PROFESSIONAL STANDARDS ORDINANCE 2012

AN ORDINANCE relating to Professional Standards with the Church, and for other purposes

PREAMBLE

THE MISSION STATEMENT OF THE ANGLICAN DIOCESE OF NEWCASTLE

The diocese takes its place in representing the reign of God as its community, servant and messenger. In fulfilling this vocation, it conforms to the Fundamental Declarations of the Anglican Church of Australia and is guided by the Five Marks of Mission of the Anglican Communion which call us to

- proclaim the Good News of the Kingdom
- teach baptise and nurture new believers
- to respond to human need by loving service
- to seek to transform the unjust structures of society
- to strive to safeguard the integrity of creation and sustain and renew the life of the earth.

POSITION STATEMENT

- The Anglican Diocese of Newcastle in its Mission Statement is committed to providing “to respond to human need” and to changing “unjust structures of society”.
- The diocese regards any professional misconduct by a church worker, especially sexual misconduct as very serious.
- The diocese is committed to support, seek justice for and promote the welfare of those who suffer because of sexual misconduct including the people bringing information, those affected by the conduct and their family and close associates, the parish and the wider Church community.
- The diocese is also committed to support, seek justice for and promote the welfare of those who are accused of sexual misconduct including accused workers, members of their families and close associates, the parish, and the wider Church community.
- The diocese will be open and accountable. In dealing with these matters it will act with integrity and transparency.

THEOLOGICAL STATEMENT

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

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

PART 1 – PRELIMINARY

Short Title

1. This Ordinance may be cited as the ***"Professional Standards Ordinance 2012".***

2. The Professional Standards Ordinance 2005 is hereby repealed provided that
   a. such repeal shall not affect or invalidate any act done under that Ordinance; and
   b. all appointments to any office under the repealed Ordinance are deemed to be appointments under this Ordinance.

Definitions

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

"Board" means the Professional Standards Board established under Part 9;

"Body Corporate" means a Body Corporate established Anglican Church of Australia [Bodies Corporate] Constitution and Administration Ordinance 1994;

"child" means anyone under the age of 18;

"child abuse" means the following conduct in relation to a child:

(a) emotional abuse; or
(b) neglect; or
(c) physical abuse; or
(d) sexual abuse; or
(e) spiritual abuse;

"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, organisation or association that exercises ministry within, or on behalf of, the Church;

"Church worker" means a person (whether paid or in a voluntary capacity) who is or who at any relevant time was:

(a) a member of the clergy (a deacon, a priest or a bishop) resident in the Diocese or holding licence or authority from the Bishop of the Diocese;
(b) a lay person holding a licence or authority from the Bishop to undertake ministry;
(c) a lay person authorised by the Incumbent of a Parish to assist in the leadership of public worship, to educate or nurture people within the Christian faith, or to offer people direct pastoral care and support;
(d) a novice or professed member of a religious order associated with the Anglican Church of Australia ministering or resident within the Diocese;
(e) a candidate for ordination in the Diocese;
(f) a member of the General Synod or the Diocesan Synod;
(g) a church warden, member of a parish council, member of the Cathedral Board, member of a parish Ministry Team, member of a parish Resourcing Team;
(h) a Parish Council Secretary or a Parish Council Treasurer;
(i) member of any board, council or committee constituted by the authority of the General Synod, the Diocesan Synod, the Diocesan Council or a parish council;
(j) an employee of the Diocese; unless solely employed by a Body Corporate of the Diocese and not meeting any other conditions to be a 'church worker';
(k) a person who is required by law to hold a valid Working with Children Check to undertake the work they are engaged in within the Diocese;
(l) a person performing the duties of (or duties inherent to) the following roles or offices within the Diocese:
(i) a person involved in direct ministry to children or young people including
a. Family/Youth/Children's group leader or co-ordinator;

b. Family/Youth/Children's group team member;
(ii) a Director or co-ordinator of music, a choir or other music group;
(iii) a member of a choir or other music group in which children or youth are regular or occasional members;
(iv) Persons conducting or supporting the conduct of Sunday school or other educational programmes;
(v) Director or co-ordinator of music;
(vi) A church musician including an organist or pianist;
(vii) Home visit leader or co-ordinator;
(viii) A coordinator or worker in church activity involving direct engagement with people including workers in Opportunity Shops and Church Cafes.

any other person holding a position or performing a function, whether voluntarily or for payment with the actual or apparent authority of a Church authority or Church body;
but excludes:

(a) the Bishop of the Diocese recognising that the conduct of that Bishop is subject to the jurisdiction of the Special Tribunal of the Anglican Church of Australia and
(b) any person, not being a member of the clergy, undertaking work in a church body exempted under section 8;

"Code of Conduct" means a code of conduct approved from time to time under Part 3;
"criminal conduct" means all crimes as defined in any criminal code or crimes legislation currently in force and applicable to the church worker at the time of the alleged conduct and punishable by imprisonment for twelve months or more.
"Diocesan Council" means the Bishop meeting in Council, as defined under the Diocesan Council Ordinance 1929. For the purposes of this Ordinance no powers are to be delegated to the Diocesan Council Executive.
"Director" means the Director of Professional Standards appointed under Part 6;
"emotional abuse" means acts or omissions in relation to a child where the child has suffered, or is likely to suffer, significant harm to his or her wellbeing or development;
"employee" means an employee of the Diocese unless solely employed by a Body Corporate of the Diocese and not meeting any other conditions to be a "church worker";
"equivalent body" means a body of another diocese exercising powers, duties or functions equivalent to those of the PSC or the Board as the case may be, or where there is no suc h body, the bishop of the diocese;
"examinable conduct" means conduct wherever or whenever occurring the relating to alleged conduct of a Church worker wherever or whenever occurring involving sexual

(a) misconduct or child abuse;
(b) alleged inappropriate or unreasonable conduct or omission of a Church worker who had knowledge of conduct of another Church worker involving sexual misconduct or child abuse;
(c) alleged criminal conduct by a Church Worker;
(d) a reportable allegation on the part of a Church Worker; or
(e) an alleged process failure being the failure of the Diocese (and/or any Church Worker) to deal appropriately with or to investigate any of the conduct set out in sub clauses (a) to (d) above.

which, if established, might call into question:

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

(b) whether, in the exercise of a Church worker's ministry or employment, or in the performance of any function, the Church worker should be subject to certain conditions or restrictions;

"information" means information of whatever nature and from whatever source relating to examinable conduct or misconduct.

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

"misconduct" means conduct that the Professional Standards Committee has determined not to be "examinable conduct" but is conduct (whether act or omission) which represents a breach of any of the Standards in the Code of Conduct and/or a breach of the Guidelines relating to the Protection of Children in the Code of Conduct.

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

"neglect" means the neglect of a child where the child has suffered, or is likely to suffer, significant harm to his or her wellbeing or development;

"physical abuse" means the physical assault of a child other than lawful discipline by a parent or guardian;

"Principal Officer" means a person other than the Bishop who is responsible for the management and administration of the day to day operations of a Body Corporate;

"process failure" mean s the failure by a Church Worker or Church Body or Church Authority to deal appropriately with or to investigate matters referred to in the definition of information.

