

SCHEDULE A

The Anglican Diocese of Wangaratta

1. **The date the Diocese was established.**
13 March 1902
2. **The Province in which the Diocese is located.**
Victoria.
3. **The current number of parishes in the Diocese.**
24.
4. **The approximate number of Church members in the Diocese.**
2500
5. **The number of clergy currently licensed to officiate in the Diocese, including retired clergy with permission to officiate.**
84 – 34 with a licence : 50 with a Permission to Officiate
6. **The financial position of relevant Diocesan entities, including by reference to its asset holdings, liabilities and cash reserves (a high level overview is sufficient).**
(Annexure ‘A’)
7. **A description of the general relationship between the Diocese and parish asset holdings.**

The Wangaratta Diocesan Trustees is a Statutory Corporation established pursuant to the provisions of the Anglican Trusts Corporation Act 1884 of the Victorian Parliament (“the 1884 Act”) which enabled the Dioceses in Victoria, including the Diocese of Wangaratta, to constitute a corporate body of trustees for the purpose of holding property in trust for the benefit of the Church within the Diocese. All real property in the Diocese is registered in the name of the Trusts Corporation, and any funds held by the Trusts Corporation are held in trust for the Diocese, Parish or other entity of the Diocese pursuant to a general or specific trust as applicable. The Bishop-in-Council has been vested with the decision making and management of the trust property, however the Trustees of the Trusts Corporation are required to oversee that management to ensure that the decisions are being carried out correctly. However the Trustees are not entitled to direct the Bishop-in-Council as to any particular course of action.

The various Parishes do hold funds which are used for the operation of the Parish. There is also a provision that should a Parish hold funds in excess of an amount as determined by Bishop-in-Council such excess funds are to be invested by the Trusts Corporation in trust for the Parish (Parish Administration Act 1984, sec 129 (2) (a)). In addition any general or specific purpose trusts for the benefit of a particular Parish are also held by the Trusts Corporation for the benefit of the Parish.

8. The names, employment status, and periods of appointment of those people occupying the following positions in the Diocese between 1 January 1990 and the date of this letter:

(a) Bishop

The Rt. Revd. Robert George Beal, 27/7/1985-24/9/1994

The Rt. Revd. Paul Richardson 25/2/1995-30/9/1997

The Rt. Revd. Ralph David Farrer 2/2/1998-9/8/2008

The Rt. Revd. Anthony John Parkes AM 13/12/2008 –

(Appointed pursuant to the "Wangaratta Bishopric Act 1904-1997. Copy Annexed 'B')

(b) Assistant Bishop

None

(c) Chancellor

Dr Robin Lorimer Sharwood AM 4/8/1974-31/7/1999

The Hon. Justice Susan Coralie Kenny 31/7/1999-30/5/2005

Dr Robin Lorimer Sharwood AM (Acting) 30/5/2005-14/7/05

The Hon John Michael Batt 15/7/2005-31/12/2010

The Hon Justice Clyde Croft 30/1/ 2011-

(Appointed prior to 2001 under the inherent powers of the Bishop and according to Canons 127 and 128 of the Canons of 1603 of the Church of England. Post 2001 appointed pursuant to the Chancellors Canon 2001 of General Synod of The Anglican Church of Australia)

(d) Deputy Chancellor

None.

(e) Registrar / General Manager

Kenneth Still 02/08/1982-22/09/1998

The Revd. James Brown 22/09/1998-31/7/2000

The Revd. Dr. John Pryor 1/8/2000-28/2/2009

Timothy D L Williams 1/03/2009-

(f) Professional Standards Director

Pre 2010 Act

Jane Hentlass 2002-03

Moira Raynor 2003-04

Claire Sargent 8/2004 – 26/9/2010

Post 2010 Act

Claire Sargent 27/9/2010 -

(g) Chair of the Professional Standards Committee or similar body

Angela Were 27/9/2010 – 27/3/2012

Daryl Williams 18/4/2012 -

(h) Diocesan Solicitor, or any person appointed to advise the Diocese on legal matters relating to child sexual abuse

The Director of Professional Standards will, after consultation, appoint Solicitors or Counsel on a case by case basis as required.

