

The Anglican Church of Australia
DIOCESE OF RIVERINA

The Protocol relating to Professional Standards
Complaints within the Diocese.

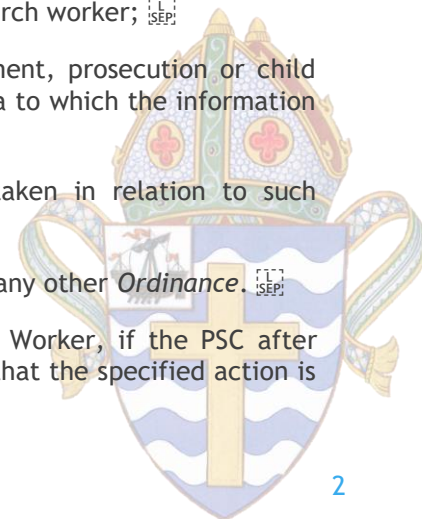
The Anglican Diocese of Riverina affirms as the Church's *Safe Ministry Policy Statement*:

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

- Carefully recruit and train its clergy and church workers;
- Adopt and encourage safe ministry practices by its clergy and lay church workers;
- Respond promptly to each concern raised about the behaviour of its clergy and lay church workers;
- Offer pastoral support to any person who has suffered abuse; and
- Provide pastoral support to, and supervision of, any person known to have abused a child or another vulnerable person.”

The Professional Standards Committee (PSC) is responsible for maintaining the highest professional standards throughout the Anglican Church of Riverina, regarding allegations of abuse about the conduct of Anglican Diocese of Riverina appointees and the oversight is education around safety, risk mitigation, child protection and the effects of abuse. The PSC has the following powers and duties:

- . (a) To implement the Professional Standards protocol to the extent that the policies and/or protocol(s) ^[L]_[SEP]are not inconsistent with *Professional Standards Ordinance 2022*; ^[L]_[SEP]
- . (b) To receive information regarding allegations of abuse; ^[L]_[SEP]
- . (c) To act on information in accordance with the provisions of the *Professional Standards Ordinance 2022*, and this protocol (to the extent that it is not inconsistent with the Ordinance); ^[L]_[SEP]
- . (d) To appoint suitable persons to fulfill the several roles required to implement the protocol in each particular case; ^[L]_[SEP]
- . (e) Where appropriate, to arrange for the conciliation or mediation of any complaint the subject of information; ^[L]_[SEP]
- . (f) To investigate information regarding abuse or risk of harm in a timely and appropriate manner;
- . (g) Where appropriate, to recommend to the *Diocesan Council* any changes to the protocol; ^[L]_[SEP]
- . (h) 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 the *Professional Standards Ordinance 2022*;
- . (i) 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; ^[L]_[SEP]
- . (j) 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]_[SEP]
- . (k) To maintain proper records of all information received and of action taken in relation to such information; ^[L]_[SEP]
- . (l) To exercise such other powers and functions as are conferred on it by this or any other *Ordinance*. ^[L]_[SEP]
- . (m) Advise and make recommendations in relation to Clergy or a lay Church Worker, if the PSC after investigation of the Complaint, is satisfied that the Complaint is sustained and that the specified action is appropriate in all the circumstances.





The power and duty of the PSC to exercise its functions under the *Professional Standards Ordinance 2022* involves the following matters:

- (a) alleged conduct of a Church Worker wherever or whenever occurring involving sexual harassment or assault, or sexually inappropriate behaviour; or
- (b) alleged inappropriate or unreasonable conduct or omission of a Church Worker who had knowledge of conduct of another Church Worker involving sexual harassment or assault, or sexually inappropriate behaviour; or
- (c) an alleged process failure (that is, 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) above); or
- (d) an alleged serious breach of standards set out in the 'code of conduct' as defined by the *Safe Ministry to Children Canon 2017*; or
- (e) alleged “Abuse” or “Child Abuse” as defined in the Code of Conduct

A member of the Clergy or a Church Authority in the Diocese shall, as soon as possible, refer any information on Examinable Conduct in their possession or knowledge to the Professional Standards Director unless there are reasonable grounds to believe that the Professional Standards Director already knows the information.

This does not affect the operation of the Canon Concerning Confessions 1989 as amended of General Synod or any other canon or legislative instrument relating to confessions in force in the Diocese.

