenses in respect of a locum or other relief for the church body as the Bishop and the Church body shall agree; and
- Added 2010**
- (e) Notwithstanding paragraph (d), no suspended person shall be entitled to receive any stipend unless, but for the suspension, that person would otherwise have been able to carry out the duties of his or her office.

Part 9 – Professional Standards Board

40. There shall be a Professional Standards Board constituted and appointed in accordance with the provisions of this Part.
41. The members of the panel referred to in section 44 may constitute an equivalent body either generally or for a particular case or matter.
42. Subject to the provisions of this Ordinance the function of the Board is to inquire into and determine a question or questions referred to it pursuant to section 59 and questions within its jurisdiction referred to it by an equivalent body to the PSC and to make a determination referred to in section 74 and where appropriate to make a recommendation in accordance with the provisions of this Ordinance.
43. The Board has jurisdiction to exercise its functions in respect of a Church worker:

- (a) resident or licensed in the diocese; and
 - (b) not resident or licensed in the diocese but whose conduct giving rise to the reference is alleged to have occurred in the diocese or whose omission giving rise to the reference is alleged to have occurred when the Church worker was resident or licensed in the diocese.
44. The members of the Board in a particular case shall be appointed from a panel comprising:

Amended June 2007

- (a) a President and a Deputy President, shall be appointed by Diocesan Council, such persons being lawyers who have held a practicing certificate in an Australian jurisdiction for more than 10 years before the date of their appointment.
- (b) five members of the clergy of at least seven years standing; and

Amended June 2007

- (c) Five lay persons who are practicing members of a Christian church.

Inserted June 2007

- (d) The Business Manager shall be secretary of the Board with authority to keep the Bishop informed orally of the progress of the referral of matters.
45. The members of the panel shall be appointed by the Diocesan Council and shall hold office in accordance with a resolution or Regulation of the Diocesan Council.
46. Any vacancy in the membership of the panel shall be filled by or in accordance with a resolution or Regulation of the Diocesan Council.
47. (1) The members of the panel to be convened for any reference to the Board shall be determined by the President or, if there is a vacancy in the office of President, by the Deputy President.
- (2) For the purpose of any reference to the Board, the Board shall consist of the President or Deputy President, who shall be the presiding member, and an equal number not exceeding two of clerical and lay members of the panel.
- (3) Where possible, the Board shall include at least one man and at least one woman.
- (4) Where, in the opinion of the President, or if there is a vacancy in the office of the President, in the opinion of the Deputy President a member of the panel has a personal interest in a matter before the Board the member shall be disqualified from participating in the reference.
- (5) For the purposes of this section a vacancy in the office of President includes a situation in which the President is not able to act because of a personal interest in a matter, illness or absence from the diocese.
48. The Rules of the Board made under this Part may provide that, in relation to the exercise of specified functions, or in relation to matters of a specified class, the Board may, at the direction of the presiding member, be constituted by a single member sitting alone.
49. If a member of the Board, other than the presiding member, dies or is for any other reason unable to continue with any matter referred to the Board, the Board constituted of the presiding member and the other member or members may, if the presiding member so determines, continue and complete the reference.

50. The Board, separately constituted in accordance with this Part, may sit simultaneously for the purpose of matters referred to it or for conducting separate business of the Board.
51. An act or proceeding of the Board is not invalid by reason only of a vacancy in its membership or of the membership of the panel and, notwithstanding the subsequent discovery of a defect in the nomination or appointment of members of the panel or the Board, any such act or proceeding is as valid and effectual as if the member had been duly nominated or appointed.
52. The Synod indemnifies each of the members of the Board for any act or omission by the member in good faith and in the exercise of or purported exercise of powers or functions, or in the discharge or purported discharge of duties under *this Ordinance*.
53.
 - (1) There shall be a secretary to the Board who shall be appointed by or in accordance with a resolution or Regulation of the Diocesan Council, and whose duties shall be defined by the President.
 - (2) The secretary to the Board may act in a corresponding capacity for another diocese either generally or for a particular case or matter.
54.
 - (1) In any proceedings of the Board where the Board is constituted by two or more members:
 - (a) any question of law or procedure will be determined by the presiding member; and
 - (b) any other question will be determined by majority decision of the members, and in the case of an equality of votes the opinion of the presiding member shall prevail.
 - (2) Where the Board is constituted by a member sitting alone who is not the President or the Deputy President, any question of law that arises must be referred to the President or Deputy President for decision and any decision made on such a reference is a decision of the Board.
 - (3) The Board must act with fairness and according to equity, good conscience and the substantial merits of the case without regard to technicalities or legal forms and is not bound by the rules of evidence but may inform itself on any matter in such manner as it thinks fit.
 - (4) The Board may inform itself from the record of any court or tribunal and may adopt any findings, and accept as its own, the record of any court or tribunal.
55. The Board may, for the purpose of any particular reference, appoint such person or persons, including the Director, to assist it in inquiring into (but not determining) that reference as the Board thinks fit.
56. The Board must give reasons for any determination, other than by way of directions in the course of an inquiry, unless the determination is made by consent of the respondent.
57.
 - (1) The Board has no power to award costs of any proceedings before it.
 - (2) A Church worker in relation to whom a question is the subject of a reference to the Board may apply to the Diocesan Council for the provision of legal assistance.
 - (3) The Diocesan Council may grant legal assistance to a Church worker on such terms and subject to such conditions, as it shall determine.
58.
 - (1) The President may make Rules of the Board reasonably required by or pursuant to this Ordinance and in relation to the practice and procedure of the Board.