(i) Diocesan Advocate, or any person appointed to represent the Diocese in disciplinary proceedings for clergy and other Church workers

William Henderson Glenn OAM 4/5/70 to 19/05/03 Advocate Emeritus 12/12/03-29/12/2012; David Parsons 20/5/03-; Rachel Ellyard Deputy Advocate 3/8/2013-

(j) Presiding members of the Professional Standards Board, Panel of Triers, Disciplinary Tribunal, Diocesan Tribunal or similar bodies, and

Rena Sofroniou – 28/9/10 – 3/2012

Stephen Wilmoth 18/4/2012 -

(k) Trustees on any Boards of Trustees established to manage the real property of the Diocese.Bishops

RG Beal 1985-1994

P Richardson 1995-1997

R D Farrer 1998-2008

A J Parkes 2008-

Chancellors

R L Sharwood 1974-1999

S C Kenny 1999-2005

J M Batt 2005-2010

C E Croft 2011-

Registrars

K S Still 1982-1998

J Brown 1998-2000

J W Pryor 2000-2009

T D L Williams 2009-

Elected Members

F W Rickards 1971-1995

D W McMonigle 1989-1994

E B Manley 1995-2003

G Mallinder 1995-

D M Evans 2003-

V S Ritchie 2003-

G Sneider 2003-2010

M Gulbin 2010-2013]

J C Davis 2014-

9. The current function, composition, and legal status of the:

(a) Bishop-in-Council

The Bishop-in-Council is constituted pursuant to the Council of the Diocese Act 1916 (as amended).

In matters pertaining to the temporal affairs of the Church the Bishop shall be assisted by the Bishop-in-Council and in all such matters, unless an Act of the Synod otherwise provides, the Bishop shall act with the consent of the Council or as a director of the Board of the Wangaratta Anglican Diocesan Corporation (Sec 3)

The Council consists of the following members:

- (i) The Dean of Holy Trinity Cathedral.
- (ii) The Archdeacons of the Diocese.
- (iii) The Chancellor of the Diocese.
- (iv) The Deputy Chancellor of the Diocese
- (v) The Advocate of the Diocese.
- (vi) The Chairman of Committees of the Synod of the Diocese
- (vii) The Registrar of the Diocese.
- (viii) The Diocesan Treasurer
- (ix) Six members to be nominated by the Bishop and
- (x) Three Clerical Members and three Lay Members to be elected by Synod.

Refer to the response to Question 8 as to the names of the current holders of those offices.

(b) Board of Trustees established to manage the real property of the Diocese

The Wangaratta Diocesan Trustees is a Statutory Corporation established pursuant to the provisions of the Anglican Trusts Corporation Act 1884 of the Victorian Parliament (“the 1884 Act”) which enabled the Dioceses in Victoria, including the Diocese of Wangaratta, to constitute a corporate body of trustees for the purpose of holding property in trust for the benefit of the Church within the Diocese.

The appointment, rights, powers and duties of Trustees are prescribed by the Trustees Act 1934. That Act provides that the Trusts Corporation shall consist of seven members, of which the Bishop, the Chancellor and the Registrar from time to time shall be ex officio members with four members appointed by vote of the Synod of the Diocese on the recommendation of the Corporation Trustees. The appointed Trustees hold office until death, resignation or removal from office by vote of the Synod on the recommendation of the Corporation Trustees. The current Trustees are:

AJ Parkes 2008 –

CE Croft 2011 –

TDL Williams 2009 –

G Mallinder 1995 –

DM Evans 2003 –

VS Ritchie 2003 –

JC Davis 2014 –

(c) **Synod of the Diocese of Wangaratta.**

The Church of England Act 1854 of the Victorian Parliament gives a Diocesan Bishop the power to convene a Synod of the licensed clergy and laity of the Diocese. The function of the Synod is defined in Section II of that Act:

