

DIOCESE OF ARMIDALE

CLERGY STANDARDS AND DISCIPLINE ORDINANCE 2017

PART I - PREAMBLE AND DEFINITIONS

An Ordinance concerning the professional standards applying to clergy in the Diocese of Armidale and disciplinary processes in relation to those standards and the trial of ecclesiastical offences of persons in holy orders licensed by the Bishop of Armidale and of other persons in holy orders resident in the Diocese of Armidale.

1. The Clergy Discipline Ordinance 1966 is hereby repealed but such repeal shall not revive any Ordinance heretofore repealed and shall not affect the past operations thereof nor anything done or commenced nor any rights, privileges, obligations or liabilities acquired, accrued or incurred thereunder.
2. This Ordinance is divided into parts as follows:
 - Part I – Preamble and Definitions (Sections 1-3);
 - Part II – Code of Conduct (Sections 4-5);
 - Part III – Complaints (Sections 6-13);
 - Part IV – The Board of Enquiry (Section 14);
 - Part V – Procedure as to Complaints (Sections 15-27);
 - Part VI – Panel of Triers (Sections 28-38);
 - Part VII – The Hearing (Sections 39-53);
 - Part VIII – Decision, Recommendation and Sentence (Sections 54-68);
 - Part IX – Appeal (Section 69);
 - Part X – Records (Sections 70-77); and
 - Part XI – Miscellaneous (Sections 78-83).
3. In this Ordinance, unless the context or subject matter indicates otherwise:
 - “**Advocate**” means the Advocate of the Diocese appointed pursuant to this Ordinance;
 - “**Bishop**” means the Bishop of the Diocese of Armidale;
 - “**Board**” means the Board of Enquiry constituted as provided by this Ordinance;
 - “**Bullying**” means such actions as making derogatory comments about a person, communicating in an abusive manner and such other actions as defined in *Faithfulness in Service* or an equivalent code of conduct adopted by Diocesan Council;
 - “**Chancellor**” means the Chancellor of the Diocese;
 - “**Child**” means anyone under the age 18;
 - “**Child Abuse**” means the following conduct in relation to a child:-

- (a) bullying; or
- (b) emotional abuse, or
- (c) harassment; or
- (d) neglect, or
- (e) physical abuse, or
- (f) sexual abuse, or
- (g) spiritual abuse;

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

“Chaplain” means a person in holy orders resident in the Diocese licensed by the Bishop to conduct ministry in a university, or equivalent educational institution, school, hospital, aged care facility, nursing home, jail or correctional centre, or other recognised organisation;

“Charge” means a charge pursuant to this Ordinance;

“Church” means the Anglican Church of Australia;

“Clergy” to whom this Ordinance applies means a person licensed by the Bishop or any other person in holy orders resident in the Diocese and any person to whom section 54(2A) of the Constitution of the Anglican Church of Australia applies;

“Code of Conduct” means the code of conduct approved from time to time by Diocesan Council which governs the personal behaviour of clergy and the practice of pastoral ministry in the Diocese of Armidale;

“Complainant” means a person who makes a complaint;

“Complaint” means a complaint pursuant to this Ordinance;

“Diocesan Council” means the body established by the *Governance of the Diocese Ordinance 2016* that oversees the affairs of the Diocese between sessions of Synod;

“Diocesan Tribunal” or “tribunal” means Diocesan tribunal constituted as provided by this Ordinance;

“Diocese” means the Diocese of Armidale;

“Director of Professional Standards” means the Director of Professional Standards appointed under Part 5 of the *Professional Standards Ordinance 2017*;

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

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

“Emotional Abuse” means acts or omissions in relation to a child where the child has suffered, or is likely to suffer, emotional harm or lead to serious behavioural or cognitive disorders. It includes subjecting a person to excessive and repeated personal criticism and ridicule and other forms of emotional abuse as defined in *Faithfulness in Service* or an equivalent code of conduct adopted by Diocesan Council;

“Faith” includes the obligation to hold the faith;

“Licence” means a licence under the seal of the Bishop;

“Licensed” has a meaning corresponding with that of “licence”;

“National Register” means the National Professional Standards Register established by the *National Register Canon 2007* as amended from time to time;