- (2) Subject to this Ordinance and the relevant Rules, the practice and procedure of the Board will be as directed by the presiding member of the Board.

Part 10 – Reference of Matters to the Professional Standards Board

59. (1) After investigation in accordance with section 30 or under a corresponding provision of a Ordinance of another diocese the PSC or an equivalent body may refer to the Board, or to an equivalent body which has jurisdiction, one of more of the following questions:
- (a) the fitness of a 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 Holy Orders or in the employment of a Church body;
 - (b) whether in the exercise of a Church worker's ministry or employment, or in the performance of any function the Church worker should be subject to certain conditions or restrictions.
- (2) The question or questions shall be referred to the Board by delivering to the secretary of the Board a written report of its investigation signed by a member of the referring body.
60. (1) Upon delivery of the report to the secretary of the Board, the President or Deputy President as the case may be shall as soon as possible determine the membership of the Board for the purpose of the reference.
- (2) The President or Deputy President as the case may require shall thereupon cause to be convened a sitting for the purpose of giving directions.
- (3) A person or body appearing or represented before the Board shall comply with the Rules of the Board and with any directions given by the Board.
61. Within 14 days of the date of the reference of a matter to the Board or within 14 days of the date of the document or material coming to existence, whichever is the later, the referring body shall cause to be delivered to the secretary of the Board any documents and material relevant to the reference.
62. The referring body, as soon as practicable after delivering the report referred to in section 59 to the secretary of the Board, shall cause a signed copy of the report to be delivered to the respondent.
63. The Board may at any time and from time to time give directions:
- (a) as to the inspection by and supply of copies to the respondent or any other person of the documents or material relevant to the reference;
 - (b) as to the conduct of its inquiry into the reference.
64. The Board may at any time and from time to time give directions to the referring body as to any further inquiries or investigation it requires to be carried out for the purposes of the reference and the referring body shall to the best of its ability cause such directions to be carried out.
65. (1) The Board shall deal with any reference as expeditiously as possible.
- (2) The Board may, if it sees fit, proceed with the determination of a reference notwithstanding that there may be mediation or conciliation proceedings relating to the subject matter of the reference being conducted by or at the direction of the referring body and notwithstanding that there may be criminal or other proceedings being taken against the respondent or some other person.
66. (1) The place and time of sitting of the Board comprising two or more members shall be as determined by the presiding member.

- (2) The place and time of sitting of the Board comprising one member shall be as determined by that member.
67. (1) Subject to sub-section (2), the Board must give the following persons reasonable notice of the time and place of a sitting of the Board:
- (a) the Director; and
 - (b) the respondent; and
 - (c) such other persons as the Board believes have a proper interest in the matter.
- (2) The Board is not obliged to give notice of a sitting to a person whose whereabouts cannot, after reasonable enquiries, be ascertained.
68. In any proceedings before the Board:
- (a) the referring body and any person may be represented by a legal practitioner or, with leave of the Board, by any other person;
 - (b) the referring body or its appointed representative shall do all in its power to assist the Board and shall carry out any directions of the Board;
 - (c) the Board:
 - (i) must give the referring body and the respondent a reasonable opportunity to call or give evidence, to examine or cross-examine witnesses and to make submissions to the Board; and
 - (ii) must give any other person to whom notice of the proceedings was given or who satisfies the Board that he or she has a proper interest in the matter a reasonable opportunity to make submissions to the Board.
69. (1) Subject to sub-section (2), a sitting of the Board on a reference before the Board is an open sitting.
- (2) On any such sitting before the Board, the Board has an absolute discretion:
- (a) to direct that no person other than:
 - (i) the respondent and any person representing him or her in the proceedings; and
 - (ii) witnesses or persons making submissions (while giving evidence or making those submissions); and
 - (iii) officers of the Board or persons assisting the Board; and
 - (iv) members of or persons appointed by the referring body,be present in the room while the Board is sitting; or
 - (b) to direct that a particular person (other than a person referred to in paragraph (a)) not be present in the room while the Board is sitting.
70. The Board may make a determination in any proceedings in the absence of a person affected by the determination if satisfied that reasonable efforts were made to give that person an opportunity to appear.
71. (1) The Board may require a respondent to submit within a specified time to a medical, psychiatric or psychological examination by a person approved by the Board the cost of which shall be met from funds under the control of the Synod of the diocese of the referring body.
- (2) A copy of the report of an examination under subsection (1) shall be provided to the respondent and to the Board.

