

## DIOCESAN DISCIPLINE ORDINANCE 2022

No. 2 of 2022

AN ORDINANCE to provide for the Trial of Clergy and Church Workers for Ecclesiastical Offences.

### Preamble

WHEREAS the Anglican Diocese of Riverina is convinced that:

- A. every person must be respected and treated with respect, for all people are created in the image of God and are loved by God, as revealed in the reconciling life, death and resurrection of Jesus Christ;
- B. 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, humility and compassion in God's people;
- C. the Diocese lives, works and ministers in an increasingly complex and dynamic environment and must continue to develop further policies, processes and protocols to ensure that the Diocese maintains the confidence and trust of the community in which it serves by ensuring integrity and professionalism in the manner in which complaints are handled.
- D. it is expedient to provide for the trial for ecclesiastical offences, particularly of persons in Holy Orders Licensed by the Bishop of Riverina and of other persons holding Licence resident in the Diocese.

NOW THEREFORE the Council of the Diocese of Riverina, on behalf of the Synod of the Diocese of Riverina, by virtue of the authority conferred upon it by the *Diocesan Administration Ordinance 1926* DECLARES DIRECTS RULES AND ORDAINS as follows:

### Part One – Preliminary

#### 1. Repeal

The *Tribunal Ordinance 2018* shall be and is hereby repealed.

#### 2. Short Title

This Ordinance may be cited as the "Diocesan Discipline Ordinance 2022".

### 3. Definitions

(1) In this Ordinance (including this section of this Ordinance), unless the context or subject matter otherwise requires or indicates:

“**Complainant**” means a person who makes a Charge, and where a Charge is made by more than one person the Complainant means each of the Complainants;

“**Advocate**” means the Advocate of the Diocese;

“**Archdeacon**” means the person collated as an archdeacon in the Diocese and appointed by the Bishop under section 8(1)(b) who will oversee the matter;

“**Archdeacons**” means the archdeacons collated in the Diocese unless an issue or complaint involves an individual archdeacon, in which case the Bishop will appoint another suitable person to undertake the responsibility of that archdeacon for the purposes of this Ordinance;

“**Bishop**” means the Bishop of Riverina;

“**Board of Enquiry**” or “**Board**” means the Board of Enquiry established under Part Five;

“**Chancellor**” means the Chancellor of the Diocese;

“**Ceremonial**” includes ceremonial according to the use of the Church and also the obligation to abide by such use;

“**Charge**” means a Charge made pursuant to Part Two;

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

“**Church Authority**” means the Bishop or a person or body having administrative authority of or in a Church Body to license, appoint, authorise, dismiss or suspend a Church Worker;

“**Church Body**” includes a parish, school, any body corporate, organization or association that exercises ministry within, or on behalf of, the Diocese

“**Church Worker**” means a Member of the Clergy or lay person:

- (a) Who is Licensed or authorised by the bishop of a diocese; and/or
- (b) Who is employed by a Church Body in respect of whom the Code of Conduct is part of their employment contract; or

- (c) Who, for payment or not, holds a position or performs a function with the actual or apparent authority of a Church Authority or Church Body: including any office or position within the Anglican community recognized to have standing within the Diocese;
- (d) Does not include a bishop who is subject to the jurisdiction of the Special Tribunal of the Church;

“**Code of Conduct**” means a code of conduct approved from time to time under Part 2 of the *Professional Standards Ordinance 2022*;

“**Dean**” means the Dean as defined in *The Cathedral Ordinance 2019*;

“**Diocesan Tribunal**” or “**Tribunal**” means a Diocesan Tribunal within the meaning of Chapter IX of the *Constitution of the Anglican Church of Australia* constituted as provided by *this Ordinance*;

“**Diocese**” means the Diocese of Riverina;

“**Director of Professional Standards**” or “**Director**” means the person so appoint under the *Professional Standards Ordinance 2022*;

“**Discipline**” includes the rules of the Church and the rules of good conduct;

“**Doctrine**” means the teaching of the Church on any question of Faith;

“**Examinable Conduct**” has the meaning as defined in the *Professional Standards Ordinance 2022*;

“**Faith**” includes the obligation to hold the faith;

“**Licence**” means a Licence under seal of the Bishop, and “**Licensed**” has a meaning corresponding with that of “Licence”;

“**Member of the Church**” means a baptised person who attends the public worship of the Church and who declares to be a member of the Church and not a member of any other church;

“**Member of the Clergy**” means a person in Holy Orders: bishops, priests and deacons of the church of God, but excludes a bishop subject to the jurisdiction of the Special Tribunal of the Church;

“**Offence**” means any of the following:

- (a) breach of Faith Ritual Ceremonial or Discipline;

- (b) a wilful breach of Canons or Ordinances active within the Diocese including:
  - a. Unchastity;
  - b. Drunkenness;
  - c. Habitual or wilful neglect of ministerial duty after written admonition in respect thereof by the Bishop;
  - d. Wilful failure to pay just debts;
  - e. Conduct, whenever occurring:
    - i. Which would be disgraceful if committed by a Member of the Clergy, and;
    - ii. Which at the time the Charge is preferred is productive or, if known publicly would be productive, of scandal or evil report;

**“Parishioner”** means a Member of the Church who is entitled to vote at a meeting of a parish for the election of church wardens or who if no such meeting is provided for is at least eighteen years of age;

**“President”** means the President of the Diocesan Tribunal appointed under Part Six

**“Professional Standards Committee”** means the Professional Standards Committee established under Part Five of the *Professional Standards Ordinance 2022*;

**“Professional Standards Board”** means the Professional Standards Board established under Part Eight of the *Professional Standards Ordinance 2022*;

**“Respondent”** whom *this Ordinance* applies means:

- (a) a Member of Clergy Licensed by the Bishop and resident in the Diocese;
- (b) a lay Church Worker Licensed by the Bishop and resident in the Diocese;
- (c) a Member of Clergy in respect of whom a Charge is made arising from an act or actions of the member in the Diocese;
- (d) a Member of Clergy who within 2 years before a Charge is laid was Licensed by the Bishop and was resident in the Diocese;

- (e) a Member of Clergy who is in prison as a convicted person at the time the Charge is laid, but who within 2 years before such imprisonment was Licensed by the Bishop or was ordinarily resident in the Diocese.

