

BILL 15

A BILL FOR THE SAFE MINISTRY TO CHILDREN CANON 2017

EXPLANATORY MEMORANDUM

General Background

Actions of the General Synod and the Standing Committee to promote a national approach to safe ministry to children

1. The General Synod and the Standing Committee have over the last 13 years adopted a series of policies and practices designed to promote a national approach to safe ministry to children and vulnerable people.
2. In 2004 the General Synod adopted the Church's **Safe Ministry Policy Statement** (33/04(b)):

"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."

3. The General Synod in 2004 also adopted **Faithfulness in Service** as the national code for personal behaviour and the practice of pastoral ministry by clergy and lay church workers and as the code of conduct for observance by bishops, and authorised the revision of Faithfulness in Service by the Standing Committee (33/04(e), (f)). Faithfulness in Service has been subsequently revised by the Standing Committee (SC2005/2/040; SC2006/1/030; SC2006/2/062; SC2011/1/48; SC2011/2/33; SC2016/1/33; SC2016/2/29).
4. The General Synod in 2004 also adopted the **Safe Ministry Check** as the national applicant and referee questionnaires for the selection of ordination candidates and for the screening of clergy and church workers who have contact with children in their ministry, and authorised the revision of the Safe Ministry Check by the Standing Committee (33/04(c), (d)). The Safe Ministry Check has been subsequently revised by the Standing Committee (SC2005/2/040; SC2013/2/30; SC2017/02/52).
5. The General Synod in 2004 recommended (35/04(b), (c), (f), (k), (l)):
 - (a) that each diocese adopts a system for the selection of ordination candidates that includes:
 - (i) the Safe Ministry Check including the relevant diocesan or agency privacy policy;
 - (ii) a medical report;
 - (iii) a children's commission check or a criminal history check; and
 - (iv) some form of psycho-sexual assessment;
 - (b) that each diocese adopts a system for the screening of clergy that includes:
 - (i) the Safe Ministry Check including the relevant diocesan or agency privacy policy; and
 - (ii) a children's commission check or a criminal history check;and that screening is to be carried out immediately prior to:
 - (iii) their ordination as a deacon and as a priest;
 - (iv) the issuing of a licence or authorisation; and
 - (v) their consecration as a bishop;or at the expiry of a children's commission check or every three years, whichever first occurs;
 - (c) that each diocese adopts a system for the screening for all paid and voluntary church workers:
 - (i) who have direct and regular contact with children in their ministry; or
 - (ii) who supervise any such church workers;that includes:
 - (iii) the Safe Ministry Check including the relevant diocesan or agency privacy policy; and
 - (iv) a children's commission check or a criminal history check;and that screening is to be carried out immediately prior to their appointment or at the expiry of a children's commission check or every three years, whichever first occurs;

- (d) that each diocese ensures that all clergy, and church workers:
 - (i) who have direct and regular contact with children in their ministry; or
 - (ii) who supervise any such church workers;satisfactorily complete safe ministry training prior to their ordination as a deacon, employment or appointment and thereafter at regular intervals;
 - (e) that each diocese adopts a system of pastoral support and pastoral supervision of known abusers of children or other vulnerable people within a parish or church organisation that includes:
 - (i) the entry into an agreement between the abuser and church leaders for the involvement of the abuser in the parish or church organisation; and
 - (ii) the establishment of an accountability and support group for the abuser.
6. The Standing Committee in 2005 affirmed that the effective implementation of the Safe Ministry Policy Statement adopted by the General Synod (33/04(b)) requires that there is as far as practicable **uniform safe ministry policies and procedures throughout the Church** (SC2005/3/063).
 7. The General Synod in 2007 passed the **National Register Canon 2007** with the object of assisting in providing for the physical, emotional and spiritual welfare and safety, and the protection from the risk of abuse, of all people having dealings with clergy and church workers.
 8. The Standing Committee in 2011 approved **Safe Ministry Training Benchmarks** and recommended that each diocese and the Australian Defence Force review and if appropriate revise their safe training material to ensure that it complies with the benchmarks (SC2011/2/32).
 9. The General Synod in 2014 adopted the **Charter for the Safety of People within the Churches of the Anglican Communion** which includes the commitment to adopt standards for the practice of pastoral ministry by clergy and other church personnel, to assess the suitability of persons for ordination as clergy or appointment to positions of responsibility in the church, and to promote a culture of safety in parishes and church organisations by education and training (22/14).
 10. The General Synod in 2014 also recommended that each diocese implements a **professional standards audit process** (39/14).
 11. The Standing Committee in 2017 recommended the **Policy for Safe Ministry in a parish where there is a risk of sexual abuse by a Person of Concern** as a resource for dioceses. Section 5 of this Policy places obligations on the bishop of the diocese or his or her delegate, the Director of Professional Standards of a diocese or his or her delegate,