The Protocol on the Code of Conduct relating to Professional Standards

1. INTRODUCTION

The Anglican Diocese of Riverina lives, works, and ministers in an increasingly complex and dynamic environment. It is critical to the continued success of the Anglican Diocese of Riverina that the institution maintains the confidence and trust of the community in which it serves.

Central to the confidence and trust placed in the Anglican Diocese of Riverina is the integrity and professionalism of its appointees and the ability of the institution to prevent any wrongdoing and corruption.

As such, the Synod or the *Diocesan Council* shall from time to time, approve a set of professional standards for observance by Clergy and Church Workers in the Diocese. These 'Professional Standards' of the Anglican Diocese of Riverina appointees are underpinned by the code of conduct "Faithfulness in Service".

Examinable Conduct occurs when Clergy or Church Workers are found to have breached the code of conduct *Faithfulness in Service* in their practice and/or conduct.

2. PURPOSE

2.1 The Diocese of Riverina has adopted these By-Laws on the Code of Conduct relating to Professional Standards and Complaints for the following purposes:

- (i) To ensure the maintenance of *Faithfulness in Service* standards in the ministry of Clergy and Church Workers; and ^[1]_[SEP]
- (ii) To allow for receipt of Complaints and effectively respond to complaints about alleged abuse and where there is a risk of harm by Clergy and Church Workers; and ^[1]_[SEP]
- (iii) To provide a process for the Diocese of Riverina to address situations in which Clergy and Church Workers refuse or fail to participate in the processes and procedures as required of them, which are set out within this document. ^[1]_[SEP]

3. INFORMAL RESOLUTION OF COMPLAINTS & PROCEDURAL FAIRNESS

3.1 The PSC is not a licensed law enforcement agency. Any crime reported to the PSC must be recorded and handed over to the relevant law enforcement agency or agencies. The findings of a law enforcement agency or Court will be viewed as the findings of the PSC.

3.2 In matters that are referred to Conciliation or Mediation, the PSC endeavours to provide Complainants and Respondents with a process that is fair, reasonable, and efficient in the resolution of concerns, via mutual agreement and a shared understanding of how to avoid problems in the future. ^[1]_[SEP]

3.3 In matters that are referred to Hearing and/or Appeal Panels, the PSC endeavours to maintain principles of procedural fairness in its management of complaints cases:

- **Without undue delay:** Acting as quickly as possible demonstrates a genuine recognition of the seriousness of any allegation. Care should be taken to avoid delays.
- **Clear Communication:** All parties should be fully and speedily informed during the process Including but not restricted to the process itself, particularly if there is any delay decisions made, and the reasons for the decisions. This ensures transparency in the process.
- **Non-bias manner:** Any complaint will be managed, assessed, conciliated, and

facilitated by persons who have no relationship (biological or other) or bias to any of the parties involved. By limiting possible bias a more just outcome will be determined

- **Conflict of interest:** Any complaint will be managed, assessed, conciliated, and facilitated by persons who will not derive any positive or negative benefit that could be attained as a result of any particular outcome of the case.
- **Evidence based:** All disputed facts are to be duly assessed in order that no question can be raised as to the legitimacy of any findings.

3.4 Following the principles of procedural fairness:

- The PSC and any other appropriate office holders hearing a complaint shall act fairly, in good faith, and without bias.
- The person/s subject to the allegation/s shall be given the particulars of the allegation in writing.
- Each party will have the opportunity to respond to statements made by the other.
- Each party will have the opportunity of adequately stating their case and correcting or contradicting any relevant statement prejudicial to the person's case.
- Each party will be offered pastoral support by the Diocese, even if this support needs to come from outside the structure.

4. PRIVACY

4.1 No party will communicate or release information about the matter to anyone outside the PSC and the relevant parties specified in the complaint/investigation. If a situation arises where some additional form of communication is deemed necessary by the PSC, the PSC will obtain legal advice before taking any step to communicate or release information involved in the PSC investigation.

When the Director of Professional Standards (Director) reports to the PSC or other office holders, they will focus on the needs of: the person/s bringing the complaint, any family; the person/s subject of the allegation/s; and the congregation/agency.