**“Review Panel”** means the panel appointed under section 55;

**“Reviewer”** means the person appointed under section 54;

**“Ritual”** includes rites according to the use of the Church and also the obligation to abide by such use;

**“Synod”** means the Synod of the Diocese.

- (2) In *this Ordinance*, a reference to Faith includes a reference to Doctrine.
- (3) In *this Ordinance*, a reference to a schedule, section or part is a reference to a schedule, section or part to *this Ordinance*.
- (4) In the event that an offence within the meaning of *this Ordinance* is also a matter of examinable conduct within the meaning of the *Professional Standards Ordinance 2022* the provision of that Ordinance shall prevail.

## **Part Two – Charges**

### **4. Charges**

- (1) A Charge that a Church Worker (the Respondent) has committed an Offence may be made as provided by this Ordinance against any to whom this Ordinance applies.
- (2) Every Charge so made shall be dealt with as provided by this Ordinance.

### **5. Time in which to bring a Charge**

A Charge that an Offence has been committed may be made within two years after that Offence has been committed.

### **6. Who may bring a Charge?**

- (1) A Charge of breach of Faith Ritual or Ceremonial may be made:
  - (a) against an incumbent of a parish, with reference to an Offence alleged to have been committed within that parish, only by:
    - (i) a person appointed by the Bishop, or

- (ii) any five adult communicant members of the Church who are both resident within the Diocese and also bona fide Parishioners of that parish;
- (b) in any other case, only by:
  - (i) a person appointed by the Bishop; or
  - (ii) any five adult communicant members of the Church who are resident within the Diocese.
- (2) A Charge of an Offence other than breach of Faith Ritual or Ceremonial may be made by:
  - (a) the Bishop's own motion; or
  - (b) a person appointed by the Bishop; or
  - (c) any other adult Member of the Church resident within the Diocese.

## **7. Making of a Charge**

- (1) All Charges will be delivered by the Complainant to the Director of Professional Standards.
- (2) Every Charge shall be made by written instrument in or to the effect of the form set forth in Schedule A, signed by the Complainant. Complainants may sign separate instruments; and the separate instruments shall be read together.
- (3) Every Charge shall be accompanied by all documents therein referred to as attached.

## **8. Process upon receipt of Charge**

- (1) Upon receipt of a Charge, the Director of Professional Standards shall, upon enquiry, determine if the Charge is a breach of the Professional Standards Ordinance 2022 or the Diocesan Discipline Ordinance 2022. If the Director of Professional Standards determines it to be a breach of:
  - (a) the Professional Standards Ordinance 2022, the processes and protocols thereof shall apply;
  - (b) this Ordinance, the matter will be handed over to the archdeacon appointed by the Bishop to oversee the matter and the sections of this Ordinance which succeed this section shall apply, and those sections shall apply only to such a Charge.

## **9. Examination of the Charge**

- (1) The Archdeacons, together with the Dean, and a clerical member of the Professional Standards Committee, shall undertake an initial investigation of the Charge and shall determine whether the Charge:
  - (a) relates to a breach of Faith Ritual Ceremonial or Discipline; or
  - (b) some other Offence.
- (2) In making their investigation they may make recommendations to prevent or mitigate the commission of an Offence including but not limited to:
  - (a) A Pastoral phone call
  - (b) Mediation
  - (c) Leave
  - (d) Mentoring or support program
  - (e) Counselling
  - (f) Rebuke or monition
  - (g) A visit to the Place of Ministry to assess and initiate frameworks for healthy and safe community engagement.
  - (h) A process of reconciliation with the Complainant.

## **10. Presentation of Charges to the Bishop**

- (1) Every Charge not made by the Bishop shall forthwith be presented (together with all documents attached thereto) by the Archdeacon to the Bishop.
- (2) Upon receipt of the Charge, should the Bishop believe that the Charge matter warrants criminal investigation or is required to be reported, the Bishop will advise all relevant authorities including the police and will assist those authorities to investigate such Offence or allegation.

## **11. Charges of breach of Faith Ritual or Ceremonial**

- (1) This section shall apply only where the Charge is a Charge of breach of Faith, Ritual, or Ceremonial and is not made by a person appointed by the Bishop.

- (2) When the Charge is presented to the Bishop, the Bishop shall, by whatever means they shall in their absolute discretion think fit, determine whether the Charge is made by persons who in number and qualifications fulfil the appropriate requirements of section 6(1).
- (3) If the Bishop determines that the Charge is not so made they shall cause the Charge to be returned to the person who presented it to the Archdeacon and shall cause each of the persons who made the Charge to be given notice in writing of their determination and of the reason therefore and no further action shall be taken under this Ordinance with respect to that Charge unless and until it is made by persons who in number and qualification fulfil the appropriate requirements of section 6(1) within the time specified by section 5.
- (4) A Charge shall on its mere production before the Board of Enquiry or Diocesan Tribunal be prima facie evidence of the truth of the declarations in it made in accordance with paragraph 5 of the form set forth in Schedule A.

### **Part Three - Suspension**

#### **12. Suspension from office**

- (1) The Bishop shall have power to suspend a member of clergy to whom this ordinance applies from the duties of their office where it appears to the Bishop that such suspension is for the good of the Diocese or of any Parish or organisation within the Diocese, provided that:
  - (a) Except in cases of extreme urgency such suspension shall not be made unless the Bishop has informed the Chancellor and The Registrar of the intention so to do and has taken into account their counsel on the proposed actions;
  - (b) Provision is made for the member so suspended to receive:
    - (i) Adequate income and allowances; and
    - (ii) Accommodation for themselves and their family during such suspension.
- (2) The Bishop may revoke the suspension of a person suspended by them under this section and may do so at any time during the period of suspension.

#### **Part Four – Board of Enquiry**

##### **13. Formation and composition of the Board of Enquiry**

- (1) There shall be a Board of Enquiry composed of the Archdeacons, the Dean, and a clerical member of the Professional Standards Committee.
- (2) The chairperson of the Board shall be the Archdeacon when present, or in their absence some other member of the Board elected for the purpose.