the minister and churchwardens, the members of the parish council, and the members of a parish accountability group, of a parish (SC2017/02/46).

Failure by dioceses of this Church, Provinces of the Anglican Communion and other denominations to disclose known or suspected abuse

12. Clergy and authorised lay persons in another Province of the Anglican Communion, who are known or suspected of having abused people, have moved to and become authorised for ministry in this Church without disclosure of this information, and continued to abuse people. The current informal disclosure system has not always ensured that accurate and complete information about such clergy and lay persons has been shared by other Provinces.
13. The Anglican Consultative Council in 2016 (ACC-16) by resolution 16.27 welcomed, and requested each member church of the Anglican Communion to implement, the **Ministry Suitability Information Protocol** which is intended to ensure that information as to the suitability for ministry of such clergy and lay persons is shared between Provinces.
14. Known or suspected abusers from another diocese or denomination have sometimes become authorised for ministry in a diocese without disclosure by the other diocese or denomination that knew of the abuse. The current informal disclosure system has not always ensured that accurate and complete information about such clergy and lay persons has been shared by other dioceses and denominations.

The Royal Commission into Institutional Responses to Child Sexual Abuse

15. The Royal Commission into Institutional Responses to Child Sexual Abuse was established in January 2013 and its terms of reference include “what institutions ... should do to better protect children against child sexual abuse and related matters in institutional contexts in the future”. The failure to achieve a nationally consistent approach to child protection in this Church has been highlighted by the Royal Commission at its public hearing in Case Study 52 inquiring into the current policies and procedures of Anglican Church authorities in Australia in relation to child-protection and child-safety standards, including responding to allegations of child sexual abuse, which was held between 17 and 22 March 2017.
16. Leaders of the Church appearing before the Royal Commission in Case Study 52 committed to **core national minimum standards for safe ministry to children**. This canon provides for such a national approach.
17. Royal Commission officers have advised that this canon is unlikely to conflict with its proposed recommendations.

Object of the canon

18. The object of this canon is:
 - (a) to have a code of conduct for safe ministry to children;
 - (b) to have minimum standards and guidelines for safe ministry to children; and
 - (c) to implement the Ministry Suitability Information Protocol so far as it provides for obtaining and taking into account Ministry Suitability Information before authorising clergy and church workers to undertake ministry.

19. Ministry to children refers to work of a kind where a person:
 - (a) is required to hold a working with children check, or a working with vulnerable people check by reason that the person has contact with a child as part of engaging in a regulated activity; or
 - (b) exercises a pastoral ministry which has direct, regular and not incidental contact with children; or
 - (c) provides services for children that are ancillary to the exercise of a pastoral ministry within paragraph (b) which involve contact with children during an overnight activity (such as camps and similar activities), or close, personal contact with children (such as changing clothes, washing and toileting). This will include parents or guardians or other family members; or
 - (d) performs a professional standards role; or
 - (e) performs a safe ministry role.

20. The Ministry Suitability Information Protocol is set out in the Third Schedule to assist in understanding the requirement for a church ministry assessment that involves obtaining and taking into account Ministry Suitability Information before authorising clergy and church workers to undertake ministry.