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

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

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

"referring body" means the PSC or an equivalent body which refers a question or questions under section 64 to the Board;

"Reliable Evidence of Conviction" means a certificate of conviction given under or in accordance with:

(i) section 178 of the *Evidence Act 1995* (NSW);

(ii) section 178 of the *Evidence Act 1995* (Cth), or

(iii) a National Police Check Certificate,

that records the conviction of a Church worker with respect to a Serious Indictable Offence in accordance with the Crimes Act 1900 (NSW) and/or a disqualifying offence as listed in Schedule 2 of the Child Protection (Working with Children) Act 2012 (NSW) (or any successor legislation) or any equivalent provision in any Commonwealth, State or Territory legislation;

"reportable allegation" means an allegation that a church worker has engaged in conduct that may be reportable conduct, whether or not the conduct is alleged to have occurred in the course of the church worker's work or ministry with the Diocese;

"reportable conduct" means reportable conduct as defined in Part 4 of the Children's Guardian Act 2019;

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

"**serious indictable offence**" has the same meaning as in the *Crimes Act 1900* (NSW) and related to crimes that are punishable by five (5) years imprisonment or more, such as assault, sexual assault, stealing fraud, murder, robbery and burglary

as well as any offences attracting the same penalties in the *Drug Misuse and Trafficking Act 1985* (NSW).
"sexual abuse" means sexual misconduct in relation to a child;
"**sexual misconduct**" means sexual assault, sexual harassment or sexually inappropriate behaviour in relation to an adult;
"**spiritual abuse**" means the mistreatment of a child by actions or threats when justified by appeal to God, faith or religion where the child has suffered, or is likely to suffer, significant harm to his or her wellbeing or development;
"Synod" means the Synod of the Anglican Diocese of Newcastle.
"Worker" means a person who carries out work in any capacity.

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

4. The Diocesan Council may enter into such agreements or arrangements as it sees fit with the relevant authority of another diocese as to the terms on which the powers and functions of the equivalent bodies or persons of that diocese are to be exercised by the persons holding office in or as delegates of the PSC, or by the members or the Secretary of the Board.

PART 2 – APPLICATION

5. The overriding purpose of this Ordinance and any protocol made under this Ordinance in their application to any information received under this Ordinance is to facilitate the just, quick and inexpensive resolution of the real issues in the information.

6. The Director, the PSC, the PSB and the Review Board must each seek to give effect to the overriding purpose when it exercises any power given to it by this Ordinance or by any protocol and when it interprets any provision of this Ordinance or any such protocol.

7. Any act commenced under a repealed ordinance but not completed at the time of the passing of this ordinance may be dealt with as to all further steps or requirements and completed under the provisions of this ordinance.

8. (a) This Ordinance does not apply to employees of a Body Corporate of the Diocese unless the employee meets the definition of a church worker.
(b) The Diocesan Chief Executive shall provide a Body Corporate Safeguarding Report the Diocesan Council for the six month period to 31 March each year and the six-month period to 30 September each year.

8A This ordinance shall provide for powers and duties in respect of:

(a) conduct wherever it is alleged to have been engaged in by a Church worker resident or licensed in the diocese;
(b) an omission, whenever it is alleged to have occurred, by a Church worker resident or licensed in the diocese;
(c) conduct which is alleged to have occurred within the diocese wherever the Church worker involved in the alleged conduct may reside;
(d) conduct, wherever it is alleged to have been engaged in, or an omission, wherever it is alleged to have occurred, by a Church worker, wherever the Church worker may reside -
(i) in respect of or affecting a person resident in the diocese; or

(ii) that may affect a Church body or Church authority in the diocese, or Church property or property held in trust for the benefit of or in connection with the Church or a Church body in the diocese.

8B. Subject to the provisions of this Ordinance, any person exercising a function in accordance with this Ordinance must not divulge information that comes to his or her knowledge by virtue of that office or position except:

(a) in the course of carrying out the duties of that office or position;
(b) as may be authorised by or under this Ordinance;
(c) in any proceedings before a diocesan tribunal, a provincial tribunal or the special tribunal;
(d) as may be required by law; or
(e) to any insurer or insurance broker of a Church body or Church authority where the information may give rise to or be relevant to a claim for indemnity by the Church body or Church authority against the insurer or is relevant to obtaining or continuing insurance cover.

PART 3 – CODE OF CONDUCT

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

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

PART 4 – THE PROTOCOL

11. (1) The Diocesan Council shall from time to time consider, approve and review a protocol for implementation in relation to information.

(2) The protocol must include:

(a) procedures for receiving information;
(b) the appointment, role and function of contact persons;
(c) provision for informing complainants and victims of alleged conduct the subject of information, and respondents, of rights, remedies and relevant procedures available to them;
(d) provision for assisting or supporting, as appropriate, all persons affected by alleged conduct the subject of information;
(e) an explanation of the processes for investigating and dealing with information;
(f) provisions for dealing fairly with respondents;
(g) processes for referral to mediation and conciliation in appropriate circumstances;
(h) processes for dealing with alleged process failure;
(i) provisions for regular information, reports, advice and recommendations to the Bishop and any other relevant Church authority at each stage of the process of dealing with information;
(j) procedures for working, where necessary, with law enforcement, prosecution or child protection authorities of the States and Territories and of the Commonwealth of Australia.

12. The Diocesan Council through the PSC and by such other means as it may consider appropriate shall take such steps as may be necessary or desirable to promote throughout the community a knowledge and understanding of the protocol.

PART 5 – PROFESSIONAL STANDARDS COMMITTEE

13. There shall be a Professional Standards Committee for the diocese.

14. There shall be a Chair of the PSC who is not the Director.

15. The members of the PSC shall be appointed and hold office on such terms and conditions as may be determined by the Diocesan Council from time to time or in accordance with any Regulations of the Diocesan Council.

16. (1) The PSC shall have at least five members one of whom is the Chair.
(2) The membership of the PSC shall be constituted so as collectively to provide:
(a) experience in law;
(b) experience in the ordained Ministry; and
(c) experience and appropriate professional qualifications in child protection, human resource management, social work or counselling.
(3) So far as it is reasonably practicable the PSC shall have an equal number of men and women and must include a person who is not a member of this Church and may include up to two people who are not members of this Church.

17. (1) The Chair of the PSC will be appointed by or in the manner determined by the Diocesan Council.
(2) The PSC may meet from time to time as determined by the Chair or a majority of its members and may conduct its business by telephone or electronic communication.
(3) The procedures of the PSC shall be as determined by the PSC but subject to the Ordinance and Protocols.
(4) A majority of the members shall constitute a quorum.
(5) A decision supported by a majority of members of the PSC constitutes a decision of the PSC.
(6) The PSC shall act in all things as expeditiously as possible.

18. An act or proceeding of the PSC is not invalid by reason only of a vacancy in its membership and, notwithstanding the subsequent discovery of a defect in the nomination or appointment of a member, any such act or proceeding is as valid and effectual as if the member had been duly nominated or appointed.