#### **Part Five – Procedure as to Charges**

##### **14. Determination whether Charge proper to be heard**

- (1) The Bishop shall refer to the Board of Enquiry every Charge of breach of Faith, Ritual, or Ceremonial and all documents attached thereto, and the Board of Enquiry shall without the necessity of hearing any person decide whether or not to allow it as a Charge proper to be heard and shall inform the Bishop of its decision.
- (2) The Bishop shall, as to every Charge that is neither:
  - (a) a Charge of breach of Faith Ritual or Ceremonial nor
  - (b) a Charge made by the Bishop's own motion,without the necessity of hearing any person, decide whether or not to allow it as a Charge proper to be heard.

##### **15. Charges found not proper to be heard**

If the Board of Enquiry or the Bishop as the case may be decides pursuant to section 13 not to allow a Charge as a Charge proper to be heard, the Bishop shall cause the Complainant to be given notice in writing accordingly, the Charge shall be returned to the Archdeacon, and no further action shall be taken under this Ordinance with respect to that Charge.

##### **16. Charges found proper to be heard**

- (1) A Charge which the Board or the Bishop as the case may be decides pursuant to section 14 to allow as a Charge proper to be heard shall be dealt with as provided in the sections of this Ordinance which succeed this section, and those sections shall apply only to such a Charge.
- (2) A Charge made by the Bishop's own motion shall be deemed to be a Charge which the Bishop decides pursuant to section 14 to allow as a Charge proper to be heard.

**17. Service of Charge upon Respondent**

- (1) The Bishop shall cause to be served on the Respondent within one month of a Charge being presented to the Archdeacon:
  - (a) a copy of the Charge and of each document attached thereto; and
  - (b) a notice in writing requiring the Respondent to reply in writing to the Charge within twenty-one days from the date of the notice.

**18. Respondent's reply**

- (1) If the Respondent so desires, they may in their reply:

(Case A): Where one Offence only is charged, admit the commission of that Offence and submit as prescribed;

(Case B): Where two or more Offences are charged, admit the commission of each of those Offences and submit as prescribed.
- (2) In sub-section (1) of this section "submit as prescribed" means "submit oneself without further proceedings to such judgment and sentence in respect of the Offence (or Offences, as the case may be) the commission of which they admit as the Bishop shall think fit to pronounce".

**19. Admission by Respondent**

- (1) This section shall apply in the following cases only
  - (a) Case A of Section 18;
  - (b) Case B of Section 18.
- (2) The Bishop shall cause the Respondent and the Complainant to be given notice in writing
  - (a) That, the Respondent having admitted the commission of the Offence (or, as the case may be, of each of the Offences) charged and having submitted as provided by section 18, the Bishop intends to pronounce judgment and sentence at the time and place specified in the notice;
  - (b) That all persons who so desire may then be present;
  - (c) That the Respondent will then be given opportunity to show cause and if they so desire be heard in excuse or mitigation, or both, before judgment and sentence are pronounced and may in the meantime

make to the Bishop written representations in excuse or mitigation or both.

- (d) Subject to the Bishop giving the Respondent opportunity to show cause and to the Bishop hearing the Respondent at the time and place specified in the notice if they wish to be heard in excuse or mitigation or both the Bishop shall pronounce judgment and sentence either then and there or subsequently at a time and place of which they shall cause the Respondent and the Complainant to be given notice beforehand orally or in writing.
- (e) The Bishop may in addition to pronouncing sentence suspend the operation of the sentence. If the Bishop does so, and if the operation of the sentence remains suspended for a period of two years, that sentence shall thereafter have no operation. Every sentence shall, if its operation is not suspended, commence to operate immediately it is pronounced. If within two (2) years from the date on which a sentence is pronounced, a further Offence, is proven the original sentence that was suspended comes immediately into effect.
- (f) When in a case to which this section applies the action prescribed by this section has been taken no further action shall be taken under this Ordinance with respect to the Charge.

## 20. **Articles of Accusation**

- (1) Subject to section 19, for Charges of breach of Faith, Ritual, or Ceremonial:
  - (a) the Respondent shall be tried by the Diocesan Tribunal and;
  - (b) the Bishop shall appoint the Archdeacon, or some other qualified person, to act as the Advocate of the Diocese to prosecute the Charge and shall send to the Advocate the Charge, all documents therein referred to, a copy of the notice referred to in Section 17 and the reply (if any) of the Respondent, and the Advocate shall thereupon prepare Articles of Accusation.
- (2) Articles of Accusation shall (in a separate Article for each Offence if more than one Offence is charged) with reasonable particularity specify every Offence charged and the time place and circumstances thereof.
- (3) On completion of the Articles of Accusation the Advocate shall cause to be served:

- (a) upon the Complainant and the Respondent:
  - (i) copies of the Articles of Accusation;
  - (ii) notices in writing requiring them to procure the attendance before the Tribunal of such witnesses as they may severally desire for the purpose of accusation or defence.
- (b) upon the Respondent; a citation to appear (at such time not less than fourteen nor more than forty days from the date of the citation, and at such place, as shall be specified in the citation) before the Tribunal to answer the Articles of Accusation;
- (c) upon the Complainant, a copy of the citation;

**21. Charges other than of breach of Faith, Ritual, or Ceremonial**

Subject to section 19, for all Charges other than of breach of Faith, Ritual, or Ceremonial the Bishop shall refer the Charge to the Investigations Committee to be examined in accordance with Part 9 hereto.