Main provisions of the canon

21. This canon provides for:
 - (a) a code of conduct, which is the parts of Faithfulness in Service that relate to children;
 - (b) clergy and church workers to observe the standards of conduct, and follow the guidelines for conduct unless there are cogent reasons for not doing so, contained in the code of conduct;
 - (c) standards of screening, standards of training and for safe ministry with Persons of Concern;
 - (d) each diocese to have standards, and guidelines unless there are cogent reasons for not doing so, that give effect to these standards and guidelines, and clergy and church workers in a diocese to observe the standards, and guidelines unless there are cogent reasons for not doing so, applicable to them that give effect to these standards and guidelines;

- (e) the General Synod, or the Standing Committee by a two-thirds majority after consultation with the Safe Ministry Commission and diocesan safe ministry authorities, to amend the code of conduct, and amend the standards and guidelines;
- (f) the code of conduct and the standards and guidelines not to deal with or concern the faith ritual or ceremonial of this Church other than in relation to the spiritual abuse of a child or the confession of child abuse;
- (g) the code of conduct not to apply to clergy and church workers in certain Church bodies other than a diocese or a diocesan safe ministry authority (those required to have a code of conduct pursuant to legislation or government funding such as schools and some welfare agencies that provide services to children, and those determined by the Standing Committee to have an equivalent code of conduct);
- (h) the standards and guidelines not to apply to clergy and church workers in a Church bodies other than a diocese or a diocesan safe ministry authority (those which provide services to children pursuant to legislation or government funding such as schools and some welfare agencies, and those determined by the Standing Committee to have equivalent standards and guidelines);
- (i) a diocese to have a code of conduct for safe ministry to children with additional standards and guidelines that are not inconsistent with the standards and guidelines in the applicable code of conduct;
- (j) a diocese to have additional standards and guidelines for safe ministry to children that are not inconsistent with the applicable standards and guidelines;
- (k) compliance by the General Synod and its organs and officers with the requirements relating to the code of conduct and standards and guidelines in relation to national professional standards roles and safe ministry roles, and by each diocese with the requirements relating to the code of conduct and standards and guidelines, and by its clergy and church workers with applicable diocesan standards and guidelines, to be audited by an independent person at intervals of three years and for the publication of the audit reports on the General Synod website.

Powers of the Standing Committee in relation to the code of conduct and the standards and guidelines

- 22. This canon gives to the Standing Committee the power to make amendments to the code of conduct or to any standards and guidelines. This is because of the paramount importance for the Church to be able to respond quickly to protect children rather than waiting three years for the next General Synod.
- 23. It is likely that it will be necessary to make amendments to one or both of the code of conduct, and the standards and guidelines, arising out of recommendations of the Royal Commission's final report, or a government child safe initiative. It is possible that it will also be necessary to make amendments to one or both of the code of conduct, and the standards and guidelines, to deal with the spiritual abuse of a child (as defined in the canon) or the confession of child abuse.

24. This power is limited in the following ways:
- (a) the power is limited to a code of conduct for safe ministry to children and standards and guidelines for safe ministry to children;
 - (b) the power cannot be used to deal with, or in a manner which concerns, the faith ritual or ceremonial of the Church other than in relation to the spiritual abuse of a child (as defined in the canon) or the confession of child abuse;
 - (c) the Standing Committee is required to consult with the Safe Ministry Commission and diocesan safe ministry authorities prior to making amendments to the code of conduct or the standards and guidelines;
 - (d) the Standing Committee is required to pass a resolution making amendments to the code of conduct or the standards and guidelines, by a two-thirds majority;
 - (e) the General Synod can repeal any amendments to the code of conduct or the standards and guidelines by passing a resolution;
 - (f) a diocese can subsequently exclude the canon pursuant to section 30(d) of the Constitution.

Application of the code of conduct, and standards and guidelines in the Province of Victoria

25. In Victoria churches must observe the child safe standards under the Child Wellbeing and Safety Act 2005 (Vic).
26. The code of conduct meets the child safe standard requiring a code of conduct that establishes clear expectations for appropriate behaviour with children.
27. The standards of screening and training meet the child safe standard requiring screening, supervision, training and other human resources practices that reduce the risk of child abuse by new and existing personnel.