72. The Board shall not, in the course of inquiring into any question:
- (a) inquire into any matter which is or has been the subject of any formal investigation or enquiry conducted:
 - (i) under or pursuant to any provision of the Constitution;
 - (ii) under or pursuant to a Ordinance of the General Synod, a Ordinance or an Ordinance of another diocese relating to the discipline of clergy or Church workers by a board of enquiry, tribunal or other body; or
 - (iii) with the authority of the bishop of a diocese resulting in a formal report to the bishop with findings and which concluded or was commenced prior to the date on which this Ordinance takes effect in the diocesebut may take into account the finding of any such formal investigation or enquiry.
 - (b) inquire into, make any findings in relation to or take into account any alleged breach of:
 - (i) faith of the Church, including the obligation to hold the faith;
 - (ii) ritual of the Church, including the rites according to the use of the Church and the obligation to abide by such use; or
 - (iii) ceremonial of the Church, including ceremonial according to the use of the Church and the obligation to abide by such use.
73. In making any determination the Board shall take into account:
- (a) the conduct of the Church worker as it finds it to have been;
 - (b) in the material before the Board, any other fact or circumstance relevant to the determination of the question or questions before it; and
 - (c) any failure of the Church worker to comply with a provision of this Ordinance or with a direction of the Board.
74. If, after investigating the question or questions referred to it about a Church worker, the Board is satisfied that:
- (a) the Church Worker is unfit, 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 Holy Orders or in the employment of a Church body; or
 - (b) in the exercise of a Church worker's ministry or employment or in the performance of any function, the Church worker should be subject to certain conditions or restrictions;
- the Board may determine accordingly and may:
- (c) recommend that the Church worker be counselled;
 - (d) recommend that the Church worker be suspended from office or employment or from performing the function as the case may be for such period determined by the Board;
 - (e) recommend to the Church authority that the licence or authority of the Church worker be revoked;
 - (f) recommend to the relevant Church authority that the Church worker's contract of employment (if any) be terminated;
 - (g) recommend to the relevant Church authority that the Church worker cease to hold any office then held;

- (h) recommend to the relevant Church authority that a prohibition order be made in terms specified by the Board;
 - (i) recommend to the relevant Church authority that the Church worker's holding of office or employment or performance of the function as the case may be, shall be subject to such conditions or restrictions as the Board may specify;
 - (j) recommend that the operation of a determination shall be suspended for such period and upon such conditions as the Board shall specify;
 - (k) recommend that the Church worker should be deposed from Holy Orders;
 - (l) make such other recommendation as the Board sees fit.
75. The Board shall cause a copy of each determination and recommendation to be provided:
- (a) to the relevant Church authority; and
 - (b) to the respondent; and
- shall cause relevant details to be forwarded for entry into the national register.
76. A relevant Church authority to whom a recommendation under this Ordinance or a recommendation made by an equivalent Board applies is empowered to give effect to a recommendation of the Board and of an equivalent body having jurisdiction to make a recommendation to the Church authority.
77. A person who has been deposed from Holy Orders in accordance with this Ordinance or in accordance with the provisions of any ordinance, act, Ordinance, constitution, statute, legislative measure or provision of the general synod or the diocesan synod of another diocese of this Church;
- (a) is incapable of:
 - (i) officiating or acting in any manner as a bishop, priest or deacon of this Church;
 - (ii) accepting or holding 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) shall not hold himself or herself out to be a member of the Clergy; and
 - (d) is not capable of holding an office in the Church which may be held by a lay person without the prior consent of the Bishop.
78. (1) The deposition of a person's Holy Orders by the Bishop pursuant to the recommendation of the Board or an equivalent body shall be effected by the execution by the Bishop of an Instrument of Deposition in or to the effect of the form in the Schedule.
- (2) The Bishop must forthwith:
- (a) register the Instrument in the Registry of the Diocese;
 - (b) deliver a copy of the Instrument to the Bishop of the Diocese in which the person who is the subject of the Instrument was ordained;
 - (c) deliver a copy of the Instrument to the Registrar of the Primate;
 - (d) cause relevant details to be forwarded for entry into the national register.

79. A relevant Church authority to whom this Ordinance applies shall cause relevant details to be forwarded for entry into the national register of any action taken in relation to a Church worker in accordance with a recommendation of the Board.

Part 11 – Regulations

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

Part 12 – Review

Part 12 Added 2010

81. In this Part, unless the context otherwise requires:

“**reviewable decision**” means a determination or recommendation of the Board which, if acted upon by the relevant Church authority, may have the effect of:

- (a) deposing the respondent from Holy Orders; or
- (b) terminating the respondent’s contract of employment, or removing or suspending the capacity of the respondent to gain income as a Church worker;

“**Reviewer**” means a barrister of not less than 10 years standing appointed at the Director’s request by the President of the NSW Bar Association, or if the President is unwilling to appoint, or unreasonably delays doing so, appointed by the Chancellor.