Jesus uncompromisingly told the truth in love. He called people to act rightly and uphold the rights of those who had been oppressed or were powerless to get justice (Mt 23:23). This commitment means calling abusers to true change in heart and action. This differs greatly from guilt-ridden remorse. What is needed is a readiness to accept discipline and make restitution. These are indicators of true change (Mt. 3:7-12). In Ezekiel (18:30-31), God requires a responsible owning by the abuser of the hurt caused to the victim and a complete change of attitude and behaviour.

4.2 Duty of Confidentiality

- (1) During the course of an investigation by the PSC neither the person making allegations of Examinable Conduct, or if more than one any of the persons, nor the Respondent may make any disclosure of the nature or details of the Information that would be prejudicial to the procedural fairness or natural justice of the investigation.
- (2) In making any disclosure under subsection 30(1), the person disclosing the nature or details of the Information must use their best efforts to prevent the person or persons to whom the disclosure is made further disclosing the nature or details of the Information.
- (3) Neither the person making allegations of Examinable Conduct, or if more than one any of the persons, nor the Respondent must contact or attempt to contact the other regarding the allegations, either personally or through a third party unless permitted or directed by the PSC.
- (4) Neither the person making allegations of Examinable Conduct, or if more than one any of the persons, nor the Respondent must contact or attempt to contact a member of the PSC regarding the allegations, either personally or through a third party other than as permitted under this Ordinance or Protocol.
- (5) The failure by a party to comply with this may be taken into account by the PSC in their investigation and where appropriate may be included in the Information or dealt with as new Information.

Nothing in this Section prevents any person disclosing

the existence, nature or details of the Information to any Equivalent Body, law enforcement agency, court, tribunal or as required to or compelled by law. ^[1]_{SEP}

4.3 The PSC consists of at least three members. This includes the Director of Professional Standards. The membership of the PSC shall be constituted so as collectively to provide:

- (a) Experience in law;
- (b) Experience in the ordained Ministry;
- (c) Recent experience and appropriate professional qualifications in child protection, social work or counseling; and

4.4 The power and duty of the PSC to exercise its functions under the *Professional Standards and Ordinance 2022* arises in respect of:

- (a) alleged conduct of a Church Worker wherever or whenever occurring involving sexual harassment or assault, or sexually inappropriate behaviour; or
- (b) alleged inappropriate or unreasonable conduct or omission of a Church Worker who had knowledge of conduct of another Church Worker involving sexual harassment or assault, or sexually inappropriate behaviour; or
- (c) an alleged process failure (that is, 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) above); or
- (d) an alleged serious breach of standards set out in the 'code of conduct' as defined by the *Safe Ministry to Children Canon 2017*; or
- (e) alleged "Abuse" or "Child Abuse" as defined in the Code of Conduct

5. ELIGIBLE COMPLAINANTS

5.1 There are three (3) eligible groups of people who may make a complaint regarding abuse to the PSC about Clergy or Church Workers.

- (i) A person who is the direct recipient of the ministry services of that Clergy or Church Worker and is directly affected by the actions of them. ^[1]_{SEP}
- (ii) The authorized representative of the direct recipient, in situations where the recipient does not have capacity to make a complaint because they are a minor, or because of mental incapacity. ^[1]_{SEP}

- (iii) A Clergy or Church Worker who is obliged to report suspected misconduct and breaches of *Faithfulness in Service*, pursuant to the *Professional Standards Ordinance 2022*. ^[1]_{SEP}

6. PROCESS

6.1 Receiving Complaint/s

A complaint may be made either orally or in writing, or partly orally and partly in writing.

6.2 Where a complaint is received by any other clergy, church worker or other office holder other than the Director of Professional Standards (Director) relating to abuse they will forward the complaint to the Director as soon as possible and practical.

The PSC may refrain from an 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. If this be a law enforcement agency or Court, then their findings will be viewed as the findings of the PSC;
- (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.

6.3 Tier 1 Matters

A tier 1 matter is a complaint that is NOT Examinable Conduct, but may be a matter that needs addressing as a potential Code of Conduct concern:

1. Upon receiving the complaint, the PSC will seek further information if necessary and to assess the gravity of the matter. If it appears the complaint may be Examinable Conduct (that is, conduct that be be construed as abuse) then Tier 2 processes are implemented.
2. Depending of the gravity of the allegations, the complaint may be summarily dismissed.

Alternatively the PSC may contact the clergy to speak to them about the matter, or pass the information onto the Bishop in case they may want to talk to the clergy or Church Worker about the complaint.