**Part Six – Diocesan Tribunal**

**22. Membership of Diocesan Tribunal**

- (1) The Diocesan Tribunal shall consist of:
  - (a) a President; and
  - (b) two persons in Holy Orders;
  - (c) two persons not in Holy Orders;elected or appointed in accordance with this section.
- (2) The members of the Diocesan Tribunal shall have training in theology and/or canon law.
- (3) The President is to be appointed by the Bishop and shall be a person qualified to be a lay member of the Appellate Tribunal in accordance with the provisions of section 57 (1) of the Constitution of the Anglican Church of Australia being:
  - (a) qualified to be a lay representative of a diocese at General Synod, and
  - (b) is or has been a Justice of the High Court of Australia, a Justice of the Supreme Court of a State or Territory of Australia or a Justice or Judge of a Court prescribed by canon of the General Synod or is or

has been a practicing barrister or solicitor, of at least ten years' standing of the Supreme Court of a State or Territory

- (4) At the first ordinary session of each term of the Synod, the Synod shall elect from among its members two persons in Holy Orders by the members then present of the House of Clergy and two persons not in Holy Orders by the members then present of the House of Laity to be members of the Diocesan Tribunal. If there are not sufficiently qualified or available members of the laity nominated who are members of Synod, the positions may, on the determination of the Bishop be either:
  - (a) filled by sufficient clergy
  - (b) filled by suitable laypersons from outside the Diocese as nominated by the Bishop.
  - (c) subject to sub-section (6) of this section a member of the Diocesan Tribunal shall hold office until the conclusion of the first session of that Synod which next follows their election or appointment as a member of the Diocesan Tribunal.
- (5) The office of a member of the Diocesan Tribunal shall ipso facto be vacated if they:
  - (a) ceases to be a member of the Synod, or
  - (b) resigns their office, or
  - (c) refuses or neglects to act in their office, or
  - (d) becomes in the opinion of the Bishop incapable of acting in their office and is given notice accordingly in writing by the Bishop, or
  - (e) is charged under this Ordinance with an Offence.
- (6) If a member of the Diocesan Tribunal dies or if the office of a member of the Diocesan Tribunal is vacated pursuant to sub-section (5) of this section the Diocesan Council may appoint a member of Synod to be a member of the Diocesan Tribunal in their place.
- (7) If a member of the Diocesan Tribunal other than the President dies or if the office of a member of the Diocesan Tribunal is vacated pursuant to sub-section (5) of this section during the course of hearing a Charge, the Tribunal may continue to hear the Charge with those members remaining provided that there must be not less than two other members.

- (8) If the President dies or if the office of President is vacated pursuant to sub-section (5) of this section during the course of hearing a Charge, the Tribunal may continue to hear the Charge following the appointment of a new President.

## **Part Seven – Proceedings of the Diocesan Tribunal**

### **23. Convening of the Diocesan Tribunal**

- (1) The Diocesan Tribunal shall convene at the time and place appointed in the citation. Each member shall make the declaration set forth in Schedule B. The trial shall then be commenced by the President causing the Respondent to be summoned to appear before the Tribunal.
- (2) The Respondent may appear in person or by a counsel or solicitor or, as they are charged with breach of Faith, Ritual, or Ceremonial, by a person in Holy Orders.
- (3) If the Respondent does not appear, the trial may, upon proof of due service of the citation upon the Respondent, proceed in the absence of the Respondent to hearing and decision and the Bishop may pronounce sentence.
- (4) If the Respondent appears or if the trial proceeds as aforesaid in the absence of the Respondent the President shall then read or cause to be read the Articles of Accusation.
- (5) If the Respondent appears they shall then be called upon to plead to each Article and their plea or pleas shall be recorded. If the Respondent neglects or refuses to plead to any Article, a plea of not guilty to that Article shall be entered on their behalf.
- (6) If the Respondent does not appear and the trial proceeds as aforesaid in the Respondent's absence a plea of not guilty to each Article shall be entered on the Respondent's behalf and the trial shall proceed as far as possible in the same manner as if the Respondent had appeared and had so pleaded.

### **24. Amendment to Articles of Accusation**

The Diocesan Tribunal may during the trial permit amendment of the Articles of Accusation upon such terms (if any) as it thinks fit, provided that if the Respondent should claim they have been taken by surprise or prejudiced they shall be entitled to an adjournment.

## **25. Evidence and Examination of Witnesses**

- (1) Witnesses shall be examined on oath or affirmation, and each before giving evidence shall make the declaration on oath or affirmation set forth in Schedule C. The evidence of each witness shall be reduced to writing and signed by the witness.
- (2) The Diocesan Tribunal is bound by the rules of natural justice and procedural fairness and 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 as it thinks fit.
- (3) Evidence that the Respondent has been convicted of an Offence shall be admissible before the Diocesan Tribunal and proof of such conviction shall be evidence of the facts giving rise to such conviction, provided that this provision shall not apply if a conviction has been quashed or set aside or in respect of which a pardon has been given.
- (4) The transcript of any criminal proceedings in which the Respondent was a party, shall be admitted as evidence in the same way as if the person whose evidence appears in the transcript had been given in person before the Diocesan Tribunal provided that the Diocesan Tribunal may exclude the whole or any part of such evidence should it consider that admission of the same would be likely to cause a serious injustice to the Respondent.

## **26. Rules of the Diocesan Tribunal**

- (1) The Diocesan Council may from time to time by regulation make and alter rules for the conduct of trials before the Diocesan Tribunal. All rules and alterations so made shall be laid before the next succeeding session of the Synod and shall unless and until disallowed by the Synod have the force of a regulation of the Synod.
- (2) Subject to any rules so made and to the provisions of this Ordinance the Diocesan Tribunal shall so far as is practicable follow the procedure of the Supreme Court of New South Wales.

## **27. The Advocate**

The case against the Respondent shall be conducted before the Diocesan Tribunal by the Advocate.

28. **Questions of Law**

The President shall determine all questions arising during the trial that are questions of law or questions of the admissibility of evidence.

29. **Questions of Doctrine**

- (1) In any trial where an issue is whether there has been a breach of Doctrine:
  - (a) The opinion of experts shall be admissible as to:
    - (i) The principles of the Doctrine;
    - (ii) Whether on the facts there has been a breach of Doctrine;
  - (b) The President shall determine what are the principles of Doctrine that are applicable;
  - (c) The Diocesan Tribunal shall determine whether on the facts there has been a breach of the principles so determined by the President.

30. **Attendance at proceedings of the Diocesan Tribunal**

- (1) The proceedings of a Diocesan Tribunal shall be attended by the Registrar as an officer of the Diocesan Tribunal and shall be open to the public, provided that the President at any stage of the proceedings may order that they shall be held in private by reason of their subject matter or the misconduct of the audience or for any other reason that the President may in their absolute discretion think fit.
- (2) The proceedings of the Diocesan Tribunal may be conducted either in person or by electronic means at the discretion of the President.