82. A respondent who is aggrieved by a reviewable decision may apply to the Director for a review of the decision.
83. The application may be made on any one or more of the following grounds:
- (a) that a breach of the rules of natural justice happened in relation to the making of the reviewable decision which materially affected the decision;
 - (b) that procedures that were required by this ordinance to be observed in relation to the making of the reviewable decision were not observed, and the non-observance materially affected the decision; or
 - (c) that the Board did not have jurisdiction to make the reviewable decision; or
 - (d) that the reviewable decision was so devoid of any plausible justification that no reasonable Board could have made it; or
 - (e) the availability of fresh and compelling evidence which, if available at the time, would be likely to have materially affected the Board’s decision; or
 - (f) that the Board seriously misdirected itself as to the applicable law.
84. For a reviewable decision, a Church authority shall not act under the provisions of section 71 until the time for lodging an application for review has passed, and no application has been lodged.
85. The making of an application for review acts as a stay of the reviewable decision pending the determination by the Reviewer.
86. Nothing in this Part, however, affects the power of a Church authority to take any action against a respondent which would be open to the Church authority apart from its powers under this Ordinance.

87. For a reviewable decision, the Board shall not cause the relevant details to be forwarded for entry into the national register under section 70 until:
- (a) the time for lodging an application for review has passed, and no application has been lodged; or
 - (b) where an application for review has been heard and determined, the determination has been made.
88. If a determination on review confirms or varies a reviewable decision, then the Board must cause the details of the confirmed or varied decision to be forwarded to the Director for entry into the national register as soon as it receives the Reviewer's determination.
89. If a Reviewer's determination refers a matter back to the Board, then the Board must:
- (a) determine to take no further action in respect of the matter; or
 - (b) deal with the matter in accordance with Part 10 of this Ordinance in accordance with such directions or recommendation as the Reviewer may make in the Reviewer's determination; or
 - (c) deal with the matter in accordance with Part 10 of this Ordinance applying such of the provisions of Part 10 as, in the discretion of the Board and in accordance with the Reviewer's determination, the Board sees fit.
90. (1) An application to the Director for review of the reviewable decision must be made within 14 days of the respondent being provided with a copy of the Board's determination and recommendation under section 74.
- (2) The application for review must:
- (a) be in writing addressed to the Director; and
 - (b) set out the grounds for review in the application.
91. On receipt of an application for review, the Director must immediately seek the appointment of a Reviewer.
92. (1) Upon appointment of a Reviewer, the Director must ask the Reviewer for the Reviewer's estimate of the fee to be charged by the Reviewer in making a determination under this Part.
- (2) Upon receipt of advice as to the estimated fee, the Director must immediately notify the respondent.
- (3) Within 7 days of receipt of the Director's advice, the respondent must pay one half of the estimated fee to the Reviewer, or to a person nominated by the Reviewer.
- (4) If the respondent fails to make the payment, then the application for review will lapse.
93. Unless otherwise specified in this Ordinance, the manner in which the review is to be conducted will be determined by the Reviewer.
94. On an application for review of a reviewable decision, the Reviewer may make all or any of the following determinations:
- (a) a determination quashing or setting aside the reviewable decision;
 - (b) a determination referring the matter to which the reviewable decision relates to the Board for further consideration, subject to such directions (including the setting of time limits for the further consideration, and for the steps to be taken in the further consideration) as the Reviewer determines;

- (c) a determination declaring the rights of the respondent in relation to any matter to which the reviewable decision relates;
 - (d) a determination directing either the respondent or the Board, to do, or to refrain from doing, anything that the Reviewer considers necessary to do justice between the parties;
- and shall cause a copy of the determination or finding to be provided to the Director.
95. The Reviewer may make such order as to the costs of the review as the Reviewer thinks fit.
96. The review shall be by way of the review of the recommendation or determination that is the subject of the review and not by way of a re-hearing of the merits, or a hearing de novo.

NOTES:

2010 Amended by the Professional Standards (Amendment) Ordinance 2010.

SCHEDULE TO

I, BISHOP OF NEWCASTLE
do by these presents hereby depose you from Holy Orders (particulars of which are set out below) in accordance with the recommendation of the Professional Standards Board of the Diocese of Newcastle.