The relationship between the code of conduct and standards and guidelines and a diocesan ordinance dealing with the same subject matter

28. This canon will ensure there is a nationally consistent approach to safe ministry to children in all dioceses.
29. This occurs through the operation of s 30 of the Constitution, which provides that any diocesan ordinance dealing with the same subject matter as the code of conduct and the standards and guidelines will to the extent of any inconsistency have no effect.

Audits

30. This canon provides public accountability regarding safe ministry compliance through a process of audits. Independent public auditing is best practice for ensuring safe ministry compliance and minimising risk.

31. The nature of the audits is defined in the canon (section 3); and the scope of audits will be determined by the Standing Committee. Safe ministry compliance audits of all dioceses and the General Synod will be undertaken over a three year cycle or a lesser period determined by the Standing Committee. Audit reports will be provided to the diocese and the Standing Committee, and published on the General Synod website.
32. The General Synod and dioceses will only be audited in respect of their compliance with the code of conduct and the standards and guidelines under this canon, and not in relation to current practices.
33. It is intended that the cost of undertaking safe ministry compliance audits will be part of the assessment of dioceses pursuant to section 32(2)(b1) of the Constitution. This means that all dioceses will be contributing to the cost of undertaking the audits.

Code of conduct

34. The code of conduct is set out in the First Schedule, and is limited to the parts of Faithfulness in Service dealing with children, namely the standards and guidelines in:
 - (a) section 3 (Putting this Code into Practice) so far as they relate to section 5 (Children), and
 - (b) section 5 (Children),when read in each case with section 1 (About this Code) and section 2 (Key Terms).

Standards of screening

35. The standards of screening are set out in Part 2 of the Second Schedule, and differ according to the following categories of clergy and church workers:
 - (a) a person to be ordained as a deacon;
 - (b) licensed clergy and the bishop of the diocese;
 - (c) licensed, authorised and paid church workers;
 - (d) voluntary church workers;
 - (e) professional standards personnel and safe ministry personnel.
36. All categories of clergy and church workers require a national register assessment, and a safe ministry assessment.
37. Further, compliance with differing state and territory legislation for working with children is required. The following differences, which are provided for in the canon, are summarised below:
 - a working with children check is required in New South Wales, Queensland, Victoria, Western Australia and the Northern Territory;
 - a working with vulnerable people check is required in Tasmania and the Australian Capital Territory;

- a criminal history assessment or a risk assessment is currently required in South Australia.
38. A church ministry assessment is required for clergy and church workers, other than voluntary church workers, who were previously authorised for ministry in a Province (a member church of the Anglican Consultative Council other than this Church) or in another diocese of this Church or another denomination.
 39. For those who are to be ordained as deacons, there is the further requirement of a medical assessment, and a psychological assessment which is to include an assessment of psychosexual maturity.
 40. These standards apply to all such clergy and church workers ordained, licensed, authorised, elected, or appointed, after the standards come into force. Some of these standards (compliance with differing state and territory legislation for working with children, a national register assessment, and a safe ministry assessment) apply to such clergy and church workers when the standards come into force with the assessments to be completed within three years.

Standards of training

41. The standards of training are set out in Part 3 of the Second Schedule. They consist of the satisfactory completion of accredited training by different categories of clergy and church workers within a specified time frame, and at intervals of not more than three years after prior satisfactory completion of accredited training.
42. Accredited training is training that includes the course content in the Safe Ministry Training National Benchmarks so far as it relates to ministry to children, with reasonable adjustments for cultural, linguistic and ability diversity, and is delivered by persons who are accredited, and/or online training which is accredited, by a diocesan safe ministry authority, or equivalent training of another Church body or organisation.
43. These standards apply to all clergy and church workers ordained, licensed, authorised, elected, or appointed, after the standards come into force. These standards also apply to licensed clergy and church workers when the standards come into force with the accredited training to be completed within three years.

Standards for safe ministry with Persons of Concern

44. The standards for safe ministry with Persons of Concern are set out in Part 4 of the Second Schedule. They consist of actions required to implement the process specified in section 5 of the Persons of Concern Policy.