**Part Eight – Decision, Recommendation and Sentence**

31. **Deliberations and recommendations of the Diocesan Tribunal**

- (1) After due examination and hearing of the case and after due deliberation the Diocesan Tribunal shall decide the issue as to each Offence alleged.
- (2) Each member of the Diocesan Tribunal shall have one vote as to its decision. If the votes of the Tribunal on an issue are equally divided, the issue shall be deemed to have been decided in favour of the Respondent.
- (3) A recommendation made by the Diocesan Tribunal shall be that recommendation (if any) which is supported by the greatest number of votes of members.

- (4) If the Diocesan Tribunal decides that the Respondent is guilty of any Offence it shall make such recommendation as it thinks just in the circumstances, but shall not recommend any sentence other than one or more of the following:
  - (a) deposition from orders;
  - (b) prohibition from functioning;
  - (c) removal from office;
  - (d) rebuke.
- (5) The President shall forthwith give the Bishop notice in writing of the decision and the recommendation (if any) of the Diocesan Tribunal.

### **32. Bishop's judgment**

Upon the decision and the recommendation (if any) of the Diocesan Tribunal becoming known to the Bishop, the Bishop shall forthwith:

- (1) If every issue has been decided in favour of the Respondent cause the Respondent and the Complainant to be given notice in writing of the decision; and if the Respondent so requests issue a certificate in an appropriate form under their hand and seal.
- (2) In every other case - cause the Respondent and the Complainant to be given notice in writing of the decision and the recommendation (if any) of the Diocesan Tribunal that:
  - (a) the Bishop intends to pronounce sentence at the time and place specified in the notice
  - (b) all persons who so desire may then be present
  - (c) the Respondent will then if they so desire be heard in mitigation of sentence before sentence is pronounced and may in the meantime make to the Bishop written representations in mitigation of sentence.

### **33. Sentencing**

- (1) This section applies where notice is given in accordance with section 32(2).
- (2) Subject to the Bishop hearing the Respondent at the time and place specified in the notice if the Respondent wishes to be heard in mitigation of sentence, the Bishop shall pronounce sentence either then and there or subsequently at a time and place of which they shall cause the

Respondent and the Complainant to be given notice beforehand orally or in writing.

- (3) The Bishop shall give effect to any recommendation made by the Tribunal, provided that if a sentence is recommended, they may consult with the Diocesan Tribunal and in the exercise of the Bishop's prerogative of mercy:
  - (a) Mitigate the sentence, or
  - (b) Suspend its operation, or
  - (c) Mitigate the sentence and suspend its operation.
- (4) If the Diocesan Tribunal makes no recommendation as to sentence the Bishop shall pronounce such sentence as they think fit and may in the exercise of the Bishop's prerogative of mercy suspend the operation of a sentence.
- (5) When the Bishop passes sentence or makes a determination in accordance with this Ordinance, in the sentence or determination the Bishop shall state when provision of any stipend, allowance or housing is to cease.

#### **34. Suspension of Sentence**

- (1) If the operation of a sentence or mitigated sentence has been suspended and remains suspended for a period of two years that sentence or mitigated sentence shall thereafter have no operation.
- (2) If within two (2) years from the date on which a sentence is pronounced, a further Offence, is proven the original sentence that was suspended comes immediately into effect.
- (3) Every sentence or mitigated sentence shall, if its operation is not suspended, commence to operate immediately it is pronounced.

#### **35. Certificate of Judgment**

- (1) The Bishop shall by writing under their hand and seal certify every sentence and every mitigation or suspension.
- (2) The certificate shall be lodged with the Registrar and a copy shall be sent to the Respondent.
- (3) This section shall apply both where sentence is pronounced after a trial and where sentence is pronounced pursuant to section 19.

## **Part Nine – Trial of matters not pertaining to Faith, Ritual, Ceremonial**

### **36. Investigation of Charges**

- (1) If a Charge is determined under section 9(1)(b) not to relate to a breach of Faith, Ritual or Ceremonial, a formal investigation by the Investigations Committee may be deemed necessary or requested by the Bishop.
- (2) The Bishop shall appoint the Archdeacon, or some other qualified person, to prepare Articles of Accusation and have a copy sent to the Investigations Committee and the Respondent.
- (3) Articles of Accusation shall (in a separate Article for each Offence if more than one Offence is charged) with reasonable particularity specify every Offence charged and the time place and circumstances thereof.

### **37. Investigations Committee**

- (1) There shall be an Investigations Committee consisting of at least three members, of whom one shall be the chair and convenor. The membership of the Investigations Committee shall be constituted, so as to collectively provide:
  - (a) Experience in law;
  - (b) Experience in ordained ministry; and
  - (c) Experience and appropriate qualifications in counselling, social work, or psychology.
- (2) The members of the IC shall be appointed by the Diocesan Council and shall hold office on such terms as may be determined by the Diocesan Council.
- (3) The membership of the IC shall include so far as reasonably practicable an equal number of men and women.
- (4) Members of the Professional Standards Committee (PSC) are eligible to be appointed to the IC.
- (5) There shall be a chairperson of the Investigations Committee who shall be appointed by the Diocesan Council from the members of the committee.

### **38. Function of the Investigations Committee**

The Investigations Committee shall investigate and hear all Charges referred to them in accordance with section 21 in accordance with this Part.

**39. Proceedings of the Investigations Committee**

Once the initial investigation has been undertaken, the Chair of Investigations Committee will convene a meeting of the Investigations Committee in order to determine:

- (1) the best pathway or pathways for responding;
- (2) the resources that would be required.

**40. Meetings of the Investigations Committee**

The Investigations Committee shall meet act as expeditiously as possible in coming to a recommendation, and may conduct its business by telephone or electronic communication.