“Every regulation act and resolution of such Synod made by the Bishop and the Clergy and the Laity thereat respecting the affairs of the said Church including all advowson and right of patronage shall be binding on every such Bishop and his successors and on the Clergy and Lay Members of the said Church residing within the Diocese for which such Synod shall have been convened and on none other and on them only so far as such regulation act or resolution may concern the position rights duties and liabilities of any minister or member of the said Church or any person in communion therewith in regard of his ministry membership or communion or may concern the advowson or right of patronage in or management of the property of the said Church Provided that no such regulation act or resolution shall be valid except to be made with the concurrence of a majority both of the Clergy and of the Laity the votes of the Clergy and those of the Laity being separately taken and except it receive the assent of the Bishop.”

The convening and conduct of the Synod is regulated by the *Synod Act 1904*. It provides that the membership of the Synod is as follows:

- (i) The Bishop; and
- (ii) All Clerks duly licensed; and
- (iii) The lay representatives duly elected as provided by this Act; and
- (iv) The Chancellor of the Diocese; and
- (v) The Deputy Chancellor of the Diocese; and
- (vi) The Advocate of the Diocese; and
- (vii) The Chairman of Committees of the Synod of the Diocese; and
- (viii) The Registrar of the Diocese; and
- (ix) The Diocesan Treasurer; and
- (x) Those of the laity who hold the Bishop's Licence as a Parish Assistant; and
- (xi) Two members of the Youth Synod of the Diocese of Wangaratta duly elected by the said Youth Synod provided that each of the two members so elected is a communicant and on the first day of each session of the Diocesan synod shall have attained the age of eighteen years and shall be under the age of twenty-six years.

10. An overview of the responsibilities, theological training, qualifications, licensing, and employment arrangements of:

- (a) Deacons**
- (b) Priests, and**
- (c) Bishops**

in parish ministry and any variations if appointed to other forms of ministry in the Diocese.

The respective responsibilities of the threefold order of ministry are laid down in the Ordinal.

The Anglican Church of Australia adopts the longstanding Canon Law position of the Church of England in relation to the fundamental requirements for ordination. All persons ordained to any of the three Orders of Deacon, Priest or Bishop must be a baptised Christian and Confirmed (or episcopally received) member of the Anglican Church. No person can be considered for ordination as Deacon until attaining the age of 23 years, and no person can be considered for ordination as Priest until attaining the age of 24 years. It is not possible to be ordained both Deacon and Priest on the same day without special dispensation. The normal period of time between ordination as Deacon and Priest in the Diocese of Wangaratta is at least 12 months. Ordinations of Deacons and Priests are scheduled as required. To be considered for ordination as Bishop, a person must already be ordained as Deacon and as Priest, normally for a period of ten years, and have attained thirty years of age.

The academic, formational and character qualifications for ordination are the same for Deacons, Priests and Bishops, all of whom commence ordained ministry at the point of being ordained Deacon. The usual minimum academic requirements for ordination are equivalent to four years study at undergraduate or postgraduate level. Typically this takes the form of a Bachelor of Ministry or Bachelor of Theology, a combined undergraduate degree, or postgraduate award such as Master of Divinity. In preparation for ordination, candidates undertake ministry placements, working under the supervision of an experienced person, during the period of their candidature. A program of formation is designed to meet the needs of each candidate. Being a small rural Diocese we need to shape training and formation individually. In addition candidates undertake one unit of Clinical Pastoral Education, administered by qualified instructors. This generally requires being placed in the pastoral care department of a major hospital for a period of twelve weeks. Those who are seeking to be considered for positions as school chaplain will usually also complete a teaching qualification at a recognised University.

All newly ordained Deacons commence employment as Assistant Curates, working under the supervision of another experienced cleric.