“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;

“Offence” means any of the following:-

- (a) breach of faith, ritual, ceremonial or discipline,
- (b) sexual harassment or assault, or sexually inappropriate behaviour,
- (c) inappropriate or unreasonable conduct or omission of a member of clergy who had knowledge of conduct of another member of clergy or church worker involving sexual harassment or assault, or sexually inappropriate behaviour,
- (d) a process failure,
- (e) child abuse,
- (f) sexual abuse,
- (g) bullying,
- (h) drunkenness,
- (i) habitual or wilful neglect of ministerial duty after written admonition in respect thereof by the Bishop,
- (j) bankruptcy,
- (k) wilful failure to pay just debts,
- (l) conduct disgraceful in a member of the clergy and productive or likely to be productive of scandal or ill report;
- (m) the offences referred to in section 54(2A) of the Constitution of the Anglican Church of Australia.

“Parish” means an area of the Diocese of Armidale so designated in terms of the *Parish Governance and Administration Ordinance 2015* as amended from time to time or by any Ordinance (as amended from time to time) replacing that Ordinance;

“Parishioner” means a person as defined in the *Parish Governance and Administration Ordinance 2015*;

“Physical Abuse” means the physical assault of a person as defined in *Faithfulness in Service* or an equivalent code of conduct adopted by Diocesan Council but excludes the lawful discipline by a parent or guardian;

“Process Failure” means the failure by a member of the clergy prior to this Ordinance coming into effect, or after the Bishop has given his assent to this

Ordinance, to deal appropriately with, or to investigate matters referred to in paragraphs (b) and (c) of the definition of offence;

“Registrar” means Registrar of the Diocese;

“Respondent” means a member of clergy to whom this Ordinance applies against whom a complaint has been made;

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

“Sexual Abuse” means sexual misconduct in relation to a child;

“Special District” means an area of the Diocese so designated in terms of the *Parish Governance and Administration Ordinance 2015* as amended from time to time or by any Ordinance (as amended from time to time) replacing that Ordinance;

“Spiritual Abuse” means the mistreatment of a person by actions or threats when justified by appeal to God, faith or religion. It includes using a position of spiritual authority to dominate another person or group, using a position of spiritual authority to seek inappropriate deference from others, isolating a person from friends and family members, and using Biblical or religious terminology to justify abuse;

“Synod” means the Synod of the Diocese.

(a) In this Ordinance, a reference to faith includes a reference to doctrine.

(b) In this Ordinance, a reference to a Schedule is a reference to a Schedule of this Ordinance and a reference to a section is a reference to a section of this Ordinance.

PART II – CODE OF CONDUCT

4. Diocesan Council shall formally adopt *Faithfulness in Service*, or an equivalent code of conduct, which is to be observed by members of the clergy.
5. Diocesan Council shall take such steps as may be necessary or desirable to promote the knowledge, understanding and observance in this Diocese of any code of conduct applicable in the Diocese.

PART III - COMPLAINTS

6. A complaint that a member of clergy has committed an offence may be made as provided for by this Ordinance against any member of the clergy to whom this Ordinance applies.
7. Every complaint so made shall be dealt with as provided for by this Ordinance.
8. No time limit shall apply to a complaint that an offence has been committed except in relation to a complaint concerning a breach of faith, ritual or ceremonial where the complaint must be made within twelve (12) months of the alleged commission of the breach.