19. The Synod indemnifies any member or delegate of the PSC for any act or omission by the member or delegate or by the PSC in good faith and in the exercise or purported exercise of powers or functions, or in the discharge or purported discharge of duties under this Ordinance.

20. The members of the PSC may constitute an equivalent body, either generally or for a particular case or matter.

21. Repealed

22. Members of the PSC will be required to sign a statement of confidentiality

23. The PSC must disclose to an equivalent body relevant details of information in its possession concerning the alleged conduct of a Church worker:
(a) presently residing in the diocese of the equivalent body; or
(b) which is alleged to have occurred in the diocese of the equivalent body;
(c) and shall co-operate with such other equivalent body.

24. (1) Without disclosing the identity of any informant, complainant or the respondent, the PSC shall report annually to the Diocesan Council on its activities for that calendar year.

(2) Notwithstanding subsection (1), the report of the PSC pursuant to that subsection may identify a respondent who has been exonerated from an allegation the subject of information or who has been the subject of a determination or recommendation by the Board provided that the PSC shall take into account the wishes of the exonerated person about being identified.

(3) The PSC shall, in respect of every matter with which it is dealing, report either orally or in writing to the Bishop with such frequency and as fully as the Bishop shall reasonably require.

(4) The PSC shall provide to the Church Authority, who may inform the Diocesan Council, such information as the Church Authority shall from time to time require as to

(a) the processes of the PSC and its compliance with the Protocol;
(b) any contingent financial liability incurred by the PSC;
(c) any person or organisation appointed by the PSC under section 26(1)(e).

25. (1) Subject to sub-section (2), the PSC may delegate, upon such terms and conditions as the PSC may approve, any of its powers or functions under this Ordinance to the Chair of the PSC, the Director, any member of the PSC, and /or any person.

(2) The PSC cannot delegate:

(a) its powers under subsection (1); or
(b) power to refer a matter to the Board; or
(c) its powers under section 37

(3) A delegation under this section must be made by instrument in writing signed by the Chair of the PSC.

26. Subject to the provisions of this Ordinance the PSC has the following powers and duties:

(a) to recommend the suspension or prohibition of a Church Worker the subject of information;
(b) to determine whether Examinable Conduct in relation to a Church Worker should be referred to the Professional Standards Board;
(c) to determine whether Misconduct in relation to a Church Worker should be referred to the Bishop or other Church Authority and to make recommendations to them about the appropriate action in relating to that misconduct;
(d) to oversee, support, and guide the work of the Director of Professional Standards;
(e) where appropriate, to recommend to the Diocesan Council any changes to the protocol; and
(f) to exercise such other powers and undertake such functions as are conferred on it by this Ordinance or any other Canon, Ordinance or Policy in force in the Diocese or otherwise assigned by any other competent Diocesan body.

26A. The Diocesan Chief Executive, or their delegate, shall ensure the appropriate training for all persons with responsibilities under this Ordinance (including clergy and church workers) in relation to the provisions of this Ordinance and in all matters related to compliance with child protection legislation.

26B. The Diocesan Chief Executive, or their delegate, shall submit a report to the Diocesan Council and Professional Standards Committee on compliance with section 26A twice each calendar year.

PART 6 – DIRECTOR OF PROFESSIONAL STANDARDS

27. (1) There shall be a Director of Professional Standards.

(2) The Director shall be appointed by and shall hold office in accordance with a resolution or any Regulation of the Diocesan Council.

27A. (1) The Diocesan Council may appoint a suitable person to be the Acting Director in the absence of the Director.

(2) Any Acting Director shall be appointed in accordance with any resolution or regulation of the Diocesan Council.

(3) An Acting Director when acting in that capacity is taken to be the Director and has all the powers and functions of the Director.

28. The Director shall have the following functions:

(a) to be the Executive Officer of the PSC;

(b) to receive information on behalf of the PSC;

(c) to coordinate and/or undertake investigations;

(d) to manage the implementation of the protocol in respect of any information;

(e) to attend meetings of the PSC except for any part of a meeting which deals with matters that the Chair reasonably believes should be considered in the absence of the director (including any matters relating to the conditions of employment, remuneration or performance of the Director);

(f) to exercise such other powers and undertake such functions as are conferred on the Director by this Ordinance or any other Canon, Ordinance or Policy in force in the Diocese;

(g) to undertake timely research to assist the management of claims for redress;

(h) subject to any limit imposed by the Diocesan Council to authorise such expenditure on behalf of the Synod or the Church body as may be necessary to implement, in a particular case, the protocol and the provisions of this Ordinance;

(i) to advise any relevant Church authority or Church body as to the financial or other needs of a person affected by conduct the subject of information and as to any possible or actual legal proceedings against such Church body or Church authority arising out of the alleged conduct of a Church worker;

(j) to refer any information in its possession to a member of a law enforcement, prosecution or child protection authority of a State or Territory or of the Commonwealth of Australia to which the information is or may be relevant;

(k) to appoint suitably qualified staff to undertake duties on behalf of the Director, and

(l) such other functions and duties as may be determined by the Bishop, the Diocesan Council and/or the PSC.

29. The Director may act in a corresponding capacity for another diocese either generally or for a particular case or matter.

PART 7 – CHAPLAINS

30. The Bishop may appoint a Chaplain or Chaplains to give pastoral care to members of the PSC and to offer, or provide, spiritual care to any parties involved in an issue.

PART 8 – MISCONDUCT AND EXAMINABLE CONDUCT

31. (1) A member of the Clergy or a Church Worker or a Church authority in the diocese shall as soon as possible refer any information in his her or its possession or knowledge to the Director.

(2) This section does not affect the operation of the Canon Concerning Confessions 1989 of General Synod or any other Ordinance or legislative instrument relating to confessions in force in the diocese.

32. Subject to this Ordinance, where the Director considers that the subject matter of information constitutes misconduct or examinable conduct it shall investigate the information.

33. (1) The Director may, if it thinks it appropriate to do so, refer the subject matter of information, or the investigation of information, to an equivalent body or bodies.

(2) When the Director and an equivalent body or equivalent bodies have the power and duty to investigate information concerning the alleged conduct or omission of the same Church worker and the respective bodies cannot agree on:

(a) which body shall carry out the investigation or any parts of such investigation; or,

(b) whether a question or questions specified in section 64 should be referred to the Board or to an equivalent body which has jurisdiction;

then the Director shall refer the disagreement by the Director and the persons acting in a corresponding capacity for every other Diocese acting together.

(3) The Director shall act in accordance with the unanimous decision of the bodies referred to in subsection (2) or, if such persons cannot agree within a reasonable time of the disagreement being referred, in accordance with the decision of the Primate or a member of the House of Bishops appointed by the Primate.

(4) In all matters affecting the operation of this Ordinance the PSC and the Director shall cooperate with and assist an equivalent body and a person acting in the corresponding capacity of the Director in another diocese.

(5) In making a decision under subsection (2) the Director shall not be bound by the views or instruction of the PSC but shall take into account the most convenient course for all concerned and the best interest of the Church as a whole.