11. In relation to any corporate entities created by the Diocese to respond to any legal claims arising from allegations of child sexual abuse:

- (a) the name of the entity**
- (b) the date of incorporation**
- (c) the mode of incorporation, and**
- (d) any assets held by the corporation.**

Apart from The Wangaratta Diocesan Trustees, the purpose of which is to hold assets of the Diocese in trust for the various entities of the Diocese, there had not previously been any legal entity capable of suing or being sued. This exposed the Bishop of the Diocese and other officials to the risk of being personally sued for actions of a corporate nature. This has been of particular concern in relation to the issue of child sexual abuse, as the victims have often found it very difficult to determine who or what they should sue in order to seek redress. In addition areas of civil law which have impacted more on the Diocese have highlighted the need for a separate legal structure which is able to be responsible for the operation and control of those activities of the Church which are impacted by civil legal obligations. An example of such legislation is that of the WorkCover Authority. As a consequence the Dioceses of Victoria have worked together to facilitate the incorporation of a legal entity in each Diocese to overcome this problem using a similar framework in each case.

In the Diocese of Wangaratta the Wangaratta Anglican Diocesan Corporation Act 2015 was passed by the Synod of the Diocese authorising the Bishop-in-Council to incorporate a Corporation limited by guarantee. The Constitution of the Corporation was an appendix to the Act and a copy of the Constitution is annexed hereto.

In compliance with the Act of Synod the Wangaratta Anglican Diocesan Corporation Ltd was incorporated on the 22nd June 2015. The Corporations Purposes and Powers as set out in the Constitution are as follows:

“2. Corporation’s purposes

- (1) In matters pertaining to the affairs of the Anglican Church of Australia in the Diocese of Wangaratta, and to the extent the purposes are charitable at law, the corporation is established to assist and promote the ministry of the Church, the proclamation of the Word of God, the administration of the Holy Sacraments, and the furtherance of the commission of Christ to His apostles.*
- (2) In pursuing its purposes, the corporation must act in conformity with and is bound by:*
 - ♦ the constitution of the Anglican Church of Australia;*
 - ♦ the constitution of the province of Victoria;*
 - ♦ the constitution of the Diocese; and;*
 - ♦ the canons, statutes, ordinances and rules, however described, of the Synod of the Diocese and of the General Synod and the provincial synod or council, which have force in the Diocese from time to time.*

- (3) *In pursuing its purposes, the corporation may:*
- *formulate policies;*
 - *make rules in connection with a policy; and*
 - *revoke or amend a policy or rules and formulate others.*

3 Corporation's powers

Solely for carrying out the corporation's purposes, the corporation may do all things incidental or conducive to carrying out the corporation's purposes. Without limiting the foregoing, it may:

1. *accept and hold funds or property of any kind on or for any charitable objects or purposes specified or to be specified by any person or to be selected by the directors from a class of trusts, objects or purposes specified by any person;*
2. *engage or dismiss any employee, agent, contractor or professional person;*
3. *purchase, take on lease or in exchange, hire or otherwise acquire real or personal property, and any rights or privileges;*
4. *control, manage, lease, exchange, mortgage, charge, sell, transfer, surrender, dispose of, develop, carry on business or otherwise deal with any real or personal property of any kind or any estate or interest in that property;*
5. *invest, deal with and lend money and otherwise provide financial accommodation to, and guarantee or otherwise secure loans to, charitable objects or purposes;*
6. *construct, improve, maintain, develop, work, manage and control real or personal property;*
7. *enter into contracts, deeds, arrangements and understandings, whether with any government or authority or otherwise;*
8. *appoint an attorney or agent with powers (including the power to sub-delegate) and on terms the corporation thinks fit, and procure registration or recognition of the corporation in any other country or place;*
9. *borrow, raise or secure or guarantee the payment of money and secure or guarantee the repayment or performance of any debt, liability, contract, guarantee or other engagement in any way and, including by mortgage, charge or overdraft or by the issue of debentures or debenture stock (perpetual or otherwise) charged on all or any of the corporation's property (both present and future) and purchase, redeem or pay off those securities;*
10. *make, draw, accept, endorse, discount, execute and issue promissory notes, bills of exchange and other negotiable or transferable instruments;*
11. *print and publish information in hard copy or by electronic means;*
12. *accept any gift of real or personal property, whether subject to any special trust or not and decline to accept any gift;*
13. *appoint patrons of the corporation;*
14. *make donations for charitable purposes; and*
15. *arrange conferences, meetings and other forums."*

The Diocese has undertaken an actuarial analysis of the anticipated financial obligations of the Corporation which has enabled the Diocese to guarantee an appropriate asset base to the Corporation.