9. For the purposes of this Part the presenting of a complaint to the Registrar, or to the Director of Professional Standards for any offence apart from a breach of faith, ritual or ceremonial, which in all respects complies with the requirements of the Ordinance as to the making of complaints, shall constitute the making of that complaint.
10. (1) A complaint of breach of faith, ritual or ceremonial may be made:
- (a) against a member of clergy serving in a parish or special district with reference to an offence alleged to have been committed within that parish or special district – only by:-
 - (i) a person appointed by the Bishop, or
 - (ii) any five parishioners of that parish or special district;
 - (b) in any other case – only by:-
 - (i) a person appointed by the Bishop, or
 - (ii) any five communicant members of the Church who are resident within the Diocese.
- (2) A complaint of any offence other than breach of faith, ritual or ceremonial may be made by:
- (a) the Bishop on his own motion; or
 - (b) a person appointed by the Bishop; or
 - (c) any other member of the Church resident within the Diocese.
11. (1) Every complaint shall be made by written instrument in the form set out in Schedule A, signed by the complainant. Complainants may sign separate instruments, and the separate instruments shall be read together.
- (2) Every complaint shall be accompanied by all documents therein referred to as attached.
- (3) Every complaint shall be presented by the complainant to the Registrar or the Director of Professional Standards in accordance with section 9, and every complaint not made by the Bishop shall forthwith be presented (together with all documents attached thereto) by the Registrar, or the Director of Professional Standards, to the Bishop.
12. (1) This section shall apply only where the complaint is a complaint of breach of faith, ritual or ceremonial and is not made by a person appointed by the Bishop.
- (2) When the complaint is presented to the Bishop he shall, by whatever means in his absolute discretion think fit, determine whether the complaint is made by persons who in number and qualifications fulfil the appropriate requirements of sub-section (1) of section 10.
- (3) If the Bishop determines that the complaint is not so made, he shall cause the complaint to be returned to the person who presented it to the Registrar and shall cause each of the persons who made the complaint to be given notice in writing of his determination and of the reason therefore no further action shall be taken under this Ordinance with respect to that complaint, unless and until it is made by persons

who in number and qualifications fulfil the appropriate requirements of sub-section (1) of section 10.

13. A complaint shall, on its mere production before the Board or a Diocesan tribunal, be *prima facie* evidence of the truth of the declarations made in it in accordance with paragraph 5 of the form found at Schedule A.

PART IV – THE BOARD OF ENQUIRY

14. (1) There shall be a Board of Enquiry constituted as hereinafter provided.
- (2) The Board shall consist of seven members – namely, a chairman, three members of the clergy and three lay people appointed by Diocesan Council who are resident in the Diocese.
- (3) On this Ordinance coming into force at the first Diocesan Council meeting and thereafter at the first Diocesan Council meeting after the first session of every Synod, Diocesan Council shall appoint a person to be the chairman of the Board, who need not be resident in the Diocese but shall be a barrister or solicitor of at least ten (10) years standing in a state or territory Supreme Court, and three clergy and three lay people who are resident in the Diocese to be members of the Board.
- (4) Subject to sub-section (5) of this section, a member of the Board shall hold office until the first Diocesan Council meeting after the conclusion of the first session of that Synod.
- (5) The office of a member of the Board shall be declared vacant if the person:
- (a) in the case of the clergy and lay members, ceases to reside in the Diocese; or
 - (b) resigns their office, or
 - (c) refuses or neglects to act in their office, or
 - (d) becomes in the opinion of the Bishop incapable of acting in their office and is given notice accordingly in writing by the Bishop, or
 - (e) is charged either under this Ordinance with an offence or is the subject of a complaint under the *Professional Standards Ordinance 2017*.
- (6) If a member of the Board dies or if the office of a member of the Board is vacated pursuant to sub-section (5) of this section, Diocesan Council may appoint a replacement member to be a member of the Board in their place (but may appoint only a member of clergy in place of a member of clergy and only a lay person in the place of a lay person).
- (7) A quorum of the Board shall be three members, namely:
- (a) the chairman,
 - (b) a member of clergy; and
 - (c) a lay person.