34. The Director may decline to investigate or may refrain from further investigation of the information if:

(a) in the Director's opinion, the allegations the subject of the information are false, vexatious or misconceived, or their subject matter is trivial;

(b) the subject matter is under investigation by some other competent person or body or is the subject of legal proceedings;

(c) the Director is satisfied that the church worker who is the subject of the information is

(i) a volunteer,

(ii) that there are satisfactory and procedurally fair processes for limiting the church worker in or removing the church worker from voluntary roles, and

(iii) that the processes have been applied in a sufficient manner to ensure the safety of others.

(d) The Director is satisfied that the church worker who is the subject of the information is an employee whose conduct has been managed in accordance with the relevant employment law.

(e) the person making allegations of examinable conduct or a person affected by the conduct the subject of the information has failed to provide further particulars or to verify the allegations by statutory declaration; or

(f) in its opinion there is insufficient reliable evidence to warrant an investigation or further investigation.

34A Where the Director terminates an investigation in accordance with section 34 (c) or 34 (d) it may recommence the investigation at any time.

34B The PSC shall consider any report or recommendation from the Director and may determine at its sole discretion the Information does not meet standard of Examinable Conduct but represents Misconduct. The PSC shall advise the Bishop or other Church Authority of that determination and may recommend to the Bishop or other Church Authority appropriate action in responding to that misconduct.

34C The Bishop or other relevant Church Authority shall consider any recommendation made under clause 34B, however in the case of the Bishop, he/she has sole discretion to determine whether to accept and implement the recommendation or take any other steps he/she may see fit."

35. For the purpose of an investigation the PSC or an investigator shall obtain such statutory declarations, written statements, recorded conversations, reports, and documents as the PSC or its delegate considers necessary or advisable for presentation to the Board.

36. (1) The PSC may by reasonable notice in writing to a respondent require the respondent to provide a detailed report to the PSC within the time specified in the notice in relation to any matter relevant to the investigation and may require verification of the report by statutory declaration or another manner specified by the PSC.

(2) It is the obligation of a respondent, subject to subsection (3):
- (a) truthfully and expeditiously to answer any question put by or on behalf of the PSC in the exercise of powers conferred by this Ordinance;
- (b) not to mislead the PSC or a member or delegate of the PSC;
- (c) not unreasonably to delay or obstruct the PSC or a member or delegate of the PSC in the exercise of powers conferred by this Ordinance.

(3) A person may decline to answer a question on the ground that the answer might tend to incriminate the person. If this occurs a written record shall be made of the question and of the ground of refusal.

37. At any time after the Director has commenced or caused to be commenced an investigation into the information under this Part, the Director may recommend to the PSC that it consider the suspension or prohibition of the Church Worker. The PSC may recommend to the relevant Church authority one or more of the following:
- (a) That the respondent should be suspended from the duties or office or employment by a Church body;
- (b) That a prohibition order be made against the respondent. Such recommendation shall be in writing and inform the Church authority of the factors taken into account under clause 39.

38. The relevant Church authority is authorised to give effect to a recommendation made under section 37.

39. Before making a recommendation under section 37 the PSC shall take into account:
- (a) the seriousness of the conduct alleged in the information;
- (b) the nature and weight of evidence to support or negate the allegations;
- (c) whether any person is at risk of harm;
- (d) any other allegation of similar examinable conduct previously made to the PSC or to an equivalent body within the previous ten (10) years;
- (e) any other matter the PSC considers relevant.

40. A suspension or prohibition order made by a Church authority pursuant to a recommendation under section 37 shall be terminated by the Church authority:
- (a) if the Director terminates the investigation without referring the matter to the Board;
- (b) upon any direction to that effect given by the Board; or
- (c) upon the Church authority giving effect to a recommendation of the Board under section 82.

41. During a suspension or prohibition pursuant to the provisions of this Part or during a period when a person voluntarily stands down from a position while conduct the subject of information is dealt with under this Ordinance:
- (a) the respondent shall comply with the terms of any prohibition order;
- (b) the respondent is ineligible for appointment to any position or function covered by any suspension or prohibition order;
- (c) the relevant Church authority may fill the vacancy caused by any suspension or prohibition order, or while the respondent is standing down;
- (d) the respondent is entitled to whatever stipend, salary, allowances and other benefits that he or she would otherwise have received and such payments are to be paid by the relevant church body provided that the Diocese shall pay, out of funds made available

to it by Synod, such expenses in respect of a locum or other relief for the church body as the Bishop and the Church body shall agree; and

(e) Notwithstanding paragraph (d), no suspended person shall be entitled to receive any stipend unless, but for the suspension, that person would otherwise have been able to carry out the duties of his or her office.

Summary Hearing

42. If, during the course of carrying out their duties under this Ordinance, the Director, the PSC or the Board receives a Reliable Evidence of Conviction of a Church worker, then:
   (a) If the person who receives any Reliable Evidence of Conviction is not the Director, the person must immediately provide the Reliable Evidence of Conviction to the Director;
   (b) The Director must immediately provide a copy of the Reliable Evidence of Conviction to the Secretary of the Board;
   (c) Upon receipt of the Reliable Evidence of Conviction by the Secretary of the Board, the Secretary shall ensure that the President or Deputy President (as the case may be) convenes a Board for the purpose of considering the making of any recommendation under this Part;
   (d) The Board may act pursuant to this section whether or not a complaint against the Church worker has been referred to the Board;
   (e) The Board shall be entitled to accept the Reliable Evidence of Conviction as conclusive evidence of the subject matter disclosed without the need to receive or consider any other evidence, but may, in its absolute discretion, seek evidence or submissions from the Church worker;
   (f) Following consideration of the Reliable Evidence of Conviction (and any evidence or submissions from the Church Worker as appropriate), the Board may make any of the recommendations referred to in section 82 in respect of the Church worker to whom the Reliable Evidence of Conviction relates.

No review of determination

43. A determination under this Part is not a reviewable decision for the purposes of Part 12.

Effect on other proceedings

44. No action taken in accordance with section 42 or 43 shall, of itself, stay or preclude any act, proceeding, investigation or enquiry otherwise in progress or proposed under this Ordinance in respect of the Church worker to whom the Reliable Evidence of Conviction relates.

PART 8A – ADMISSION BY RESPONDENT TO EXAMINABLE CONDUCT

44A. In this Part, the following terms are used:

"admission" means an admission by the respondent to the alleged examinable conduct

"declaration" means a statement by the respondent that they will not contest the alleged examinable conduct.

44B. A respondent may, at any time after they have been advised that the PSC is examining the respondent's conduct, make an admission or declaration relating to such conduct in writing to the PSC.

44C. Upon receiving an admission or declaration from the respondent, the PSC shall determine whether to accept the admission or declaration having regard for:

(a) the terms of the admission or declaration by reference to the examinable conduct to which such admission or declaration relates;

(b) the nature and circumstances of the conduct concerned and whether it remains appropriate for the Board to consider whether it should, despite the terms of the admission or declaration, still conduct a full hearing to examine such conduct; and

(c) whether acceptance of the admission or declaration promotes the principles of just, quick and inexpensive administration of matters relating to the examination of the relevant conduct,

but shall not unreasonably decline to accept any such admission or declaration.