PARTICULARS OF HOLY ORDERS

FULL NAME AND ADDRESS:

	ORDAINING BISHOP	PLACE		DATE
--	------------------	-------	--	------

ORDINATION AS DEACON:

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ORDINATION AS PRIEST:

--	--	--	--	--

CONSECRATION AS BISHOP:

--	--	--	--	--

DATED

SEALED

Faithfulness in Service

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

**Revised and Adopted by Diocese of Newcastle
Anglican Church of Australia**

2005

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The Director
Professional Standards Committee
Anglican Church Diocese of Newcastle
PO Box 817
NEWCASTLE NSW 2300

Abuse report line number: 1800 774 945

FOREWORD

Foreword by the Bishop of Newcastle

Pastoral ministry in the Church by clergy or lay people is a high calling by God and carries with it both responsibilities and risk. People place great trust in those who exercise ministry in the Church for ministry is carried out in the name of the Lord Jesus Christ whom we serve and represent.

The example of Jesus shows that those engaged in ministry must be particularly mindful of people who are vulnerable or weak and especially children. Jesus said: *“Let the little children come to me, and do not hinder them, for the kingdom of God belongs to such as these.”* (Mark 10.14)

This Code of Conduct begins with the Exhortations to Deacons and Priests. They remind us that all ministries have their origin in God’s call and the Church’s discernment, and that their context is in a fragile world amongst broken people.

The ministries of the Church should bear the precious gift of God’s grace.

Faithfulness in Service provides national guidelines for the practice of ministries. The Church should be known as a place where it is safe for children and adults to be. We must provide space for truthfulness, accountability, forgiveness and healing. Any misconduct distorts the grace of God and places barriers in the way of those who would accept God’s love.

I encourage all clergy and church workers to study and use as a professional resource this document *Faithfulness in Service*. Be prayerful and reflective with it so that your personal behaviour and pastoral ministry show forth the love of our Lord, as Saint Paul writes, *“Whatever happens, conduct yourselves in a manner worthy of the gospel of Christ.”* (Philippians 1.27).

The Right Reverend Dr Brian Farran
Bishop of Newcastle

THE MISSION STATEMENT OF THE DIOCESE OF NEWCASTLE

- ✘ The Church exists to:
- ✘ Provide for the worship of God in Christ Jesus
- ✘ Proclaim the Gospel
- ✘ Teach, Baptise and Nurture believers
- ✘ Provide compassionate care to all in need
- ✘ Change unjust social structures
- ✘ Care for all God's creation

POSITION STATEMENT

The Anglican Diocese of Newcastle in its Mission Statement is committed to providing compassionate care to all in need and to changing unjust social structures.

The Diocese regards any professional misconduct by a church worker, especially sexual misconduct as very serious.

The Diocese is committed to support, seek justice for and promote the welfare of those who suffer because of sexual misconduct, abuse or harassment, including the complainant, members of the complainant's family and close associates, the parish and the wider Church community.

The Diocese is also committed to support, seek justice for and promote the welfare of those who are accused of sexual misconduct, abuse or harassment, including accused workers, members of their families and close associates, the parish, and the wider Church community.

The Diocese will be open and accountable. In dealing with these matters it will act with integrity and transparency.

THEOLOGICAL STATEMENT

The Diocese is convinced that every person must be respected, and treated with respect. For all people are created in the image of God and the object of God's love revealed in the reconciling life, death and resurrection of Jesus Christ.

Christians believe that God is love. Our faith holds that the community of God revealed as Father, Son and Holy Spirit, models this love. The Church that worships God in Trinity is called to reflect that love in its treatment of one another and in the way it deals with the pain of abusive and fractured relationships.

The manner in which we deal with abuse, pain or distress is part of our witness to the truth of God who loves and cares for the world. The manner in which we deal with allegations of misconduct is part of our witness to the truth of God who requires integrity, justice, mercy and humility in God's people.

Exhortation at the Ordination of Deacons

Our Lord and Saviour Jesus Christ lived and died
as the servant of God.

All who follow him are called to serve God in the world,
setting forward Christ's kingdom through the power of the Spirit.
Christ has called you to the office of deacon.

You are to be an ambassador of Christ,
serving God as you serve others in Jesus' name.
Proclaim the good news of God's love,
so that many may be moved to faith and repentance,
and hearts be opened to do justice,
love mercy, and walk humbly in the presence of God.
Let the transforming love of Jesus be known to all
among whom you live and work.
Strengthen the faithful, teach the young,
search out the careless and indifferent.
Encourage the members of Christ's body by word and example,
ministering among the sick, the needy
and all who are oppressed or in trouble.

Together with your bishop, priest and people,
you are to take your place in public worship,
assist in the administration of the sacraments,
and play your part in the life and councils of the Church.
You are to preach the word of God in the place to which you are licensed,
and to pray and work for peace and justice in the world.
As a deacon, you are to model your life according to the word of God.
Study the Scriptures, reflecting with God's people upon their meaning,
that all may be equipped to live out God's truth in the world.
Put away all that does not make for holiness of life.
Be faithful in prayer, that you may have strength to run
the race that is set before you.

Exhortation at the Ordination of Priests

Our Lord Jesus Christ summons us all
to obedience and discipleship.
In baptism we are called to be a royal priesthood,
a people belonging to God, to make Christ known in all the world.