The Church of England Boys' Society (CEBS)

- 12. The nature of any past and/or present relationship between the Anglican Diocese of Wangaratta and any branch or State Diocesan Council of CEBS and/or the Anglican Boys' Society, including but not limited to any:**
- (a) legal, financial, and/or administrative relationship**
 - (b) governance arrangements**
 - (c) staffing arrangements, and**
 - (d) record-keeping and archiving arrangements.**

The earliest record I can trace of CEBS operating in the Diocese dates from 1955. The minute book contains a rudimentary Constitution for a Diocesan Council and for a Provincial Council. From 1965, a more formal Constitution was adopted which identifies matters referred to in a, b and c above. A copy of that Constitution is annexed (Annexure 'C'). The Diocese has comprehensive records which are kept in the Archives of CSU at Wagga. I am unable to say whether these are complete records.

- 13. The nature of any relationship, between 1 January 1965 and the date of this letter, between the Diocese and any camp sites or other venues used by CEBS and/or the Anglican Boys' Society for its camping activities, including any child protection policies and procedures maintained by the Diocese in respect of youth attending camps at those venues.**

Between 1965 and 2005 the Diocese held a licence LMS No 0802417 licence no 088700474 from the Department of Sustainability and Environment (formerly Dept. Of Natural Resources and Environment) over Part Crown Allotment 4A, Parish of Toorour, in the name CEBS Camp. Building took place between 1965 and 1967. The Camp was known variously as the Lima East Camp Site or the Woorarra Camp Site.

After the termination of the operation of CEBS in the Diocese in about 1981, the camp was used by various outside parties and became a sometime venue for the Youth Synod of the Diocese.

The camp was administered by a committee on behalf of the Bishop in Council.

I can find no record of any child protection policies and procedures for the period that CEBS Wangaratta conducted its camps on that site.

Church and para-church institutions

14. Any arrangements under which schools or other institutions in your Diocese are permitted to use the Anglican Church name in their title or brand.

The basis for use of the title or brand ‘Anglican’ in the Diocese of Wangaratta will be:

1. Contracts of Sale for the following schools to The Anglican Schools Commission Inc (ASC):
 - a. Cathedral College Wangaratta
 - b. Christ the King Anglican College Cobram (now Cobram Anglican Grammar School)
 - c. Trinity Anglican College Wodonga
2. New School Constitutions were accepted as part of the sale, these constitutions being ones adopted by the ASC Board. The new constitutions set out the relationship between the ASC, the Diocese of Wangaratta and Diocesan Bishop (as Visitor), the Archbishop of Perth (where appropriate) and the School Council.
3. When naming a school (which is the responsibility of the ASC to do or to approve), it also requires the approval of the Bishop of Wangaratta.

15. 15. The current legal, financial, administrative, governance and/or any other relationship between the Anglican Diocese of Wangaratta and:

- (a) any para-church Diocesan youth groups, such as the Crusaders or Youthworks**

None

- (b) Anglicare, or entities known as Anglicare**

The relationship between the Diocese of Wangaratta and Anglicare Victoria is governed by Memorandum of Understanding dated 26 October 2003. The MOU was renewed in 2007. Each MOU was for a three year period. The 2007 MOU has been rolled over and still governs the relationship. A copy of that MOU is annexed (Annexure ‘D’). Also attached is a copy of the Terms of Reference of the Advisory Committee established pursuant to that MOU (Annexure ‘E’). The Diocese leases property in Cathedral Close to provide administrative and emergency relief facilities to Anglicare Victoria. A copy of that lease is annexed (Annexure ‘F’).

- (c) Anglican schools**

There are four Anglican schools in the Diocese of Wangaratta.