44D. In considering an admission or declaration, the PSC shall be entitled to request further information or clarification from the respondent about the terms of the admission or declaration.

44E. The PSC shall consider whether to accept any admission or declaration within twenty (20) business days of receipt of the written notice from the respondent of the admission or declaration (or any further information requested under section 44D), and shall make a determination as to whether the admission or declaration is accepted before making any decision to refer the conduct for hearing by the Board pursuant to Part 10.

44F. The PSC cannot receive or consider an admission or declaration from the respondent after the PSC has determined to refer the conduct to which the admission or declaration relates for hearing by the Board pursuant to Part 10.

44G. Where the PSC accepts an admission or declaration:

(a) the respondent shall be provided with the opportunity to make submissions to the Board in relation to mitigation prior to the pronouncement of the Board's determination or recommendation relating to the conduct concerned. Thereafter, the respondent shall submit to any determination or recommendation that the Board thinks fit to pronounce; and

(b) the Board, Church Authority and the Bishop shall be entitled to consider the terms of any admission or declaration made under this Part 8A in the discharge of their respective functions pursuant to Part 10.

44H. Where the PSC rejects an admission or declaration, the respondent shall be entitled to adduce evidence of the making of the admission or declaration during any Board hearing, however the Board shall, in its absolute discretion, determine the weight afforded to such admission or declaration in any Board decision.

44I. Any decision of the PSC to reject an admission or declaration shall be final and is not a reviewable decision for the purposes of Part 12 of this Ordinance. Further, the PSC is not required to provide any reasons for a decision to reject an admission or declaration.

PART 9 – PROFESSIONAL STANDARDS BOARD

45. There shall be a Professional Standards Board constituted and appointed in accordance with the provisions of this Part.

46. The members of the panel referred to in section 49 may constitute an equivalent body either generally or for a particular case or matter.

47. Subject to the provisions of this Ordinance the function of the Board is to inquire into and determine a question or questions referred to it pursuant to section 64 and questions within

its jurisdiction referred to it by an equivalent body to the PSC and to make a determination referred to in section 82 and where appropriate to make a recommendation in accordance with the provisions of this Ordinance.

48. The Board has jurisdiction to exercise its functions in respect of a Church worker:
(a) resident or licensed in the diocese; and
(b) not resident or licensed in the diocese but whose conduct or omission giving rise to the reference is alleged to have occurred in the diocese or when the Church worker was resident or licensed in the diocese.

49. The members of the Board in a particular case shall be appointed from a panel comprising:
(a) a President and a Deputy President appointed by the Diocesan Council who shall be lawyers who have held judicial office or who are or have been eligible for appointment to judicial office in NSW;
(b) five members of the clergy of at least seven years' standing; and
(c) five lay persons who are practicing members of a Christian church.

50. The members of the panel shall be appointed by the Diocesan Council and shall hold office in accordance with a resolution or Regulation of the Diocesan Council.

51. Any vacancy in the membership of the panel shall be filled by or in accordance with a resolution or Regulation of the Diocesan Council.

52. (1) The members of the panel to be convened for any reference to the Board shall be determined by the President or, if there is a vacancy in the office of President, by the Deputy President.
(2) For the purpose of any reference to the Board, the Board shall consist of the President or Deputy President, who shall be the presiding member, and an equal number not exceeding two of clerical and lay members of the panel.
(3) Where possible, the Board shall include at least one man and at least one woman.
(4) Where, in the opinion of the President, or if there is a vacancy in the office of the President, in the opinion of the Deputy President a member of the panel has a personal interest in a matter before the Board the member shall be disqualified from participating in the reference.
(5) For the purposes of this section a vacancy in the office of President includes a situation in which the President is not able to act because of a personal interest in a matter, illness or absence from the diocese.

53. The Rules of the Board made under this Part may provide that, in relation to the exercise of specified functions, or in relation to matters of a specified class, the Board may, at the direction of the presiding member, be constituted by a single member sitting alone.

54. If a member of the Board, other than the presiding member, dies or is for any other reason unable to continue with any matter referred to the Board, the Board constituted of the presiding member and the other member or members may, if the presiding member so determines, continue and complete the reference.

55. The Board, separately constituted in accordance with this Part, may sit simultaneously for the purpose of matters referred to it or for conducting separate business of the Board.

56. An act or proceeding of the Board is not invalid by reason only of a vacancy in its membership or of the membership of the panel and, notwithstanding the subsequent discovery of a defect in the nomination or appointment of members of the panel or the Board, any such act or proceeding is as valid and effectual as if the member had been duly nominated or appointed.

57. The Synod indemnifies each of the members of the Board, PSC, Board Secretary and Review Board Secretary 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.

58. (1) There shall be a Secretary to the Board who shall be appointed by or in accordance with a resolution or Regulation of the Diocesan Council, and whose duties shall be defined by the President.
(2) The Secretary to the Board may act in a corresponding capacity for another diocese either generally or for a particular case or matter.

59. (1) In any proceedings of the Board where the Board is constituted by two or more members:
(a) any question of law or procedure will be determined by the presiding member; and
(b) any other question will be determined by majority decision of the members, and in the case of an equality of votes the opinion of the presiding member shall prevail.
(2) Where the Board is constituted by a member sitting alone who is not the President or the Deputy President, any question of law that arises must be referred to the President or Deputy President for decision and any decision made on such a reference is a decision of the Board.
(3) The Board must act with fairness and according to equity, good conscience and the substantial merits of the case without regard to technicalities or legal forms and is not bound by the rules of evidence but may inform itself on any matter in such manner as it thinks fit.
(4) The Board may inform itself from the record of any court or tribunal and may adopt any findings, and accept as its own, the record of any court or tribunal.

60. The Board may, subject to any regulation of the Diocesan Council and for the purpose of any particular reference, appoint such person or persons, including the Director, to assist it in inquiring into (but not determining) that reference as the Board thinks fit.

61. The Board must give reasons for any determination, other than by way of directions in the course of an inquiry, unless the determination is made by consent of the respondent.

62. (1) The Board has no power to award costs of any proceedings before it.
(2) A Church worker in relation to whom a question is the subject of a reference to the Board may apply to the Diocesan Council for the provision of legal assistance.
(3) The Diocesan Council may grant legal assistance to a Church worker on such terms and subject to such conditions, as it shall determine.

63. (1) The President may make Rules of the Board reasonably required by or pursuant to this Ordinance and in relation to the practice and procedure of the Board.
(2) Subject to this Ordinance and the relevant Rules, the practice and procedure of the Board will be as directed by the presiding member of the Board.

PART 10 – REFERENCE OF MATTERS TO THE PROFESSIONAL STANDARDS BOARD

64. (1) After investigation in accordance with section 32 or under a corresponding provision of an Ordinance of another diocese the PSC or an equivalent body may refer to the Board, or to an equivalent body which has jurisdiction, one of more of the following questions:
(a) the fitness of a Church worker, whether temporarily or permanently to hold a particular or any office, licence or position of responsibility in the Church or to be or remain in Holy Orders or in the employment of a Church body;

(b) whether in the exercise of a Church worker's ministry or employment, or in the performance of any function the Church worker should be subject to certain conditions or restrictions.