Now you are responding to the call of God and of the Church
to live and work as a priest, a pastor and teacher,
for God's glory and the strengthening of God's people.
You know the responsibility and significance of this office.
I now exhort you, in the name of Christ,
to take up your calling with joy and dedication.
As the Lord's messenger, proclaim the gospel of Jesus Christ.
Seek the lost, announce God's justice, warn and correct those in error.
You are to encourage and build up the body of Christ,
preaching the word of God,
leading God's people in prayer,
declaring God's forgiveness and blessing,
and faithfully ministering the sacraments of God's grace
with reverence and care.

Together with your bishop and other ministers,
you are to take your part in the life and councils of the Church.
Be a pastor after the pattern of Christ the great Shepherd,
who laid down his life for the sheep.
Be a teacher taught by the Lord in the wisdom of holiness.
Lead the people of God as a servant of Christ.
Love and serve the people with whom you work,
caring alike for young and old, rich and poor, weak and strong.
Never forget how great a treasure is placed in your care:
the Church you must serve is Christ's spouse and body,
purchased at the cost of his own life.

Remember that you will be called to give account before Jesus Christ: if it should come about that the Church, or any of its members, is hurt or hindered as a result of your negligence, you know the greatness of the fault and the judgement that will follow. Therefore apply yourself with diligence and care, and fashion your life and ministry in accordance with Christ's example.

As you depend on the Holy Spirit and the grace of God,
 put away all that does not make for holiness of life.
 Clothe yourself with humility; be constant in prayer.
 Study the Scriptures wholeheartedly,
 reflecting with God's people upon their meaning,
 so that your ministry and life may be shaped by Christ.
 We have every confidence that you have already pondered these things deeply.

From *A Prayer Book for Australia* published under the imprint Broughton Books E J Dwyer 1995. Pages 785 and 793.

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1 ABOUT THIS CODE

Faithfulness in service

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

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

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

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

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

Purpose

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

Implementation

This Code was adopted by the General Synod of the Anglican Church of Australia in 2004 and by the Diocesan Council and the Synod of the Diocese of Newcastle in 2005. It is a revision of 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 Parish, Organisation or Diocesan entity will need to ensure that its clergy and church workers are trained in this Code or a similar one approved by the Diocesan Council. All church workers and those who work in our schools, aged care facilities or in the Samaritans Foundation must be aware of 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 3, Children.

2 KEY TERMS

abuse in relation to an adult means the following conduct:

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

bullying means the repeated seeking out or targeting of a person to cause them distress and humiliation or to exploit them. It includes:

- exclusion from a peer group;
- intimidation; and
- extortion.

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 pornography means sexually explicit or suggestive material involving children.

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 ministry within, or on behalf of, or in the name of, the Church.

church worker means a lay person who is licensed by the bishop of a diocese and any other lay person:

- who is employed by a church body; 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 church authority 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. Such acts include:

- name calling;
- threats;
- ridicule;
- intimidation;
- isolation; and
- ill treatment in the form of coldness, hostility or rejection.

grooming is a process that involves the manipulative cultivation of relationships with vulnerable adults or children, their parents or guardians and others in authority as the means of initiating or hiding abusive behaviour.

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:

- physical contact;
- gestures or language (overt or implied) including continual and unwarranted shouting;
- unjustified or unnecessary comments about a person's capacities or attributes;
- openly displayed pictures, posters, graffiti or written materials;
- communications in any form (for example, phone calls, email, text messages) ; and
- following or stalking.

individual pastoral ministry means pastoral ministry carried out on an individual basis. It includes spiritual direction, or pastoral counselling arising out of bereavement, divorce or other life crises.

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

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

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

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

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

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

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

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

prohibited material means:

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

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

restricted material means:

- publications, films, and computer games that have been classified as Category 1 or 2 restricted, X or RC classification by the Office of Film and Literature Classification; and
- any other images or sounds not subject to classification by the Office of Film and Literature Classification (for example, internet material) that are considered with good reason within the Church as being offensive on the grounds of violence, sex, language, drug abuse or nudity.

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

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

- sexual touching and fondling;
- being forced to touch or fondle another person;
- kissing or holding in a sexual manner;
- being forced to perform oral sex;
- vaginal or anal intercourse;
- vaginal or anal penetration with an object or any bodily part;
- making any gesture or action of a sexual nature in a child's presence;
- making sexual references or innuendo using any form of communication;
- voyeurism;
- exposure to any form of sexually explicit or suggestive material;
- discussion of, or inquiry about, personal matters of a sexual nature;
- being forced to masturbate self or others, or watch others masturbate; and
- indecent exposure.

Sexual abuse of a child does not include:

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

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

- sexual touching and fondling;
- being forced to touch or fondle another person;
- kissing or holding in a sexual manner;
- being forced to perform oral sex;

- vaginal or anal intercourse; and
- vaginal or anal penetration with an object or any bodily part.