- a) Cathedral College Wangaratta
- b) Trinity Anglican College – Albury Campus and Wodonga Campus (one school on 2 campuses)
- c) Cobram Anglican Grammar School
- d) Geelong Grammar School – Timbertop Campus

With respect to the Timbertop Campus of Geelong Grammar School the Chaplain receives a licence from the Bishop of Wangaratta as a matter of respect for Anglican ecclesiology rather than any actual diocesan involvement.

With regards Cathedral College Wangaratta, Trinity Anglican College and Cobram Anglican Grammar School:

Legal:

All 3 schools are now owned by The Anglican Schools Commission Inc (ASC) as from 27/12/2014. The Diocese of Wangaratta has no ownership responsibility. None of the schools are separately incorporated entities, but rather they are entities of The Anglican Schools Commission Inc.

Financial:

The ASC financially underwrites all three schools. The ASC the effectively the 'bank' for all three schools, providing loans to schools through agreements it has in place with Westpac Bank and the Anglican Community Fund (WA).

Administrative:

Administrative oversight of all 3 schools is undertaken by the ASC, through certain powers delegated to each School Council. The Diocese of Wangaratta has no administrative responsibility.

Governance:

The Governing Body for all 3 schools is the ASC. Under separate constitutions, the ASC delegates certain responsibilities to a School Council in each school:

- (a) to assist the Commission in the planning and establishment of a School to be conducted in accordance with the Christian faith as taught by the Anglican Church of Australia and as a low fee co-educational school of the Church at pre-primary, primary and secondary levels;
- (b) to manage and conduct the School on behalf of the Commission in accordance with the objects for which it was established and in such a manner as is in accordance with this Constitution, such policies and guidelines as may be prescribed or recommended by the Commission from time to time, and such Christian and religious guidelines as may be recommended or prescribed by the Commission, Bishop in Council or Synod;
- (c) to facilitate the planning, establishment and management of the School.

The Bishop and Bishop-in-Council have certain appointments to the School Councils. School Councils of the three schools typically comprise a minimum of nine (9) members and a maximum of twelve (12) members, the composition typically as follows:

- (i) One member nominated by the Bishop who shall hold office for three years;

- (ii) Four members elected by the Commission who shall hold office for three years;
- (iii) One or two members elected by Bishop in Council who shall hold office for three years;
- (iv) One member of an association of the parents or an equivalent body which has been approved by the Commission, whom shall be a parent or guardian of a pupil of the School when elected, and who shall hold office for three years. Such member shall be elected by the Council from nominations by the Executive of that association. In the case of new schools where no such association exists, or before such an election has been held, one member (who is a parent or guardian of pupils or prospective pupils at the School) shall be appointed jointly by the Bishop and the Chair of the Commission, which member shall in that case hold office for three years or until such an election, whichever occurs first.
- (v) One member who shall be an old scholar of the School elected by an association of old scholars duly recognised by the Council as such who shall hold office for three years. Such member shall be elected at a general meeting of the said association. Until such an election has been held a member shall be appointed by the Bishop and the Chairman of the Commission, who shall hold office until such election;
- (vi) One or two members elected by the Council who shall hold office for such period not exceeding three years as may be fixed by the Council.
- (vii) The Chief Executive Officer of the Commission (or their nominee).

The Bishop of Wangaratta (as Visitor) has certain constitutional responsibilities under each school constitution:

- (a) Subject to certain powers given to the Archbishop of Perth, the Bishop of Wangaratta shall be the Visitor of the School and as such shall have and may exercise all the powers which customarily appertain to that office and in addition shall have power to grant at his sole discretion dispensation in all spiritual matters together with power to inspect the School and the accounts of the Council and report thereon to Synod, the Commission, the Council or the Principal as the case may require and to make such recommendations to Synod, the Commission, the Council or the Principal as he shall deem fit.
- (b) The Commission may dissolve the Council and cease the conduct of the School, after first consulting with the Visitor.
- (c) The Principal shall be a communicant of the Church unless such condition is waived by the Archbishop of Perth and the Bishop of Wangaratta.