(2) The question or questions shall be referred to the Board by delivering to the Secretary of the Board a written report of its investigation signed by a member of the referring body.

65. Where, after investigation in accordance with section 32 or under a corresponding provision of an Ordinance of another diocese, the PSC or an equivalent body forms the opinion that the allegations the subject of the information are false, vexatious or misconceived, then the PSC or equivalent body shall cause a copy of the opinion to be provided:
(a) to the relevant Church authority; and
(b) to the respondent; and
(c) to the Director.

66. (1) Upon delivery of the report to the Secretary of the Board, the President or Deputy President as the case may be shall as soon as possible determine the membership of the Board for the purpose of the reference.
(2) The President or Deputy President as the case may require shall thereupon cause to be convened a sitting for the purpose of giving directions.
(3) A person or body appearing or represented before the Board shall comply with the Rules of the Board and with any directions given by the Board.

67. Within 14 days of the date of the reference of a matter to the Board or within 14 days of the date of the document or material coming to existence, whichever is the later, the referring body shall cause to be delivered to the Secretary of the Board any documents and material relevant to the reference.

68. The referring body, as soon as practicable after delivering the report referred to in section 64 to the Secretary of the Board, shall cause a signed copy of the report to be delivered to the respondent.

69. The Board may at any time and from time to time give directions:
(a) as to the inspection by and supply of copies to the respondent or any other person of the documents or material relevant to the reference;
(b) as to the conduct of its inquiry into the reference.

70. The Board may at any time and from time to time give directions to the referring body as to any further inquiries or investigation it requires to be carried out for the purposes of the reference and the referring body shall to the best of its ability cause such directions to be carried out.

71. (1) The Board shall deal with any reference as expeditiously as possible.
(2) The Board may, if it sees fit, proceed with the determination of a reference notwithstanding that there may be mediation or conciliation proceedings relating to the subject matter of the reference being conducted by or at the direction of the referring body and notwithstanding that there may be criminal or other proceedings being taken against the respondent or some other person.

72. (1) The place and time of sitting of the Board comprising two or more members shall be as determined by the presiding member.
(2) The place and time of sitting of the Board comprising one member shall be as determined by that member.

73. (1) Subject to sub-section (2), the Board must give the following persons reasonable notice of the time and place of a sitting of the Board:
(a) the Director; and
(b) the respondent; and

(c) such other persons as the Board believes have a proper interest in the matter.

(2) The Board is not obliged to give notice of a sitting to a person whose whereabouts cannot, after reasonable enquiries, be ascertained.

74. In any proceedings before the Board:

(a) the referring body and any person may be represented by a legal practitioner or, with leave of the Board, by any other person;

(b) the referring body or its appointed representative shall do all in its power to assist the Board and shall carry out any directions of the Board;

(c) the Board:

(i) must give the referring body and the respondent a reasonable opportunity to call or give evidence, to examine or cross-examine witnesses and to make submissions to the Board; and

(ii) must give any other person to whom notice of the proceedings was given or who satisfies the Board that he or she has a proper interest in the matter a reasonable opportunity to make submissions to the Board.

75. (1) Subject to sub-section (2), a sitting of the Board on a reference before the Board is an open sitting.

(2) On any such sitting before the Board:

(a) the Board has an absolute discretion to direct that no person other than:

(i) the respondent and any person representing him or her in the proceedings; and

(ii) witnesses or persons making submissions (while giving evidence or making those submissions); and

(iii) officers of the Board or persons assisting the Board; and

(iv) members of or persons appointed by the referring body,

be present in the room while the Board is sitting;

(b) the Board has an absolute discretion to direct that a particular person (other than a person referred to in paragraph (a)) not be present in the room while the Board is sitting;

(c) where the conduct involves a person who is currently under the age of 18 the Board shall direct that no other persons other than one referred to in section 75(2)(a) and relevant support persons for the person under the age of 18 shall be present in the room while the person under 18 is giving evidence or making a submission and that no person under the age of 18 shall be named in any publication by the Board; and

(d) the Board may permit a witness or person making submissions to do so by video or audio link.

76. Procedure at hearing before Professional Standards Board involving indictable offence:

(1) If at any time during the course of a hearing, the Board is of the opinion that, having regard to all of the evidence given up to that time:

(a) such evidence is capable of satisfying a jury beyond reasonable doubt that a known person has committed an indictable offence; and

(b) there is a reasonable prospect that a jury would convict the known person of the indictable offence; and

(c) the conduct alleged is such that the question as to whether the known person committed an indictable offence is in issue,

then the Board must suspend the hearing and forward copies of all evidence obtained for the purpose of the Board hearing to the Local Commander of the NSW Police Service, with a report confidentially identifying the known person and the details of the alleged indictable offence.

(2) Should the known person be convicted of an indictable offence after referral of the matter pursuant to section 76(1), the Board may accept a Certificate of such conviction which shall be conclusive evidence for the Board's purposes and upon which it may make a determination and recommendation to the Church Authority.

(3) Should the known person acquitted of an indictable offence after the referral of the matter pursuant to section 76(1), the Board may resume the hearing of the alleged conduct, subject to giving appropriate notices to all interested parties of the time and place of the resumption.

(4) Upon the resumption of a hearing to which section 76(3) applies, the Board must have regard for any Certificate of Acquittal and such other evidence and submissions as may be appropriate before making is determination and recommendation to the Church Authority.

(5) After referral of any matter under s76(1), the Board shall regularly seek advice from the Local Commander of the New South Wales Police Service as to progress of any Police investigation or prosecution.

(6) The Board may reconvene a hearing after suspension in accordance with s76(1) in the following circumstances:

(a) where the advice received in accordance with s76(5) or otherwise indicates that the Police:

(i) do not intend to investigate the matter referred; or

(ii) have completed such investigation and there is no recommendation for prosecution; or

(b) where the advice received in accordance with s76(5) or otherwise indicates that the Police have not commenced an investigation and twelve months has elapsed since the referral of the matter under s76(1), provided the Police have been provided with 90 days' notice of the intention to recommence the hearing; or

(c) where the person has been discharged after a committal hearing relating to the matters referred; or

(d) where the Department of Public Prosecutions has decided to withdraw charges relating the matters referred."

77. The Board shall announce its determination and recommendations in an open sitting provided that such determination and recommendations have been first communicated to the Church Authority.

78. The Board may conduct any proceedings in the absence of a person affected by the proceedings if satisfied that reasonable efforts were made to give that person an opportunity to appear.

79. (1) The Board may require a respondent to submit within a specified time to a medical, psychiatric or psychological examination by a person approved by the Board the cost of which shall be met from funds under the control of the Synod of the diocese of the referring body.

(2) A copy of the report of an examination under subsection (1) shall be provided to the respondent and to the Board.