Coming into force of particular provisions of the canon

45. To enable dioceses to prepare for this canon, the following timetable will apply:
- standards of screening and standards of training will come into force on 1 January 2018;
 - provisions as to a diocesan safe ministry authority will come into force on 1 January 2018;
 - standards for safe ministry with Persons of Concern will come into force on 1 January 2019; and
 - provisions as to audit will come into force on 1 January 2019.

Coming into force in a diocese

46. Pursuant to section 30(a) when read with the definitions of “ceremonial” and “ritual” in section 74(1) and the definition of “discipline” in section 74(9)(a)(ii) of the Constitution this canon is deemed to affect the order and good government of the Church within a diocese because it affects the “ritual, ceremonial or discipline of this Church”. This means that the canon will not come into force in any diocese unless and until the diocese by ordinance adopts the canon.
47. For any diocese adopting this canon after 1 January 2018 the standards of screening and training and provisions for a diocesan safe ministry authority will already be in force.
48. For any diocese adopting this canon after 1 January 2019 all provisions of the canon will already be in force.

Special bill procedure

49. The special bill procedure set out in section 28 of the Constitution must be followed in relation to this bill, unless the General Synod by votes of at least three-fourths of the members present in each house decides that it need not proceed as a special bill.

Amendments in committee

50. This canon repeats proposed new or amended definitions in the National Register Amendment Canon 2017, and a definition in the Episcopal Standards (Child Protection) Canon 2017. If these canons are passed, and this canon is passed in principle, it is proposed to make the following amendments to definitions in this canon by way of referring to the equivalent definition in the National Register Canon 2007 and the Episcopal Standards (Child Protection) Canon 2017:

controlled by a diocese or province or the General Synod has the same meaning as in the National Register Canon 2007;

independent person has the same meaning as in the National Register Canon 2007;

professional standards process has the same meaning as in the Episcopal Standards (Child Protection) Canon 2017.

working with children check has the same meaning as in the National Register Canon 2007;

working with vulnerable people check has the same meaning as in the National Register Canon 2007.

51. Further, the definition of **independent person** can be inserted in clause 3 with the consequential deletion of clause 12(1) and the renumbering of the remaining subclauses in clause 12.

Notes on Clauses

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| Preamble | refers to the Safe Ministry Policy Statement adopted by the General Synod in 2004 and the Charter for the Safety of People within the Churches of the Anglican Communion adopted by the General Synod in 2014. |
| Clause 1 | states the title of the canon. |
| Clause 2 | states the object of the canon. |
| Clause 3 | contains definitions of the following words and expressions used in the canon: child, child abuse, Church authority, Church body, church worker, clergy, code of conduct, cogent, contact, controlled by a diocese or province or the General Synod, diocesan audit, diocesan safe ministry authority, General Synod audit, General Synod professional standards role, General Synod safe ministry role, licence, ministry to children, pastoral ministry, Person of Concern, prescribed code of conduct, prescribed standards and guidelines, professional standards process, professional standards role, Protocol, Safe Ministry Commission, safe ministry role, spiritual abuse, standards for safe ministry with Persons of Concern, standards of screening, standards of training, working with children check and working with vulnerable people check. |
| Clause 4 | prescribes the code of conduct, and provides that the General Synod, or the Standing Committee by a two-thirds majority, may prescribe amendments to the prescribed code of conduct or a substituted code of conduct, and that clergy and church workers shall observe the standards of conduct, and follow the guidelines for conduct unless there are cogent |

reasons for not doing so, contained in the prescribed code of conduct.