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

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

- implicit or explicit demands or suggestions for sexual activities;
- making any gesture, action or comment of a sexual nature to a person or about a person in their presence;
- making jokes containing sexual references or innuendo using any form of communication;
- exposure to any form of sexually explicit or suggestive material;
- unwelcome physical contact such as touching, pinching, patting or aggressive physical conduct;
- unwelcome or unnecessary discussion of, or inquiry about, personal matters of a sexual nature;
- unwelcome and inappropriate intrusion of personal space;
- voyeurism; and
- persistent following or stalking.

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

- the use of a position of spiritual authority to dominate or manipulate another person or group;
- isolation from friends and family members;
- claims for inappropriate deference to a person with spiritual authority; and
- the use of Christian terminology to justify abuse.

3 PUTTING THIS CODE INTO PRACTICE

Preamble

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

Standards for clergy and church workers

- 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 to not penalise, discriminate or take action against other clergy or church workers because of any action taken in good faith under this Code.

Guidelines

- 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 the 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 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 the church worker.

4 PASTORAL RELATIONSHIPS

Preamble

- 6.1 All people are created in the image of God and are of equal value. This is the foundation of all pastoral relationships.
- 4.2 Clergy have authority conferred upon them by their ordination, consecration and licensing. Church workers have authority conferred upon them by their appointment. The authority and training associated with their roles means that they have power in pastoral relationships which is always to be exercised in the service of others.
- 4.3 Trust is of primary importance in the creation and maintenance of an effective pastoral relationship. Trust grows with the maintenance of physical, sexual, emotional and psychological boundaries suitable to pastoral ministry. (The issues of Children and Sexual Conduct are addressed in Sections 5 and 7 respectively.) Clergy and church workers will enhance their ability to maintain these boundaries by attending to their own wellbeing.
- 4.4 While clergy and church workers often enjoy personal friendships with those to whom they minister, their pastoral ministry responsibilities take precedence.
- 4.5 Clergy and church workers are colleagues in pastoral ministry: the activity of one inevitably impacts upon the ministry of others.

Standards for clergy and church workers

- 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 not inappropriately to discriminate between people.
- 4.8 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).
- 4.9 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

Boundaries

- 4.10 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.
- 4.11 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.

- 4.12 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.
- 4.13 Avoid behaviour that could give the impression of favouritism and inappropriate special relationships, particularly with individual children.
- 4.14 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.
- 4.15 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.
- 4.16 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.
- 4.17 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

- 4.18 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.
- 4.19 Try to develop interests outside your main area of ministry and continue to care for yourself and your personal and family relationships.
- 4.20 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

- 4.21 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.
- 4.22 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.
- 4.23 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.

- 4.24 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.
- 4.25 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.
- 4.26 You may have a legal obligation to report criminal offences to the applicable civil authorities (the issue of child abuse is addressed in Section 5). You may be subpoenaed to produce documents or to attend court to give evidence, or both. In some States or Territories, clergy may be able to claim privilege from producing documents and/or disclosing information obtained in a confession referred to in paragraphs 4.23 to 4.25.
- 4.27 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.
- 4.28 Exercise special care that any illustrative material you use from personal experience does not involve a breach of confidentiality.

Conversations in a ministry context

- 4.29 Formal interviews and informal conversations in a ministry context are pastoral encounters. Consider the appropriateness and effect of your words and actions. For example, 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 discerning about the motives and needs of the other person and your own ability to assist.
- 4.30 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.

Record-keeping and privacy

- 4.31 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.
- 4.32 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

- 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 to not administer corporal punishment to children in your care.
- 5.12 You are to not 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

Recognising the characteristics and effects of child abuse

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

Characteristics and effects of child abuse

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

The signs and symptoms can include:

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

Abuse of a child is often preceded by **grooming**.

Characteristics and effects of child abuse

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.

Characteristics of sexual offenders

Sexual offenders generally:

- do not stop unless there is some intervening factor;
- believe or assert that the victim is complicit or a willing participant;
- attempt to deny, justify, minimise or excuse their behaviour by:
 - claiming their behaviour was an expression of love for the victim;
 - claiming their behaviour was a result of their childhood abuse;
 - claiming their behaviour was influenced by stress, the use of alcohol or other substances; and
 - blaming the victim;
- enjoy the activity, despite claims to the contrary; and
- are repeat offenders.

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

Ensuring the safety of children

5.18 Taking all reasonable steps to ensure the safety and welfare of children for whom you have overall responsibility or are in your care requires you to consider the following issues:

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

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.

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 capability

- 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 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.

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 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 health or safety needs of children in your care (e.g. allergies).

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 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 or 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.

Physical Contact

- 5.42 In general ó excluding circumstances such as immediate physical danger or medical emergency ó 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.
- 5.43 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;

Children and physical contact

- 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.