3. Should the PSC or Bishop determine that the complaint is sincere and has some merit of potential concern, steps or a process of care may be put in place to prevent or mitigate the behaviour at the centre of the complaint before it becomes a concern. This may include, but is not limited to:
 - A Pastoral phone call
 - Mediation
 - A break or holiday
 - Mentoring or support programme
 - A visit to the Place of Ministry to assess and initiate frameworks for healthy and safe community engagement.

Tier 1 matters are not recorded as disciplinary action or investigation.

6.4 Tier 2 Matters

A tier 2 matter is a complaint that IS Examinable Conduct:

1. A complaint may be made either orally or in writing, or partly orally and partly in writing.
2. These complaints are initially reviewed by the Director to determine if the complaint falls within the jurisdiction of these Protocols. ^[1]_[SEP]
3. The Director may request additional information from the Complainant to support or clarify the information provided within a timeframe set by the Director. ^[1]_[SEP]
4. The Director will meet (preferably face to face) with the person/s bringing the complaint/s to explain the Professional Standards process, provide them with this protocol document, listen to their story to gain the details of the complaint, complete a **Complaint Lodgment Form**, and offer them appropriate support.
5. If a complaint is not within jurisdiction, the Director will inform the Complainant that the Complaint is dismissed, within ten (10) business days of the PSC receiving the full complaint. ^[1]_[SEP]
6. The formal complaint (set of allegations), will, within 14 days be written up by the Director, and be signed and dated by the person/s bringing the complaint/s.

6.5 Preliminary Enquiry

The Director will complete a preliminary enquiry to gather information prior to notifying the Respondent. This preliminary enquiry may include, but is not limited to the following enquiries/activities:

- (i) Seeking further information from the Complainant to clarify matters raised; ^[1]_[SEP]
- (ii) Obtaining any other information that may be, in the Director's unfettered opinion, appropriate, prudent, relevant or necessary to the subject or circumstances of the Complaint. ^[1]_[SEP]

1. The Director will make initial inquiries as to the validity of the complaint before taking the allegations to the clergy person/s and or church worker/s subject to the allegations.
2. Should the Director determine the allegations to be in all probability, valid the Director **will notify the Professional Standards Committee (PSC)**, and the Bishop as to the nature of the complaint. The Director will also notify other relevant parties including the insurer if deemed appropriate
3. A PSC may be formed to consider a Tier 2 matter. If, in the event a PSC within the Riverina has not be able to be formed, the Diocese of Riverina may use the PSC of another Anglican Diocese within Australia. A letter stating the agreement between the Bishop of Riverina and the Diocesan Bishop of the Diocese from which Riverina will use their PSC will be required.
4. The Director will phone the person/s subject of the allegation/s to arrange a face-to-face meeting to provide them with the formalized complaint and to explain the Professional Standards Ordinance to the person.
5. The Director will ask the person on the phone if they would like to bring another person as a support person to the meeting.
6. At the meeting the PSC will provide the person subject of the allegation/s with the written formalised allegation. They will work carefully through the Protocol process and advise the respondent of any possible sanctions that might follow if the allegations are proven.
7. The PSC may, by notice in writing to a respondent, require the respondent to provide a detailed report to the PSC within an appropriate time specified in the notice in relation to any matter relevant to the investigation. This response in writing should be within 14 days of the PSC request.
8. If formed, a Committee of the PSC may consider and implement **risk management strategies & interim measures**. At any time after the PSC has commenced or caused to be commenced an investigation of information, it may, after giving the respondent an opportunity to be heard, recommend to, or counsel, the respondent, or a church authority ways to correct, mitigate, or repair any perceived breach of Codes or Ordinance which led to an investigation being commenced as long as they are not of a serious criminal nature, Or;
9. At any time after the PSC has commenced or caused to be commenced an investigation of information, 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; ^[1]_[SEP]
 - (b) that a prohibition order be made against the respondent. ^[1]_[SEP]
10. The Bishop should give effect to these recommendations of the PSC. Any temporary measure will not deprive a church worker from whatever stipend, salary or allowance and other benefits that they would otherwise have received, and will continue to be paid under these arrangements until the investigation is concluded.
11. It is the obligation of a respondent:
 - (a) Truthfully to answer any question relevant to the matters raised in the complaint, put by or on behalf of the PSC in the exercise of powers conferred by the **Professional Standards Ordinance 2022**; ^[1]_[SEP]
 - (b) Not to mislead the PSC or a member or delegate of the PSC; ^[1]_[SEP]
 - (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*. [SEP]

12. Discussion of any interim measures to be implemented will be undertaken.
13. The Director will encourage both parties to seek counselling support funded by the Diocese for the duration of the matter and to advise the Director if they wish to avail themselves of this service. The Director will inform the Bishop of the counselling arrangements.