**41. Investigations by the Investigations Committee**

- (1) The investigation by the Investigations Committee will be undertaken as soon as practicable and within 30 days in order to resolve the matter and to avoid further harm, loss or damage to persons or parishes through the continuation of any alleged Offence.
- (2) The Investigations Committee may by notice in writing to a Respondent require the Respondent to provide a detailed report to the Investigations Committee within the time specified in the notice in relation to any matter relevant to the investigation.
- (3) It is the obligation of a Respondent to:
  - (a) Truthfully to answer any question relevant to the matters raised in the complaint, put by or on behalf of the Investigations Committee in the exercise of powers conferred by this Ordinance;
  - (b) Not to mislead the Investigations Committee or a member or delegate of the Investigations Committee;
  - (c) Not unreasonably to delay or obstruct the Investigations Committee or a member or delegate of the Investigations Committee in the exercise of powers conferred by this Ordinance.
  - (d) If the Respondent declines to answer a question on the ground that the answer might tend to incriminate the person a written record shall be made of the question and of the ground of refusal.

#### **42. Transfer of Proceedings**

- (1) If at any time after a matter has been referred to the Investigations Committee under Section 36 it appears to the Investigations Committee that:
  - (a) the Charge arises out of, or is related to, Examinable Conduct under the Professional Standards Ordinance 2022; and
  - (b) that in the interests of justice it is more appropriate that the Charge be investigated with the Examinable Conduct under the Professional Standards Ordinance 2022;

the Investigations Committee shall transfer the investigation of the Charge to the Professional Standards Committee for investigation and recommendation, and where appropriate referral to the Professional Standards Board for determination and recommendation.

- (2) Any Charge transferred under this section will be dealt with in accordance with the Professional Standards Ordinance 2022 as if the Charge was Examinable Conduct under the Professional Standards Ordinance 2022 provided that the facts of the Charge may not be taken into consideration in the making of a recommendation for disposition from Holy Orders.

#### **43. Recommendations by Investigations Committee**

- (1) At any time after the Investigations Committee has commenced or caused to be commenced an investigation of a Charge under this Part, it may, after giving the Respondent an opportunity to be heard, recommend to, or counsel, the Respondent, or the Bishop ways to correct, mitigate, or repair any perceived breach of Canons or Ordinances which led to an investigation being commenced and may include one or more of the following:
  - (a) That the Respondent should be suspended from the duties, office, or employment by a Church Body;
  - (b) That a Prohibition Order be made against the Respondent;
  - (c) Such other recommendation as it sees fit, including disciplinary action or dismissal of the complaint.

- (2) The Chair of the Investigations Committee shall forthwith give the Bishop notice in writing of the decision and the recommendation (if any) of its deliberations and findings.

**44. Bishop's power to make decision**

The Bishop is authorised to consider and give effect to a recommendation made under section 43 where the Bishop sees it appropriate to do so or may substitute another determination and give effect to such other determination.

**45. Investigations Committee to take relevant matters into account**

Before making a recommendation under section 43 the Investigations Committee shall take into account:

- (1) The seriousness of the conduct alleged in the Charge;
- (2) The nature of the material to support or negate the allegations;
- (3) Whether any person is at risk of harm;
- (4) Any other allegation of similar Offence previously made to the Diocese or to an Equivalent Body within the previous ten years.

**46. Considerations by the Bishop in making a decision**

- (1) Taking into account the recommendation of Investigations Committee, and any other advice or submissions made by involved parties, the Bishop, or their delegate, shall determine the appropriate response to the Charge.
- (2) The Bishop (or delegate), may meet with involved parties, or seek professional advice at any stage while determining the appropriate response.
- (3) In determining the appropriate response, the Bishop (or delegate), will also give due consideration to whether involved parties are employed, stipendiary or volunteer Church Workers, and to the resources required for the best response, including assessment of where funding responsibilities for the response will lie.
- (4) Possible responses that may be implemented include, but are not limited to:
  - (a) a determination to take no further action
  - (b) counselling

- (c) conciliation
- (d) mediation
- (e) arbitration
- (f) implementation and/or referral to another relevant Diocesan Protocol or Ordinance
- (g) loss of Licence
- (h) referral or report to other Dioceses or Churches (both inside or outside Australia)
- (i) referral to law enforcement or other agencies.

Responses may be implemented through internal Diocesan process, or by reference to external professionals.

#### **47. Bishop's Judgment**

Upon making a decision and or recommendation (if any), the Bishop shall forthwith:

- (1) If every issue has been decided in favour of the Respondent cause the Respondent and the Complainant to be given notice in writing of the decision; and if the Respondent so requests issue a certificate in an appropriate form under their hand and seal.
- (2) In every other case - cause the Respondent and the Complainant to be given notice in writing of the decision and the recommendation (if any) of the Investigations Committee and that:
  - (a) the Bishop intends to pronounce sentence at the time and place specified in the notice
  - (b) all persons who so desire may then be present
  - (c) the Respondent will then if they so desire be heard in mitigation of sentence before sentence is pronounced and may in the meantime make to the Bishop written representations in mitigation of sentence.

#### **48. Sentencing**

- (1) This section applies where notice is given in accordance with section 47(2).
- (2) Subject to the Bishop hearing the Respondent at the time and place specified in the notice if the Respondent wishes to be heard in mitigation

of sentence, the Bishop shall pronounce sentence either then and there or subsequently at a time and place of which they shall cause the Respondent and the Complainant to be given notice beforehand orally or in writing.

- (3) The Bishop may consult with the IC and in the exercise of the Bishop's prerogative of mercy:
  - (a) Mitigate the sentence, or
  - (b) Suspend its operation, or
  - (c) Mitigate the sentence and suspend its operation.
- (4) If the Investigations Committee makes no recommendation as to sentence the Bishop shall pronounce such sentence as they think fit and may in the exercise of the Bishop's prerogative of mercy suspend the operation of a sentence.
- (5) The Bishop, or delegate, will monitor the situation to ensure that the response has been adequate and that resolution of all issues is underway. This may include communication to indirectly affected persons, if appropriate, such as communication to the parish where a whole church has been affected.
- (6) When the Bishop passes sentence or makes a determination in accordance with this Ordinance, in the sentence or determination the Bishop shall state when provision of any stipend, allowance or housing is to cease.