Record keeping

5.44 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.

5.45 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; and
- consider including such registers in the church archives.

5.46 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.
- 6.2 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

- 6.3 You are to not engage in:
- bullying;
 - emotional abuse;
 - harassment;
 - physical abuse;
 - sexual abuse; or
 - spiritual abuse.
- 6.4 You are to not abuse your spouse, children or other members of your family.
- 6.5 You are to be responsible in your use of alcohol and other mind altering or addictive substances or services.
- 6.6 You are to not undertake any pastoral ministry when you are impaired by alcohol or any other mind-altering or addictive substances.
- 6.7 You are to not use any prohibited substance.
- 6.8 You are not to take property belonging to others, including intellectual property.
- 6.9 You are not knowingly to make statements that are false, misleading or deceptive.
- 6.10 You are not knowingly to use offensive language.
- 6.11 Without a legitimate purpose you are to not view, possess, produce or distribute restricted material.
- 6.12 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

- 6.13 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.
- 6.14 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.
- 6.15 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.
- 6.16 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.
- 6.17 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.
- 6.18 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.
- 6.19 When engaged in civil disobedience, do not act violently or intentionally provoke violence.
- 6.20 Be sensitive to the effect of your dress on others. Dress appropriately to the context.
- 6.21 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

- 7.4 Your sexual behaviour should be characterised by faithfulness and integrity.
- 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.

Guidelines

- 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

- 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

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.

APPENDIX A

Legislation on Confessions and Mandatory Reporting

The Evidence Act 1995 (NSW) provides:

127 Religious confessions

(1) A person who is or was a member of the clergy of any church or religious denomination is entitled to refuse to divulge that a religious confession was made, or the contents of a religious confession made, to the person when a member of the clergy.

(2) Subsection (1) does not apply if the communication involved in the religious confession was made for a criminal purpose.

(3) This section applies even if an Act provides:

- (a) that the rules of evidence do not apply or that a person or body is not bound by the rules of evidence, or
- (b) that a person is not excused from answering any question or producing any document or other thing on the ground of privilege or any other ground.

(4) In this section: religious confession means a confession made by a person to a member of the clergy in the member's professional capacity according to the ritual of the church or religious denomination concerned. The *Evidence Act* provisions uphold and support the *General Synod Canon Concerning Confessions 1989* which was adopted by the Diocese of Newcastle in 1990. Section 2 of that Canon provides:

If a person confesses 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 confessed and committed to trust and secrecy by that person without the consent of that person.

The temporal law also provides for mandatory reporting of actual or suspected abuse of children in certain circumstances, an obligation that is cast on specified people which does include all clergy and may include Church Workers and with which those Church Workers must comply.

In New South Wales, the *Children and Young Persons (Care and Protection) Act 1998* provides:

27 Mandatory reporting

This section applies to

- (a) a person who, in the course of his or her professional work or other paid employment delivers health care, welfare, education, children's services, residential services, or law enforcement, wholly or partly, to children, and
- (b) a person who holds a management position in an organisation the duties of which include direct responsibility for, or direct supervision of, the provision of health care, welfare, education, children's services, residential services, or law enforcement, wholly or partly, to children.

(2) If:

- (a) a person to whom this section applies has reasonable grounds to suspect that a child is at risk of harm, and
- (b) those grounds arise during the course of or from the person's work, the person must, as soon as practicable, report to the Director-General the name, or a description, of the child and the grounds for suspecting that the child is at risk of harm.

Maximum penalty: 200 penalty units.

29 Protection of persons who make reports

(1) If, in relation to a child or young person, a person makes a report in good faith to the Director-General or to a person who has the power or responsibility to protect the child or young person:

- (a) the making of the report does not constitute a breach of professional etiquette or ethics or a departure from accepted standards of professional conduct, and
- (b) no liability for defamation is incurred because of the report, and
- (c) the making of the report does not constitute a ground for civil proceedings for malicious prosecution or for conspiracy, and
- (d) the report, or evidence of its contents, is not admissible in any proceedings (other than care proceedings in the Children's Court, or any appeal arising from those care proceedings), and
- (e) a person cannot be compelled in any proceedings to produce the report or a copy of or extract from it or to disclose or give evidence of any of its contents, and

- (f) the identity of the person who made the report, or information from which the identity of that person could be deduced, must not be disclosed by any person, except with:
 - (i) the consent of the person who made the report, or
 - (ii) the leave of a court or other body before which proceedings relating to the report are conducted,

and, unless that consent or leave is granted, a party or witness in any such proceedings must not be asked, and, if asked, cannot be required to answer, any question that cannot be answered without disclosing the identity or leading to the identification of that person.

Church Workers must observe the requirements of the Memorandum of Understanding between the New South Wales Department of Community Services (DoCS) and Participating Churches in NSW dated March 2001 relating to Allegations of Sexual Abuse/Assault involving a child or young person by a Church worker.