6.6 Response from person/s subject of Tier 2 allegation

1. Not disputed

- I. Where the response of the person/s subject of the allegation/s does not dispute the complaint/s then the PSC may refer the matter for determination, or to the relevant Church Authority for appropriate action.
- II. The PSC shall inform the Bishop of their findings and recommendations and the Bishop after seeking advice, will make the final determination and take appropriate action.

2. Disputed - PSC Investigation of examinable conduct.

- I. Where the response of the person/s subject of the allegation/s disputes the complaint/s, then the matter may be investigated by the PSC or a suitably qualified investigator appointed by the PSC.
- II. For the purpose of an investigation the PSC or an investigator shall legally obtain such statutory declarations, written statements, recorded conversations, reports, documents and other material as the PSC or its delegate considers necessary or advisable for making a determination. The standard of proof to apply when deciding whether a complaint has been substantiated is the balance of probabilities.
- III. The PSC or investigator must assess all the information and material provided by the Complainant, the Respondent, and any other third party in relation to the Complaint. [SEP]
- IV. The PSC or investigator must conduct and complete their assessment of the evidence within a reasonably practicable time period of receiving all the information and evidence. [SEP]
- V. *Depending upon the complexity of the case and how many cases may be being heard, the process may take between of 2-8 months. During this time the Respondent is to continue to receive whatever stipend, salary or allowance and other benefits that they would otherwise have received, regardless of any change to their contracts, licence, or employment status.*
- VI. Once the investigation has been completed and there is enough evidence on the matter for deliberation and determination, it will be referred to the secretary of the PSC with 14 days, including the investigator's report.
- VII. If the determination of the PSC is that the matter is a Tier 1 matter the Director may initiate the Tier 1 Matters Process.
- VIII. If found to be a Tier 2 Matter, a recommendation and rationale that nominates what the determination of the investigation is, including all evidence that is substantiated on the balance of probabilities, a recommendation to the Bishop on to how to proceed will be created and sent to the Bishop. If the recommendation is of serious consequences regarding:
 - a) *the fitness of a member of 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 an Ordained Church worker's ministry or employment, or in the performance of any function the Church worker should be subject to certain conditions or restrictions.*

then the recommendation will be sent to a Board (see section 7) for hearing and determination. After review, should the Board make or uphold a determination, this will be sent to the Bishop.

- IX. The Bishop will make the final determination and take appropriate action. This may include notifying, in writing, all parties involved in the matter.
- X. It is noted that if the recommendation is mediation or conciliation the Complainant may refuse to participate in the process identified by the PSC and/or the Bishop. However, if this is the case, no other offer of any other options for resolution of the Complaint will be given. ^[1]_[SEP]
- XI. The Respondent Clergy or Church Worker must comply with the decision of the Bishop, and participate, in good faith, in any relevant process identified.
- XII. In the event that the Respondent does not comply with the decision of the Bishop and/or refuses to participate in the processes identified and required by the Bishop: such conduct will be regarded as a breach of these Protocols and will be addressed by the Bishop, after seeking advice from their Professional Standards Council.

6.7 Tier 3 Complaints:

A tier 3 matter is a complaint that is a matter of a criminal nature:

1. If at any time during the hearing of a complaint or investigation it becomes clear that this is a child protection or criminal matter the Director will assist the person/s bringing the complaint/s taking the matter to the appropriate authorities. As a Mandatory Reporter the Diocese is required to report matters of child abuse and this will be undertaken irrespective of the action of the complainant.
2. The PSC is not a licensed law enforcement agency. Any crime reported to the PSC must be recorded and handed over to the relevant law enforcement agency or agencies. A finding by such agencies will be viewed as a determination of the PSC.
3. During police and or child protection proceedings the church worker/s subject to the allegations will for risk management reasons, be required to step aside or be suspended from duties, and temporary arrangements put in place.
4. The Director will notify the Bishop, as to the nature of the complaint. The Director will also notify other relevant parties, including insurers if relevant.
5. At the conclusion or cessation of police or Government child protection proceedings the finding by such agencies will be used as if it were a determination of the PSC and use the findings to make recommendations regarding appropriate action for determination by the Bishop.
6. If, in the event a PSC within the Riverina has not be able to be formed, the Diocese of Riverina may use the PSC of another Anglican Diocese within Australia. A letter stating the agreement between the Bishop of Riverina and the Diocesan Bishop of the Diocese from which Riverina will use their PSC will be required.