PART V – PROCEDURE AS TO COMPLAINTS

15. The Bishop shall refer to the Board every complaint and all documents attached thereto, and the Board shall, without the necessity of hearing any person, decide whether or not to allow it as a complaint proper to be heard and shall inform the Bishop of its decision.
16. If the Board decides pursuant to section 15 not to allow a complaint as a complaint proper to be heard, the Bishop shall cause the complainant to be given notice in writing; accordingly, the complaint shall be returned to the Registrar or the Director of Professional Standards as the case may be, and no further action shall be taken under this Ordinance, with respect to that complaint.
17. A complaint which the Board decides, pursuant to section 15, to allow as a complaint proper to be heard shall be dealt with as provided in the sections of this Ordinance which succeed this section, and those sections shall apply only to such a complaint.
18. The Registrar shall cause to be served on the respondent within one month of a complaint being presented:
 - (a) a copy of the complaint and of each document attached thereto; and
 - (b) a notice in writing requiring the respondent to respond in writing to the complaint within thirty (30) days from the date of the notice.
19. The respondent may in their response:
 - (a) (Case A): where one offence only is alleged – admit the commission of that offence and submit as prescribed; or
 - (b) (Case B): where two or more offences are alleged – admit the commission of each of those offences and submit as prescribed; and
 - (c) in sub-sections (a) and (b) of this section “submit as prescribed” means “submit themselves without further proceedings to such judgment and sentence, in respect of the offence (or offences as the case may be) the commission of which they admit, as the Board shall think fit to pronounce”.
20. The Board shall submit its recommended sentence to the Bishop.
21. (1) This section shall apply in the following cases only:
 - (a) Case A of section 19; and
 - (b) Case B of section 19.(2) The Bishop having considered the sentence recommended by the Board shall cause the respondent and the complainant to be given notice in writing:
 - (a) that, the respondent having admitted the commission of the offence (or, as the case may be, of each of the offences) charged and having submitted as provided by section 19, the Bishop intends to pronounce judgment and sentence at the time and place specified in the notice;
 - (b) that all persons who so desire may then be present; and
 - (c) that the respondent will then be given opportunity to show cause and, if they so desire, be heard in excuse or mitigation or both before judgment and

sentence are pronounced and may in the meantime make to the Bishop written representations in excuse or mitigation or both.

- (3) Subject to their giving cause and to his hearing the respondent at the time and place specified in the notice if they wish to be heard in excuse or mitigation or both, the Bishop shall pronounce judgment and sentence, either then or subsequently, at a time and place of which he shall cause the respondent and the complainant to be given notice beforehand orally or in writing.
- (a) The Bishop may in addition to pronouncing sentence suspend the operation of the sentence for a period of time. If he does so and if the operation of the sentence remains suspended for the period determined the sentence shall thereafter have no operation. Every sentence shall, if its operation is not suspended, commence to operate immediately it is pronounced.
- (b) When in a case to which this section applies the action prescribed by this section has been taken, no further action other than that which may be required to satisfy the requirements of the National Register and by sections 66, 70 and 72 shall be taken under this Ordinance with respect to the charge.

22. Should section 21 not apply:

- (a) the respondent shall be tried by a Diocesan tribunal (provided that, if the respondent admits the commission of less than all of the multiple offences alleged, the Board may at its discretion determine not to proceed with the balance of the complaint (either conditionally or unconditionally));
- (b) the Bishop shall appoint an Advocate of the Diocese to prosecute the complaint and shall send to the Advocate the complaint, all documents therein referred to, a copy of the notice referred to in section 18 and the response (if any) of the respondent, and the Advocate shall thereupon prepare Articles of Accusation and send them and the complaint to the Registrar;
- (c) Articles of Accusation shall (in a separate Article for each offence if more than one offence is alleged) with reasonable particularity specify every alleged offence and the time place, and circumstances thereof; and
- (d) on receiving the Articles of Accusation the Registrar shall cause to be served:-
- (i) upon the complainant and the respondent – copies of the Articles of Accusation,
 - (ii) upon the respondent – a citation to appear (at such time not more than sixty (60) days from the date of the citation, and at such place, as shall be specified in the citation) before a Diocesan tribunal to answer the Articles of Accusation,
 - (iii) upon the complainant – a copy of the citation, and
 - (iv) upon the complainant and the respondent – notices in writing requiring them to secure the attendance before the Tribunal of such witnesses as they may severally desire for the purpose of accusation or defence.