80. The Board shall not, in the course of inquiring into any question:

(a) inquire into any matter which is or has been the subject of any formal investigation or enquiry conducted:

(i) under or pursuant to any provision of the Constitution;

(ii) under or pursuant to a Canon of the General Synod, a Canon or an Ordinance of another diocese relating to the discipline of clergy or Church workers by a board of enquiry, tribunal or other body; or

(iii) with the authority of the bishop of a diocese resulting in a formal report to the bishop with findings and which concluded or was commenced prior to the date on which the repealed Ordinance took effect in the diocese

but may take into account the finding of any such formal investigation or enquiry.

(b) inquire into, make any findings in relation to or take into account any alleged breach of:

(i) faith of the Church, including the obligation to hold the faith;

(ii) ritual of the Church, including the rites according to the use of the Church and the obligation to abide by such use; or

(iii) ceremonial of the Church, including ceremonial according to the use of the Church and the obligation to abide by such use.

81. In making any determination the Board shall take into account:
(a) the conduct of the Church worker as it finds it to have been;
(b) in the material before the Board, any other fact or circumstance relevant to the determination of the question or questions before it; and
(c) any failure of the Church worker to comply with a provision of this Ordinance or with a direction of the Board.

82. If, after investigating the question or questions referred to it about a Church worker, the Board is satisfied that:
(a) the Church Worker is unfit, whether temporarily or permanently, to hold a particular office or any office licence or position of responsibility in the Church or to be or remain in Holy Orders or in the employment of a Church body; or
(b) in the exercise of a Church worker's ministry or employment or in the performance of any function, the Church worker should be subject to certain conditions or restrictions the Board may determine accordingly and may;
(c) recommend that the Church worker be counselled;
(d) recommend that the Church worker be suspended from office or employment or from performing the function as the case may be for such period determined by the Board;
(e) recommend to the Church authority that the licence or authority of the Church worker be revoked;
(f) recommend to the relevant Church authority that the Church worker's contract of employment (if any) be terminated;
(g) recommend to the relevant Church authority that the Church worker cease to hold any office then held;
(h) recommend to the relevant Church authority that a prohibition order be made in terms specified by the Board;
(i) recommend to the relevant Church authority that the Church worker's holding of office or employment or performance of the function as the case may be, shall be subject to such conditions or restrictions as the Board may specify;
(j) recommend that the operation of a determination shall be suspended for such period and upon such conditions as the Board shall specify;
(k) recommend that the Church worker should be deposed from Holy Orders;
(l) make such other recommendation as the Board sees fit.

83. A relevant Church authority to whom a recommendation under this Ordinance or a recommendation made by an equivalent Board applies is empowered to give effect to a recommendation of the Board and of an equivalent body having jurisdiction to make a recommendation to the Church authority provided that a Church authority:
(a) may seek whatever advice or counsel the Church authority determines is necessary;
(b) may consult with the Board; and
(c) may take different action to that recommended by the PSB.

84. A person who has been deposed from Holy Orders in accordance with this Ordinance or in accordance with the provisions of any ordinance, act, ordinance, constitution, statute, legislative measure or provision of the general synod or the diocesan synod of another diocese of this Church:
(a) is incapable of:
(i) officiating or acting in any manner as a bishop, priest or deacon of this Church; and
(ii) accepting or holding an office in this Church capable of being held only by a person in Holy Orders;
(b) ceases to have any right privilege or advantage attached to the office of bishop priest or deacon;
(c) shall not hold himself or herself out to be a member of the Clergy; and

(d) is not capable of holding an office in the Church which may be held by a lay person without the prior consent of the Bishop.

85. (1) The deposition of a person's Holy Orders by the Bishop pursuant to the recommendation of the Board or an equivalent body shall be affected by the execution by the Bishop of an Instrument of Deposition in or to the effect of the form in the Schedule.

(2) The Bishop must forthwith:

(a) register the Instrument in the Registry of the Diocese;
(b) deliver a copy of the Instrument to the Bishop of the Diocese in which the person who is the subject of the Instrument was ordained;
(c) deliver a copy of the Instrument to the Registrar of the Primate;
(d) cause relevant details to be forwarded for entry into the national register.

Note this section must be read in conjunction with the Holy Orders (Removal from Exercise of Ministry) Canon 2017 which takes precedence over similar procedures in this Ordinance.

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

PART 11 – REGULATIONS

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

PART 12 – REVIEW

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

"Clerical Member of the Review Board" means a member of the clergy appointed by the Secretary of the Board from the Review Panel;

"Lay Member of the Review Board" means a lay person appointed by the Secretary of the Board from the Review Panel;

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

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

"Review Board Chair" means a lawyer, who has held judicial office or who is or has been eligible for appointment to judicial office in NSW, appointed at the Secretary of the Board's request by the President of the NSW Bar Association, or if the President is unwilling to appoint, or unreasonably delays doing so, appointed by the Chancellor.

89. The members of the Review Panel shall be appointed by the Diocesan Council and shall hold office in accordance with a resolution or regulation of the Diocesan Council.

90. The Review Panel shall comprise:

(a) Five members of the clergy of at least seven year's standing;
(b) Five lay persons who are practicing members of a Christian church.

91. The Review Board shall comprise the Review Board Chair, a clerical member appointed from the Review Panel by the Secretary of the Board and a lay member appointed from the Review Panel by the Secretary of the Board.

92. The Synod indemnifies each member of the Review Board for any act or omission by the member in good faith and in the exercise of or the purported exercise of power or functions, or in the discharge of duties under this Ordinance.

93. A respondent who is aggrieved by a reviewable decision may apply to the Secretary of the Board for a review of the decision.

94. The application may be made on any one or more of the following grounds:
(a) that a breach of the rules of natural justice happened in relation to the making of the reviewable decision which materially affected the decision;
(b) that procedures that were required by this ordinance to be observed in relation to the making of the reviewable decision were not observed, and the non-observance materially affected the decision; or
(c) that the Board did not have jurisdiction to make the reviewable decision; or
(d) that the reviewable decision was so devoid of any plausible justification that no reasonable Board could have made it; or
(e) the availability of fresh and compelling evidence or further and compelling evidence which, if available at the time, would be likely to have materially affected the Board's decision;
(f) that the Board seriously misdirected itself as to the applicable law; or
(g) that in the light of the evidence and submissions the recommendation is manifestly excessive.

95. For a reviewable decision, a Church authority shall not act under the provisions of section 83 until the time for lodging an application for review has passed, and no application has been lodged.

96. The making of an application for review acts as a stay of the reviewable decision pending the determination by the Review Board.

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

98. If a determination on review confirms or varies a reviewable decision, then the PSB must cause the details of the confirmed or varied decision to be forwarded for entry into the national register in accordance with Part 13.

99. If a Review Board's determination refers a matter back to the PSB, then the PSB must:
(a) determine to take no further action in respect of the matter; or
(b) deal with the matter in accordance with Part 10 of this Ordinance in accordance with such directions or recommendation as the Review Board may make in the Review Board's determination; or
(c) deal with the matter in accordance with Part 10 of this Ordinance applying such of the provisions of Part 10 as, in the discretion of the PSB and in accordance with the Review Board's determination, the PSB sees fit.

