



Anglican Diocese of Newcastle

134 King St Newcastle, PO Box 494 Newcastle, NSW 2300
 Telephone: (02) 49 263 733 Email: michael@angdon.com Website: www.angdon.com
 ABN: 66 773 701 473

Summary table of submission in relation to proposed Professional Standards Ordinance amendments – September 2010

<u>No.</u>	<u>Amendment Description</u>	<u>Is from the model ordinance?</u>	<u>Implications</u>	<u>Benefits</u>
1	Administrative - Titling	No	Nil	n/a
2	Administrative – numbering and titling	No	Nil	n/a
3	Removes the power of the PSC to delegate its powers under S34 (ie giving notice to a respondent to provide a detailed report to the PSC in relation to any matter relevant to the investigation)	No	<p>1) Will no longer compel a respondent to;</p> <p>a) truthfully answer any questions put to them</p> <p>b) not to mislead</p> <p>c) not to unreasonably delay or obstruct</p> <p>in their interactions with an investigator, advocate, DPS or other person appointed by the PSC.</p> <p>2) Will force the PSC to act as an intermediate between the investigator and the respondent possibly compromising their role and definitely hampering and slowing the investigation.</p>	None foreseen
4	In relation to payment of locum, relief an stipend during periods of suspension	No	Gives a discretionary component for Bishop and church body to negotiate.	Reduced cost to the diocese
5	1) Administrative – numbering amendments	No	Nil	n/a
	2) Proposed amendments to take effect from commencement of the principal ordinance	No	<p>1) Unclear about start date of proposed amendments, is it 2005?</p> <p>2) If retrospective, changes to the ordinance will be unable to be applied to finalised matters and will compromise current matters.</p>	none foreseen

6	Amendments in Part 6 relate to the introduction of a review component	Yes Except clauses 81, 83f and 90a see below	1) Introduction of a review mechanism. This could prove expensive since it is being conducted by a barrister. The reviewer determines who ultimately pays for the review	outcomes reviewable
	Clause 81: The reviewer is to be a barrister of 10 years standing appointed by the president of the Newcastle Bar Association	No	1) The model ordinance states that the reviewer should be a barrister of 5 years experience appointed by the president of the relevant state (not local) bar associate. Other diocese that have adopted the review component of the ordinance have adopted the model ordinance (ie; 5 years experience and appointed by president of that state bar association eg; Brisbane, Tasmania, Adelaide, Perth) 2) The cost of a barrister of 10 years experience may be higher than one of 5 years experience and there may be less available to conduct the review. 3) If the matter is reviewed locally it is likely persons involved in matters or circumstances may be known to the reviewer. 4) A local reviewer may not be perceived as independent as a reviewer from out of area	none foreseen
	Clause 83f: Addition of extra grounds for review on the basis that the Board seriously misdirected itself as to the applicable law	No	1) Open to interpretation and possible lengthy and expensive technical legal argument 2) Undermines the integrity of the Board	none foreseen
	Clause 90a: An application for review must be in writing to the 'Church Authority'	No	1) Is contrary to the model ordinance in that such application for review is made directly to the Director of Professional Standards as expressed in other clauses within the review component such as 82 and 90. 2) Is not appropriate as the review application should be submitted to the Director of Professional Standards who has had carriage of the matter from start to finish 3) May compromise confidentiality 4) Application may to the Bishop compromising his position in making final determinations based on any pending recommendations.	none foreseen

Michael Elliott


Director of Professional Standards
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