23. At any time after the Board of Enquiry has commenced or caused to be commenced an investigation into a complaint, it may, after giving the respondent opportunity to be heard, recommend to the Bishop:
- (a) that the respondent should be suspended from their duties or office; or
 - (b) that a prohibition order be made against the respondent.
24. Such recommendation shall be in writing and inform the Bishop of the factors taken into account under section 25.
25. Before making a recommendation under section 23 the Board of Enquiry shall have regard to:
- (a) the seriousness of the conduct contained in the complaint;
 - (b) the nature of the material to support or negate the complaint;
 - (c) whether any person is at risk of harm; and
 - (d) any similar complaint made concerning the respondent previously or such other matters as it considers relevant.
26. A suspension or prohibition order made by the Bishop pursuant to section 23 shall be terminated by him:
- (a) if the Board of Enquiry terminates the investigation of the complaint without referring the matter to the Panel of Triers; or
 - (b) when he pronounces sentence.
27. During a suspension or prohibition pursuant to this Part of the Ordinance or during a period when the respondent voluntarily stands down from their position while the complaint 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 Bishop may fill the vacancy caused by any suspension or prohibition order, or while the respondent is standing down; and
 - (d) the respondent is entitled to whatever stipend, salary, allowances and other benefits that they would have otherwise received but for the suspension or prohibition order and such payments are to be paid by the Diocese and shall continue until the suspension or prohibition order is terminated by the Bishop as provided for in section 26. Any costs incurred by a parish or special district in retaining a locum while the respondent is subject to a suspension or prohibition order shall be a matter for the parish or special district concerned.

PART VI – PANEL OF TRIERS

28. On this Ordinance coming into force at the first Diocesan Council meeting and thereafter at the first Diocesan Council meeting after the first session of every Synod

- the Bishop, in consultation with Diocesan Council, shall appoint a President and a Deputy President and eight (8) other members to constitute a Panel of Triers.
29. Neither the President nor the Deputy President need to be resident in the Diocese but shall be persons who are or shall have been a justice or judge in an Australian Court or a barrister or solicitor of at least ten (10) years standing in a state or territory Supreme Court.
 30. Of the eight (8) other members, four shall be clergy resident in the Diocese and four lay people resident in the Diocese.
 31. No member of the Board of Enquiry shall be eligible to be a member of the Panel of Triers.
 32. Subject to sections 33 and 34 as the case may be, members of the Panel of Triers shall hold office until the first Diocesan Council meeting after the first session of a Synod which follows their appointment to the Panel of Triers.
 33. The office of President or Deputy President of the Panel of Triers shall be vacated if the person:
 - (a) resigns their office; or
 - (b) refuses or neglects to act in their office; or
 - (c) becomes, in the opinion of the Bishop, incapable of acting in their office and is given notice accordingly in writing by the Bishop; or
 - (d) is charged with an offence which, in the opinion of the Bishop, disqualifies them from holding office and is so informed by the Bishop in writing.
 34. The office of other members of the Panel of Triers shall be vacated if a member:
 - (a) ceases to be resident in the Diocese; or
 - (b) resigns their office; or
 - (c) refuses or neglects to act in their office; or
 - (d) becomes in the opinion of the Bishop incapable of acting in their office and is given notice accordingly in writing by the Bishop; or
 - (e) in the case of a clergy member is charged under this Ordinance with an offence; or
 - (f) in the case of a lay member is the subject of a complaint which, in the opinion of the Bishop, disqualifies them from holding office and is so informed by the Bishop in writing.
 35. Any vacancy occurring in the Panel of Triers shall be filled by the Diocesan Council and the person appointed shall hold office until the first Diocesan Council meeting after the first session of a Synod which follows their appointment to the Panel of Triers.
 36. A Diocesan tribunal shall be duly constituted for the trial of a respondent so long as it consists of the following members:
 - (a) the President and Deputy President; or

- (b) the President; or
- (c) the Deputy President;
- (d) not less than two of the clerical members of the Panel of Triers; and
- (e) not less than two lay members of the Panel of Triers.

37. The President shall preside over the trial if present. If the President is not present the Deputy President shall preside over the trial and shall and may do all things which this Ordinance requires or permits the President to do.
38. If after the commencement of a hearing a clerical or lay member of the tribunal ceases to hold office for any of the reasons specified in section 34 they shall cease to be a member of the tribunal.