100. (1) An application to the Secretary of the Board for review of the reviewable decision must be made within 28 days of the respondent's being provided with a copy of the PSB's determination and recommendation under section 82.
(2) The application for review must:
(a) be in writing addressed to the Secretary of the Board; and
(b) set out the grounds for review in the application.

101. On receipt of an application for review, the Secretary of the Board must immediately seek the appointment of a Review Board.

102. (1) Upon appointment of a Review Board, the Secretary of the Board must ask the Review Board Chair for the Review Board Chair's estimate of the fee to be charged by the Review Board Chair in chairing the Review Board under this Part.
(2) Upon receipt of advice as to the estimated fee, the Secretary of the Board must immediately notify the respondent.
(3) Within 7 days of receipt of the Secretary of the Board's advice, the respondent must pay one half of the estimated fee to the Review Board Chair, or to a person nominated by the Review Board Chair.
(4) If the respondent fails to make the payment, then the application for review will lapse.

103. Unless otherwise specified in this Ordinance, the manner in which the review is to be conducted will be determined by the Review Board Chair.

104. On an application for review of a reviewable decision, the Review Board may make all or any of the following determinations:
(a) a determination quashing or setting aside the reviewable decision;
(a1) a determination affirming the reviewable decision;
(b) a determination referring the matter to which the reviewable decision relates to the PSB for further consideration, subject to such directions (including the setting of time limits for the further consideration, and for the steps to be taken in the further consideration) as the Review Board determines;
(c) a determination declaring the rights of the respondent in relation to any matter to which the reviewable decision relates;
(d) a determination directing either the respondent or the PSB, to do, or to refrain from doing, anything that the Review Board considers necessary to do justice between the parties;
and shall cause a copy of the determination or finding to be provided to the Secretary of the Board, the Respondent and the Church authority.

105. Subject to any regulation or resolution of the Diocesan Council, the Review Board may make such order as to the costs of the review as the Review Board thinks fit.

106. The review shall be by way of the review of the recommendation or determination that is the subject of the review and not by way of a re-hearing of the merits, or a hearing de novo.

107. The Review Board Chair shall determine any question of law made as part of the application.

PART 13 – COMMUNICATION

108. In this part the term 'notification date' means each of
(a) the date on which the PSB makes its recommendation,
(b) the Review Board makes its determination; and
(c) the Church authority acts on the recommendation of the PSB.

109. (a) The Board and the Review Board shall on the notification date cause relevant details of its determination and recommendation to be forwarded for entry into the national register; and
(b) The Board and the Review Board may on or after the notification date release to the public any:
(i) determination; and/or
(ii) recommendation; and/or
(iii) reasons for any determination or recommendation.

110. A Church authority may release to the public and to such informants as the Church authority deems necessary such material as it may determine with respect to any information, action taken or determination against a Church worker including the identity of that person.

NOTES:

SCHEDULE TO

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

PARTICULARS OF HOLY ORDERS

FULL NAME AND ADDRESS:

	ORDAINING BISHOP	PLACE	DATE
ORDINATION AS DEACON:	.....	.....	.....
ORDINATION AS PRIEST:	.....	.....	.....
CONSECRATION AS BISHOP:	.....	.....	.....

DATED

SEALED

PART 14 – ORDINANCE ADMINISTRATION

Table of Amendments

Date	Current Section	Amending Instrument	Section Amended
24 Oct 2015	77 108	*The Professional Standards Ordinance Amendment Ordinance Number 1 2015*	77 107
24 Oct 2015	3(1)	*The Professional Standards Ordinance Amendment Ordinance Number 2 2015*	3(1)
24 Oct 2015	3(1)	*The Professional Standards Ordinance Amendment Ordinance Number 3 2015*	3(1)
9 Dec 2016	76 109	*The Professional Standards Ordinance Amendment Ordinance 2016*	76 109
29 Jun 2017	16 27A 92	*The Professional Standards Ordinance Amendment Ordinance 2017*	16 New 92
27 Jul 2017	88 91 93 100 – 102 104	*The Professional Standards Ordinance Amendment Ordinance 2017*	88 91 93 100 – 102 104
1 Aug 2017	57	*The Professional Standards Ordinance Amendment Ordinance 2017*	57
24 Aug 2017	8(3) – 8(5)	*The Professional Standards Ordinance Amendment Ordinance #3 2017*	8(3) – 8(5)
23 Sep 2017	3(1), 42 – 44	*The Professional Standards Ordinance Amendment Ordinance # 2 2017*	3(1), 42 – 44
2017	85	*Holy Orders (Removal from Exercise of Ministry) Canon 2017*	85
26 Oct 2018	37 39	*The Professional Standards Ordinance Amendment Ordinance 2018*	37 39
25 Jul 2019	3(1)	*Professional Standards Ordinance (Change of Definition of Church Worker) Ordinance 2019*	3(1)
27 Feb 2020	8(3) – 8(4)	*Professional Standards Ordinance (Amendment Ordinance Number 1) 2020*	8(3) – 8(4)
28 May 2020	3(1) 31	*Professional Standards Ordinance 2012 Amendment Ordinance #2 2020*	3(1) 31
28 May 2020	8(3)	*Professional Standards Ordinance 2012 Amendment Ordinance #3 2020*	8(3)
24 September 2020	26. 1(m) 28 (f)	*Professional Standards Ordinance Amendment Ordinance (Whistleblowing) 2020*	26. 1(m) 28 (f)
28 April 2022	Definitions added 8	*Professional Standards Ordinance Amendment Ordinance 2022*	Definitions added 8
24 November 2022	Part 8	*Professional Standards Ordinance 2012 Amendment Ordinance 2022 #2*	Part 8A added (44A – 44I)

27 July 2023	Section 3(1) Section 8 Section 25(1)	*Professional Standards Ordinance 2012 Amendment 2023*	Definition employee Replaced 25(1)
21 September 2023	Section 34 Section 34A	*Professional Standards Ordinance 2012 Amendment Ordinance Number 2 2023*	*Added C and D in Section 34* *Added 34A*
30 November 2023	Section 26(2) Section 28(e) 26A 26B	*Professional Standards Ordinance Amendment 2023#*	*Repealed* *Repealed* *Added* *Added*
30 May 2024	 Section 3 (1) Section 5 21, Section 5 26(3) Section 5 26 Section 6 28 Section 7 28 Section 8 Section 8 32 Section 8 33,34,34A Section 8 34a Section 8 34B	*Professional Standards Ordinance Amendment 2024* *"examinable conduct" & "information"* *"misconduct" & "serious indictable offence"* *"Reliable Evidence of Conviction"* *"serious indictable offence"* *"Replace word PSC with word Director"* *"Replace word its with words "the Director""*	 *Definitions replaced* *Definitions added* *Definition reworded* *Definition added* *Repealed* *Replaced* *Replaced* *Replaced* *Replaced* *Renamed* *Replaced* *Replaced* *Replaced* *Added*

	Section 8 34C Section 8 37		*Added* *Replaced*