#### **49. Suspension of Sentence**

- (1) If the operation of a sentence or mitigated sentence has been suspended and remains suspended for a period of two years that sentence or mitigated sentence shall thereafter have no operation.
- (2) If within two (2) years from the date on which a sentence is pronounced, a further Offence, is proven the original sentence that was suspended comes immediately into effect.
- (3) Every sentence or mitigated sentence shall, if its operation is not suspended, commence to operate immediately it is pronounced.

#### **50. Certificate of Judgment**

- (1) The Bishop shall by writing under their hand and seal certify every sentence and every mitigation or suspension.

- (2) The certificate shall be lodged with the Registrar and a copy shall be sent to the Respondent.
- (3) This section shall apply both where sentence is pronounced after a trial and where sentence is pronounced pursuant to section 48.

## **Part Ten – Appeal**

### **51. Appeal to Appellate Tribunal**

An appeal shall lie in every case to the Appellate Tribunal of the Anglican Church of Australia but an appeal may initially be made within the Diocese.

### **52. Right of Appeal**

An appeal may be brought by the Respondent by application to the Director of Professional Standards,

### **53. Application for Appeal**

- (1) 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.
- (2) Any appeal under this section must be lodged within 21 days of the date on which the notice of a decision of the Bishop was received by the appellant as the case may be, or any additional time granted by the Reviewer as the case may be.
- (3) If notice of the decision is sent by post or email, the appellant 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 Bishop as being the postal and/or email address to which the appellant wishes communication to be sent.

### **54. Grounds for Appeal**

An appeal may be brought on one or more of the following grounds:

- (1) That a breach of the rules of natural justice occurred in relation to the making of the 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 decision were not observed, and the non-observance materially affected the decision;
- (3) That they did not have jurisdiction to make the decision;

- (4) That the decision was so devoid of any plausible justification that no reasonable tribunal 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 decision;
- (6) That the Diocesan Tribunal or Investigations Committee seriously misdirected itself as to the applicable law;
- (7) That in light of the evidence and submissions, the recommendation is manifestly excessive.

**55. Appointment of Reviewer**

Upon receipt of an application for appeal, the Director shall appoint the Reviewer from the Review Panel to hear and determine the appeal.

**56. Review Panel**

- (1) The Review Panel shall comprise of one or more members, appointed by the Diocesan Council, 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;
- (2) Members of the Review Panel shall hold office until the first day of the first session of the Synod following their appointment;
- (3) It is not necessary that, at the time of appointment, or subsequently, members of the Review Panel reside within the Diocese or have worked in the Diocese.
- (4) Any vacancy in the membership of the panel shall be filled by the Diocesan Council and such appointees shall hold office until the first day of the first session of the Synod following their appointment.
- (5) All members of the Review Panel are eligible for re-appointment after the expiry of their appointment.

**57. Conducting the Review**

- (1) 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.

- (2) The Diocese shall bear the costs of the Reviewer in undertaking the appeal.

**58. Application is a stay of Sentence**

The making of an application for appeal acts as a stay of the decision pending determination by the Reviewer.

**59. Reviewer may make determinations**

- (1) The Reviewer may make all or any of the following determinations:
  - (a) a decision quashing or setting aside the decision;
  - (b) a determination affirming the decision;
  - (c) a determination referring the matter to which the decision related 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 decision relates;
  - (e) a determination directing all parties 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 Bishop, the appellant and the respondent.

- (2) If the Reviewer upholds the appeal, then the recommendation of the Reviewer shall be dealt with under this Ordinance as if it were a recommendation of the Diocesan Tribunal or Investigations Committee.

**Part Eleven – Records**

**60. Register of Ecclesiastical Offences**

- (1) The Registrar shall keep a Register of Ecclesiastical Offences in which there shall be entered in respect of every Charge upheld which within the meaning of section 16 the Bishop decides pursuant to section 14 to allow as a Charge proper to be heard:
  - (a) The name of the Respondent;
  - (b) The date on which the Charge was made;

- (c) The name of the Complainant;
  - (d) The nature but not the particulars of each Offence charged, and the date on which it was alleged to have been committed;
  - (e) Whether the Respondent was tried by a Diocesan Tribunal or dealt with under section 19;
  - (f) If the Respondent was tried by a Diocesan Tribunal, the date of the trial and the names of the members of the Tribunal;
  - (g) The judgment of the Bishop or (as the case may be) the decision of the Diocesan Tribunal as to each Offence charged;
  - (h) The recommendation (if any) of the Diocesan Tribunal;
  - (i) The sentence (if any) and any mitigation or suspension of sentence, and the date of pronouncement thereof.
- (2) No person other than the Bishop and the Registrar shall have access to the Register of Ecclesiastical Offences except with the permission of the Bishop previously given in writing.

#### 61. **Storage of Records**

- (1) Whenever a Charge has been returned to the Archdeacon pursuant to section 15 the Registrar shall as soon as is practicable seal up in a suitable container, endorsed with the name of the Respondent, the Charge and every document attached thereto.
- (2) Whenever a trial has been held under this Ordinance the President shall cause to be delivered to the Registrar and the Registrar shall as soon as is practicable seal up in a suitable container, endorsed with name of the Respondent, the Charge and every document attached thereto, the reply (if any) of the Respondent, the Articles of Accusation, the transcript of evidence, the record of proceedings, every exhibit not directed by the Diocesan Tribunal to be handed back to the party who tendered it, and all records of the Diocesan Tribunal.
- (3) The Registrar shall subject as hereinafter provided preserve intact in the Diocesan Registry every container sealed up pursuant to this section.
- (4) No person other than the Bishop shall have access to the contents of any container sealed up pursuant to this section except with the permission of the Bishop previously given in writing.

- (5) The Bishop may at any time after the death of a Respondent direct in writing the destruction of any container and the contents of any container sealed up pursuant to this section and endorsed with the name of the Respondent.

**62. Access to Records**

If access to the Register of Ecclesiastical Offences or to the contents of any container referred to in section 61 is bona fide required for the purposes of a trial under this Ordinance or an appeal or other legal proceedings the Bishop shall give the necessary permission and every persons permitted access may at their own expense take or be provided by the Registrar with copies of (as the case may be) and relevant entry in the Register or any of the contents of the container; but in every other case the Bishop may exercise absolute discretion to give or refuse the necessary permission.