PART VII – THE HEARING

39. A Diocesan tribunal shall assemble at the time and place appointed in the citation. Each member shall make the declaration set forth in Schedule B. The hearing shall then be commenced by the President causing the respondent to be summoned to appear before the tribunal.
40. The respondent may appear in person or by counsel or solicitor or (if they are charged with breach of faith, ritual or ceremonial) by a person in holy orders.
41. If the respondent does not appear the hearing may, upon proof of due service of the citation upon the respondent, proceed in their absence to hearing and decision.
42. If the respondent appears or if the trial proceeds, as aforesaid in their absence, the President shall then read or cause to be read the Articles of Accusation.
43. If the respondent appears they shall then be called upon to plead to each Article and their plea or pleas shall be recorded. If they neglect or refuse to plead to any Article, a plea of not guilty to that Article shall be entered on their behalf.
44. If the respondent does not appear and the hearing proceeds as aforesaid in their absence, a plea of not guilty to each Article shall be entered on their behalf and the hearing shall proceed as far as possible in the same manner as if the respondent had appeared and had so pleaded.
45. The tribunal may during the hearing permit amendment of the Articles of Accusation upon such terms (if any) as it thinks fit.
46. Witnesses shall be examined on oath or affirmation and each before giving evidence shall make the declaration on oath or affirmation set forth in Schedule C. The evidence of each witness shall be reduced to writing and signed by the witness.
47. The rules of evidence prevailing and in force in the New South Wales Supreme Court, including provisions relating to judicial notice of proof and admissibility contained in State or Federal Acts of Parliament, shall so far as is practicable apply in a hearing; and for the purposes of the application of those rules and provisions a tribunal and a hearing shall be taken to be respectively a court and a legal proceeding.

48. The Bishop and the Chancellor may from time to time in writing signed by them make and alter rules for the conduct of a hearing before the Diocesan tribunal. All rules and alterations so made shall be laid before the next succeeding session of the Synod and shall, unless and until disallowed by the Synod, have the force of an Ordinance of the Synod.
49. Subject to any rules so made and to the provisions of this Ordinance, the tribunal shall so far as is practicable follow the procedure of the New South Wales Supreme Court.
50. The case against the respondent shall be conducted before the tribunal by the Advocate.
51. The President shall determine all questions arising during the hearing which are questions of law or questions of the admissibility of evidence.
52. In any trial where an issue is whether there has been a breach of doctrine:
- (a) the opinion of experts shall be admissible as to:-
 - (i) the principles of the doctrine, and
 - (ii) whether on the facts there has been a breach of doctrine;
 - (b) the President shall determine what are the principles of doctrine that are applicable; and
 - (c) the tribunal shall determine whether on the facts there has been a breach of the principles so determined by the President.
53. The proceedings of a tribunal shall be attended by the Registrar as an officer of the tribunal and, where necessary the Director of Professional Standards, shall be open to the public, provided that the President at any stage of the proceedings may order that they shall be held in private by reason of their subject matter or the misconduct of the audience or for any other reason that they may in their absolute discretion think fit.

PART VIII – DECISION, RECOMMENDATION AND SENTENCE

54. After due examination and hearing of the case and after due deliberation the tribunal shall decide the issue as to each offence alleged, and if it decides that the respondent is guilty of any offence shall make such recommendation as it thinks just in the circumstances but shall not recommend to the Bishop any sentence other than one or more of the following, that is to say, monition, suspension from office, deprivation of rights and emoluments appertaining to office, deposition from holy orders.
55. Each member of the tribunal shall have one vote as to its decision. If the votes of the tribunal on an issue are equally divided, the issue shall be deemed to have been decided in favour of the respondent.
56. A recommendation made by the tribunal shall be that recommendation (if any) which is supported by the greatest number of votes of members.
57. The President shall forthwith give the Bishop notice in writing of the decision and the recommendation (if any) of the tribunal.