- Clause 5 provides that the prescribed code of conduct shall not apply to clergy and church workers in a Church body (which does not include a diocese or a diocesan safe ministry authority) which has a code of conduct applicable to them pursuant to the laws of the Commonwealth or a State or Territory, a requirement or condition for registration, approval or funding to provide services for children under the laws of the Commonwealth or a State or Territory, or a contract or arrangement with the Commonwealth or a State or Territory or an agency or authority of the Commonwealth or a State or Territory. Otherwise, the prescribed code of conduct shall apply to clergy and church workers in a Church body unless the Standing Committee by a two-thirds majority, on application by a province or diocese, determines that the Church body has an equivalent code of conduct for safe ministry to children. Details of Church bodies determined by the Standing Committee to have an equivalent code of conduct are to be published on the General Synod website.
- Clause 6 provides that a diocese may prescribe a code of conduct for safe ministry to children containing additional standards of conduct for observance, and additional guidelines for conduct to be followed, by clergy and church workers to whom the prescribed code of conduct applies that are not inconsistent with the prescribed code of conduct, or by clergy and church workers to whom a code of conduct specified in clause 5(3) applies that are not inconsistent with the standards of conduct and the guidelines for conduct contained in that code of conduct. This does not apply to clergy and church workers to whom a code of conduct specified in clause 5(2) applies.
- Clause 7 provides for the publication of the prescribed code of conduct on the General Synod website, and the tabling at the succeeding ordinary session of the General Synod of any amendments to the prescribed code of conduct, or any substituted code of conduct, prescribed by the Standing Committee.
- Clause 8 prescribes standards of screening, standards of training and standards for safe ministry with Persons of Concern, and provides that the General Synod, or the Standing Committee by a two-thirds majority, may prescribe amendments to the prescribed standards and guidelines or substituted standards and guidelines or further standards and guidelines, and that each diocese shall have standards, and guidelines unless there are cogent reasons for not doing so, that give effect to the prescribed standards and guidelines, and clergy and church workers in a diocese shall observe the standards, and guidelines unless there are cogent

reasons for not doing so, applicable to them that give effect to the prescribed standards and guidelines.

- Clause 9 provides that the prescribed standards and guidelines shall not apply to clergy and church workers in a Church body (which does not include a diocese or a diocesan safe ministry authority) which is registered or approved or funded to provide services to children pursuant to legislation of the Commonwealth or a State or Territory, or provides services to children pursuant to a contract or arrangement with the Commonwealth or a State or Territory or an agency or authority of the Commonwealth or a State or Territory. Otherwise, the prescribed standards and guidelines shall apply to all clergy and church workers in a Church body unless the Standing Committee by a two-thirds majority, on application by a province or diocese, determines that the Church body has equivalent standards and guidelines. Details of Church bodies determined by the Standing Committee to have equivalent standards and guidelines are to be published on the General Synod website.
- Clause 10 provides for a diocese to prescribe additional standards and guidelines for safe ministry to children other than in relation to a Church body specified in clause 9(2), that are not inconsistent with the prescribed standards and guidelines, or in the case of a Church body specified in clause 9(3) that are not inconsistent with the standards and guidelines applicable to that Church body.
- Clause 11 provides for the publication of the prescribed standards and guidelines on the General Synod website, and the tabling at the succeeding ordinary session of the General Synod of any amendments to the prescribed standards and guidelines, or substituted standards and guidelines, or further standards and guidelines, prescribed by the Standing Committee.
- Clause 12 provides for the audit by an independent person of the compliance by the Primate, the General Secretary, the General Synod and the Standing Committee, and each diocese, with the provisions relating to the code of conduct and the prescribed standards and guidelines, for the Primate and the General Secretary, and a diocesan safe ministry authority to provide access to records and provide information to enable the audit to be undertaken, and for the publication of the audit reports on the General Synod website.
- Clause 13 provides for each diocese to have a diocesan safe ministry authority, and for the diocesan safe ministry authority to inform the General Secretary of the of the details of the screening and training of persons from the diocese who are being considered for appointment or election for a General Synod

professional standards role or a General Synod safe ministry role.

- Clause 14 provides that the canon will come into force on and from the date appointed by the President, being not later than one calendar month from the date on which the canon is passed, other than the standards of screening, standards of training and standards for safe ministry with Persons of Concern prescribed under clause 8(1) which shall come into force on the date specified in the Second Schedule, clause 12 which shall come into force on 1 January 2019, and clause 13 which shall come into force on 1 January 2018.
- Clause 15 provides that the canon shall not come into force in a diocese unless and until the diocese by ordinance adopts the canon.
- First Schedule specifies the code of conduct.
- Second Schedule specifies standards of screening, standards of training and standards for safe ministry with Persons of Concern, and the dates on which they shall come into force.
- Third Schedule sets out the Ministry Suitability Information Protocol.