**Part Twelve – Miscellaneous**

**63. Documents as evidence**

- (1) A certificate in writing signed by the Registrar that a person is within the meaning of this Ordinance a member of clergy to whom this ordinance applies specifying in the applicable sub-paragraph, shall be prima facie evidence of the matters stated therein.
- (2) A document certified in writing signed by the Bishop to be a true copy of a written admonition in respect of ministerial duty given by them to a person and on a date specified in the certificate shall be prima facie evidence that written admonition was given by the Bishop to that person on that date in the terms appearing in the document.
- (3) Any document produced before a Diocesan Tribunal purporting to be sealed or signed by the Bishop or signed by the Registrar shall in the absence of evidence to the contrary be deemed to be duly sealed or signed by the Bishop or signed by the Registrar as the case may be.

**64. Service of documents**

- (1) Whenever it is provided by the Ordinance that any notice or other document shall be, or that anyone shall cause any notice or other document to be, given sent or presented to or served on any person, that provision shall be deemed to have been complied with if the notice or document is given presented to or served on that person personally or

sent by prepaid registered or certified post or otherwise addressed to the person at their usual or last known address.

- (2) A notice or other document sent to any person addressed as aforesaid by prepaid registered or certified post shall be deemed to have been received by the person on the day on which he would have received it in the ordinary course of registered or certified post.
- (3) A certificate in writing signed by the Registrar that a notice or other document has been given presented to or served on any person personally or sent to any person addressed as aforesaid by prepaid registered or certified post shall be conclusive as to the matters therein stated including any matters therein stated relating to time date or place of posting.

**65. Costs**

When a Respondent is completely acquitted upon trial, the Diocesan Council shall have power to award the Respondent the whole or part of their costs.

**66. Indemnity**

The Riverina Diocesan Trust indemnifies each of the members of the Board of Enquiry, Diocesan Tribunal, Investigations Committee, and Reviewer, 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.

**67. Church Authority may take action under other power**

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

**68. No Person to Sit in Relation to Own Cause**

- (1) No person will by virtue of appointment or election to any role be entitled to make a determination on any matter to which they have been a party or in which they have been involved prior to the hearing, or in which they have declared an interest.
- (2) Where such a conflict arises and the procedures of this Ordinance are not sufficient to address the conflict, it shall be reported to the Diocesan Council who will make a determination. Such determination shall be final.

## 69. Confidentiality

- (1) Wherever it is practical and just, the Board of Enquiry, Diocesan Tribunal, Investigations Committee, Reviewer, and Bishop will seek to preserve confidentiality.
- (2) During the course of an investigation, examination or hearing of a Charge under this Ordinance, neither the Complainant nor Respondent or if more than one any of the persons, may make any disclosure of the nature or details of the Charge that would be prejudicial to procedural fairness or natural justice.
- (3) In making any disclosure under subsection 69(2), the person disclosing the nature or details of the Charge 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 Charge.
- (4) The failure by a party to comply with this Section 69 may be taken into account when considering the Charge.
- (5) Nothing in this Section prevents any person disclosing the existence, nature or details of the Information to any Professional Standards Body, law enforcement agency, court, tribunal or as required to or compelled by law.

I hereby certify that this Ordinance was duly passed by the Synod of the Diocese of Riverina at its meeting on 16<sup>th</sup> June 2022

Diocesan Secretary

I assent to this Ordinance

Bishop of Diocese of Riverina

## Schedule A

### Form Of Charge

1. I (or: We) (insert name or names) of (insert address or addresses) do hereby make Charge that the Reverend (insert name) of (address) (if appropriate, add: incumbent of the parish of name) being a person in holy orders Licensed by the Bishop of Riverina (or, as the case may be: being a person in holy orders not Licensed by the Bishop of Riverina but resident in the Diocese of Riverina) has committed the Offence of (here describe the Offence in accordance with the appropriate words in the definition of "Offence" in section 3 (1) of the Ordinance) in that he (or she) (here give particulars of the time, place and circumstances of the Offence).
2. I (or: We) have attached hereto a list showing the names and addresses of witnesses now known to me (or: us) who can give evidence relating to the said Charge.
3. I (or: We) have attached hereto the documentary evidence now in our possession relating to the said Charge  
(or:)  
I (or: We) have no documentary evidence in our possession relating to the said Charge.
4. I (or: We) desire that the said Charge be dealt with in accordance with the Constitution of the Anglican Church of Australia and the Diocesan Discipline Ordinance of 2022 of the Diocese of Riverina.
5. I do (or: Each of the undersigned does) hereby solemnly and sincerely declare as follows:
  - A. (if appropriate:) I have been duly appointed by the Bishop of Riverina to make the said Charge.
  - B. (If the Offence charged is breach of Faith Ritual or Ceremonial and declaration A is not appropriate)I am:
  1. over the age of eighteen years;
  2. within the meaning of the said Constitution a communicant member of the Anglican Church of Australia and am not a member of any other church and am resident within the Diocese of Riverina (if appropriate, add: and a bona fide Parishioner of the parish (name)).

C. (if the Offence charged is not breach of Faith Ritual or Ceremonial and declaration A is not appropriate:)

I am:

1. over the age of eighteen years;
2. within the meaning of the said Ordinance a member of the Anglican Church of Australia;
3. not a member of any other church;
4. resident within the Diocese of Riverina.

D. I do not make the said Charge from any private ill-will towards the said the Reverend (name) or from any improper motive.

E. I believe the said Charge to be substantially true.

Signature(s) \_\_\_\_\_

Date \_\_\_\_\_

### Schedule B

#### **Declaration of Member of Tribunal**

I do solemnly and sincerely declare that I will well and truly try the (several) Article(s) of Accusation now to be exhibited before me and that I will to the best of my judgment and ability find according to the evidence.

### Schedule C

#### **Oath of Witness**

The evidence which I shall give before this Tribunal will be the truth, the whole truth and nothing but the truth. So help me God.

#### **Affirmation of Witness**

I do solemnly and sincerely affirm that the evidence which I shall give before this Tribunal will be the truth, the whole truth and nothing but the truth.