58. Upon the decision and the recommendation (if any) of the tribunal becoming known to the Bishop, and provided he agrees, the Bishop shall forthwith:
- (a) if every issue has been decided in favour of the respondent – cause the respondent and the complainant to be given notice in writing of the decision, and if the respondent so requests issue a certificate in an appropriate form under his hand and seal; and
 - (b) in every other case – cause the respondent and the complainant to be given notice in writing of the decision and the recommendation (if any) of the tribunal and his decision and cause the members of the tribunal, the respondent and the complainant to be given notice in writing:-
 - (i) that the Bishop intends to pronounce sentence at the time and place specified in the notice,
 - (ii) that all persons who so desire may be present, and
 - (iii) that the respondent will then if they so desire be heard in mitigation of sentence before sentence is formally pronounced and may in the meantime make to the Bishop written representations in the mitigation of the sentence.
59. This section applies where notice is given in accordance with paragraph (b) (iii) of section 58. Subject to his hearing the respondent at the time and place specified in the notice if they wish to be heard in mitigation of sentence the Bishop shall pronounce sentence, either then or subsequently, at a time and place of which he shall cause the respondent and the complainant to be given notice beforehand orally or in writing.
60. Should the Bishop in his absolute discretion consider in the circumstances that a harsher sentence is appropriate he may consult with the tribunal and then proceed consistent with the arrangements set out in sub-section 58(b).
61. If the tribunal makes no recommendation as to sentence the Bishop shall pronounce such sentence as he thinks fit and may in the exercise of his prerogative of mercy suspend the operation of a sentence.
62. In cases where the tribunal has made a recommendation and the Bishop is minded to exercise his prerogative of mercy he should consult with the tribunal before deciding to mitigate the sentence, suspend its operation or mitigate the sentence and suspend its operation.
63. If the tribunal recommends a sentence the Bishop shall publicly disclose that sentence even though he mitigates it or suspends its operation, and shall also pronounce any mitigation or suspension.
64. If the operation of a sentence or mitigated sentence has been suspended and remains suspended for a period of two years that sentence or mitigated sentence shall thereafter have no operation.
65. Every sentence or mitigated sentence shall, if its operation is not suspended, commence to operate immediately it is pronounced.

66. The Bishop shall by writing under his hand and seal certify every sentence and every mitigation, or suspension.
67. The certificate shall be lodged with the Registrar and a copy shall be sent to the respondent and, where appropriate, the Director of Professional Standards shall in relation to the matter comply with all the notification requirements of the National Register.
68. Sections 66 and 67 shall apply both where sentence is pronounced after a trial and where sentence is pronounced pursuant to section 21.

PART IX – APPEAL

69. Subject to the leave of the Appellate Tribunal, an appeal may be made to it and shall be handled in accordance with the *Appellate Tribunal Procedure Canon 1962*.

PART X – RECORDS

70. The Registrar shall keep a Register of Ecclesiastical Offences in which there shall be entered in respect of every complaint which within the meaning of section 16 of the Board or the Bishop decides pursuant to section 15 to allow as a complaint proper to be heard:
 - (a) the name of the respondent;
 - (b) the date on which the complaint was made;
 - (c) the name of the complainant;
 - (d) the nature but not the particulars of each offence alleged, and the date on which it was alleged to have been committed;
 - (e) whether the respondent was tried by a Diocesan tribunal or dealt with under section 21;
 - (f) if the respondent was tried by a Diocesan tribunal – the date of the trial and the names of the members of the tribunal;
 - (g) the decision of the tribunal as to each offence alleged;
 - (h) the recommendation (if any) of the tribunal;
 - (i) the Bishop's decision in relation to the recommendation (if any) of the tribunal;
 - (j) the sentence (if any) and any mitigation or suspension of sentence, and the date or pronouncement thereof; and
 - (k) information relating to the commencement and outcome of any appellate process.
71. No person other than the Bishop, the Chancellor and the Registrar shall have access to the Register of Ecclesiastical Offences except with the permission of the Bishop previously given in writing.

72. Whenever a charge has been returned to the Registrar pursuant to section 16 the Registrar shall as soon as is practicable seal up in a suitable container endorsed with the name of the respondent the charge and every document attached thereto.
73. Whenever a trial has been held under this Ordinance the President shall cause to be delivered to the Registrar and the Registrar shall as soon as is practicable seal up in a suitable container endorsed with name of the respondent the charge and every document attached thereto, the reply (if any) of the respondent, the Articles of Accusation, the transcript of evidence, the record of proceedings, every exhibit not directed by the tribunal to be handed back to the party who tendered it, and all records of the tribunal.
74. The Registrar shall subject as hereinafter provided preserve intact in the Diocesan Registry every container sealed up pursuant to sections 72 and 73.
75. No person other than the Bishop shall have access to the contents of any container sealed up pursuant to section 74 except with the permission of the Bishop previously given in writing.
76. The Bishop may at any time after the death of a respondent direct in writing the destruction of any container and the contents of any container sealed up pursuant to section 74 and endorsed with the name of the respondent.
77. If access to the Register of Ecclesiastical Offences or to the contents of any container referred to in section 74 is bona fide required, for the purposes of a trial under this Ordinance or an appeal or other legal proceedings, the Bishop shall give the necessary permission and every person permitted access may at their own expense take or be provided by the Registrar with copies of (as the case may be) any relevant entry in the Register or any of the contents of a container; but in every other case the Bishop may in his absolute discretion give or refuse the necessary permission.