After investigation, the PSC or an equivalent body, may refer to the Bishop, or to an equivalent body which has jurisdiction, one of more of the following questions:

- a) The fitness of an Ordained Church worker, whether temporarily or permanently to hold a particular or any office, license or position of responsibility in the Church or to be or remain in Holy Orders or in the employment of a Church body; ^[1]_[SEP]
- b) Whether in the exercise of an Ordained Church worker's ministry or employment, or in the performance of any function the Church worker should be subject to certain conditions or

restrictions. [L]
[SEP]

7. Any person in religious ministry, who is the subject of a complaint of child sexual abuse which is substantiated on the balance of probabilities, or who is convicted of an offence relating to child sexual abuse, should be permanently removed from ministry. The Diocese of Riverina will also take all necessary steps to effectively prohibit the person from in any way holding themselves out as being a person with religious authority.
8. A person who has been deposed from Holy Orders in accordance any ordinance, act, canon, 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; [L]
[SEP]

(ii) accepting or holding an office in this Church capable of being held only by a person in Holy Orders; [L]
[SEP]

(b) ceases to have any right, privilege, or advantage attached to the office of bishop priest or deacon; [L]
[SEP]

(c) shall not hold themselves out to be a member of the Anglican Clergy; and [L]
[SEP]

(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*.

6.8 The deposition of a person from Holy Orders by the *Bishop* pursuant to the recommendation of the PSC, or an equivalent body, shall be effected by the execution, by the *Bishop*, of an Instrument of Deposition.

6.9 The *Bishop* must forthwith:

- . Register the Instrument in the Registry of the Diocese; [L]
[SEP]
- . 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; [L]
[SEP]
- . Deliver a copy of the Instrument to the Registrar of the Primate; [L]
[SEP]
- . Cause relevant details to be forwarded for entry into the national register. [L]
[SEP]

A relevant Church authority to whom the *Professional Standards Ordinance 2021* applies shall cause relevant details to be forwarded for entry into the national register of any serious action taken in relation to a Church worker in accordance with a recommendation of the PSC.

7. THE PROCESS OF THE BOARD.

7.1 A Board will be constituted from a Panel of suitably qualified people appointed by the Diocesan Council.

7.2 The Board will be supplied with a recommendation and rationale that nominates what the determination of the PSC investigation is, including all evidence that is substantiated on the balance of probabilities. The Board will make an initial review to determine if:

- a) Appropriate methods of investigation were followed;
- b) The evidence provided supports the finding.

If these criteria are met, the Board will supply this data to the Respondent and ask them to respond to the allegation and finding. If the respondent accepts the matter, then the recommendation is sent to the Bishop. If the Respondent disputes the finding of the PSC, then the Board will hear the matter. From this point on the PSC can only argue from the evidence they have presented.

7.3 The Respondent reviews the material they have been provided. Due to the sensitive nature of some of the material, the names may be redacted for protection of vulnerable witnesses. As it may not be appropriate for these people to be in the same room as the Respondent, or cross-examined by them, alternate methods to provide fairness and justice to all parties may be used.

7.4 In a case where the testimony of vulnerable witnesses and/or Complainants is to be cross-examined for the Respondent:

- Provision of a recorded statement of a witness rather than a written statement may be supplied;
- Alternative means of giving evidence, such as by closed circuit TV or other technology that allows communication from a remote location; and
- Provision of a support person.

7.5 Such information is to be admissible and importantly requires that such people be available for cross-examination/re-examination. It may also be necessary to provide a certified transcript of any recording used.

7.6 Vulnerable witnesses and/or Complainants are to be shielded from being cross-examined personally by the Respondent, and the Board will appoint a representative to ask the questions.