PART XI – MISCELLANEOUS

78. A certificate in writing signed by the Registrar that a person is, within the meaning of this Ordinance, a person in holy orders licensed by the Bishop or not licensed by the Bishop but resident in the Diocese shall be *prima facie* evidence of the matters therein stated.
79. A written admonition in respect of ministerial duty given by him to a person and on a date specified in the certificate shall be *prima facie* evidence that written admonition was given by the Bishop to that person on that date in the terms appearing in the document.
80. Any document produced before a Diocesan tribunal purporting to be sealed or signed by the Bishop or signed by the Registrar shall, in the absence of evidence to the contrary, be deemed to be duly sealed or signed by the Bishop or signed by the Registrar as the case may be.
81. Whenever it is provided by this Ordinance that any notice or other document shall be, or that anyone shall cause any notice or other document to be given, sent or presented to or served on any person, that provision shall be deemed to have been complied with if the notice or document is given, presented to or served on that

person personally or sent by pre-paid registered or certified post or otherwise addressed to him or her at his or her usual or last known address.

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

SCHEDULE A
FORM OF COMPLAINT

1. I (or : We) (insert name or names) of (insert address or addresses) do hereby complain that the Reverend (insert name) of (address) (if appropriate, add; Incumbent of the parish/special district of (name)) being a person in holy orders licensed by the Bishop of Armidale (or, as the case may be: being a person in holy orders not licensed by the Bishop of Armidale but resident in the Diocese of Armidale or to whom section 54(2A) of the Constitution of the Anglican Church of Australia applies) has committed the offence of (here describe the offence in accordance with the appropriate words in the definition of "offence" in section 3 of the Ordinance) in that they (here give particulars of the time, place and circumstances of the offence).
2. I (or : We) have attached hereto a list showing the names and addresses of witnesses now known to me (or : us) who can give evidence relating to the said charge.
3. I (or : We) have attached hereto the documentary evidence now in our possession relating to the said charge.

(or)

I (or : We) have no documentary evidence in our possession relating to the said charge).

4. I (or : We) desire that the said charge be dealt with in accordance with the Constitution of the Anglican Church of Australia and the *Clergy Standards and Discipline Ordinance 2017* of the Diocese of Armidale.
5. I do (or : each of the undersigned does) hereby solemnly and sincerely declare as follows:-
 - A. (if appropriate) I have been duly appointed by the Bishop of Armidale to make the said charge.
 - B. (if the offence charged is breach of faith, ritual or ceremonial and declaration A is not appropriate):

I am

1. over the age of eighteen (18) years:
2. within the meaning of the said Constitution a communicant member of the Anglican Church of Australia and am not a member of any other Church and am resident within the Diocese of Armidale (if appropriate, add: and a bona fide parishioner of the parish/special district of (name)).

- C. (if the offence alleged is not breach of faith, ritual or ceremonial and declaration A is not appropriate):

I am

1. over the age of eighteen (18) years;

2. within the meaning of the said Ordinance a member of the Anglican Church of Australia;
 3. not a member of any other Church;
 4. resident within the Diocese of Armidale;
- D. I do not make the said charge from any private ill-will towards the said Reverend (name) or from any improper motive.
- E. I believe the said complaint to be substantially true.

Signature(s):

Date:

SCHEDULE B
DECLARATION OF MEMBER OF TRIBUNAL

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

SCHEDULE C
OATH OF WITNESS

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

AFFIRMATION OF WITNESS

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