7.7 The Respondent will review the data provided. Any questions they would want to raise in cross-examination/re-examination to support their position they will supply to the Board. The Board will then organize the collection of these answers from the Director of Professional Standards. These may be supplied as written statements or video recording.

7.8 If the vulnerable witnesses and/or Complainants are giving evidence such as by closed circuit TV or other technology that allows communication from a remote location, then any questions will be asked by the Board appointed representative.

7.9 At the conclusion the Board will make a recommendation and rationale that nominates what the determination of the investigation is, including all evidence that is substantiated on the balance of probabilities, on to how to proceed will be created and sent to the Bishop.

8. APPEALS FOR DISCIPLINARY RULINGS.

8.1 The Respondent may appeal from a reviewable Decision of the Board to recommend any action to a Church Authority, except in cases in respect of a Complaint laid in respect of a Special Complaint in which case the appeal lies to the Appellate Tribunal;

8.2 The appeal shall be commenced by lodging with the Director, a notice of appeal which sets out the name of the appellant and the respondent, the finding or recommendation from which the appeal challenges and the grounds of the appeal.

8.3 Any appeal under this section must be lodged within 21 days of the date on which the notice of a decision of the Church Authority was received by the Respondent as the case may be, or any additional time granted by the Reviewer as the case may be.

8.4 If notice of the decision is sent by post or email, the Respondent will be taken to have received the decision within seven days of the decision being posted or emailed to an address that has been notified to the Board as being the postal and/or email address to

which the Respondent wishes communication to be sent.

8.5 If notice of the decision is sent by post or email, the Respondent will be taken to have received the decision within seven days of the decision being posted or emailed to an address that has been notified to the Board as being the postal and/or email address to which the Respondent wishes communication to be sent.

8.6 The grounds upon which an appeal may be brought are as follows:

- (1) That a breach of the rules of natural justice occurred in relation to the making of the Reviewable Decision which materially affected the decision;
- (2) That procedures that were required by the ordinance to be observed in relation to the making of a Reviewable Decision were not observed, and the non-observance materially affected the decision;
- (3) That the Board did not have jurisdiction to make the Reviewable Decision;
- (4) That the Reviewable Decision was so devoid of any plausible justification that no reasonable Board could have made it;
- (5) The availability of fresh and compelling evidence or further and compelling evidence which, if available at the time, would have been likely to have materially affected the Board's decision;
- (6) That the Board seriously misdirected itself as to the applicable law;
- (7) That in light of the evidence and submissions, the recommendation is manifestly excessive.

8.7 Nothing in this Part, however, affects the power of a Church authority to take any action against a Respondent that would be open to a Church authority apart from its powers under this Ordinance.

8.8 On an appeal

- a) Upon receipt of an appeal, the Director of Professional Standards shall appoint a person (the Reviewer) from a panel appointed by the Diocese to hear and determine the appeal.
- b) The reviewer shall be a person who is or has been a judge of the High Court of Australia, of a Supreme or District Court of a State or Territory, of the Federal Court of Australia or of the Family Court of Australia or a barrister who has been appointed as Senior Counsel and, in each case, who is a member of this Church.

Any alleged breach of: SEP

- (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;

Are covered within the Diocesan Discipline Ordinance.

- c) The reviewer shall conduct the appeal as a rehearing and may give such directions and conduct the appeal in such way as he or she considers, subject to the rules of natural justice, necessary or desirable for a fair and expeditious determination of the appeal.
- d) The Diocese shall bear the costs of the reviewer in undertaking the appeal.

8.9 The Reviewer may make all or any of the following determinations:

- a) A decision quashing or setting aside the reviewable decision;
- b) A determination affirming the reviewable decision;
- c) A determination referring the matter to which the reviewable decision related to the Board for further consideration, subject to such direction as the Reviewer determines;
- d) A determination declaring the rights of the respondent in relation to any matter to which the reviewable decision relates;
- e) 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;
- f) Such order as to the costs of the appeal as the Reviewer thinks fit

and shall ensure that a copy of the determination or finding is provided to the Board, the Respondent and the Church authority.

If the Reviewer upholds the appeal, then the recommendation of the reviewer shall be dealt with

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All clergy hold license at the Bishops' leisure. The Bishop may approve, amend, or remove such license as they deem fit.

The lack or removal of said license does not necessarily infer a misconduct or disciplinary action, only that the license given may longer be required.

The Anglican Church of Australia
DIOCESE OF RIVERINA