- (d) A chaplain or chaplains shall be appointed by the Principal after consultation with and approval of the Archbishop of Perth and the Bishop of Wangaratta on the basis that the:
- (i) appointment terms and conditions be determined by the Council with the approval of the Archbishop of Perth and the Bishop of Wangaratta; and
 - (ii) chaplain or chaplains are licensed by the Bishop of Wangaratta.

(d) any Anglican-run or affiliated children's homes.

None

16. Please describe generally the relationship between the Diocese and parish run youth groups.

None – apart from the insistence that leaders operate with the Bishop's authority (and go through the clearance process) and an annual award for Youth Work presented at the Annual Synod on a nomination from anyone.

Theological perspectives

17. Your understanding of your Diocese's practices and theological perspectives in relation to:

- (a) marriage of clergy.**
- (b) celibacy, and**
- (c) homosexuality.**

Questions in relation to marriage, celibacy and same sex attraction have been exercising the mind of the Anglican Communion for the past 30 or so years. The Anglican Communion last declared a position at the Lambeth Conference in 1998.

*Lambeth 1998 Resolution 1.10
'Human Sexuality'*

This Conference:

- *commends to the Church the subsection report on human sexuality;*
- *in view of the teaching of Scripture, upholds faithfulness in marriage between a man and a woman in lifelong union, and believes that abstinence is right for those who are not called to marriage;*
- *recognises that there are among us persons who experience themselves as having a homosexual orientation. Many of these are members of the Church and are seeking the pastoral care, moral direction of the Church, and God's transforming power for the living of their lives and the ordering of*

relationships. We commit ourselves to listen to the experience of homosexual persons and we wish to assure them that they are loved by God and that all baptised, believing and faithful persons, regardless of sexual orientation, are full members of the Body of Christ;

- *while rejecting homosexual practice as incompatible with Scripture, calls on all our people to minister pastorally and sensitively to all irrespective of sexual orientation and to condemn irrational fear of homosexuals, violence within marriage and any trivialisation and commercialisation of sex;*
- *cannot advise the legitimising or blessing of same sex unions nor ordaining those involved in same gender unions;*
- *requests the Primates and the ACC to establish a means of monitoring the work done on the subject of human sexuality in the Communion and to share statements and resources among us;*
- *notes the significance of the [Kuala Lumpur Statement](#) on Human Sexuality and the concerns expressed in resolutions IV.26, V.1, V.10, V.23 and V.35 on the authority of Scripture in matters of marriage and sexuality and asks the Primates and the ACC to include them in their monitoring process.*

The General Synod of the Anglican Church of Australia spoke on these matters in 2004.

61/04 SEXUALITY & GENDER RELATIONSHIPS – 1

That this General Synod

1. *notes the Lambeth Conference resolution 1.10 of 1998 on human sexuality and subsequent developments in various parts of the Anglican Communion;*
2. *welcomes the publication of the study guide to Faithfulness in Fellowship;*
3. *urges Dioceses to promote the use of the study guide and also commends to the Dioceses the Doctrine Commission's recently published essays Lost in Translation as they explore the importance of Scripture in our understanding of this issue; and*
4. *requests Dioceses to commit themselves to listen as the Church develops a Christian response to the contemporary experience of human sexuality.*

62/04 SEXUALITY & GENDER RELATIONSHIPS – 2

Recognising that this is a matter of ongoing debate and conversation in this church and that we all have an obligation to listen to each other with respect, this General Synod does not condone the liturgical blessing of same sex relationships.

63/04 SEXUALITY & GENDER RELATIONSHIPS – 3

Recognising that this is a matter of ongoing debate and conversation in this church and that we all have an obligation to listen to each other with respect, this General Synod does not condone the ordination of people in open committed same sex relationships.

64/04 SEXUALITY & GENDER RELATIONSHIPS – 4

This General Synod welcomes the initiative of the Federal Parliament in clarifying that marriage, at law in this country, is the union of a man and a woman to the exclusion of all others, voluntarily entered into for life.

This understanding finds expression in Faithfulness in Service A national code for personal behaviour and the practice of pastoral ministry by clergy and church workers

7.4 You are to be chaste and not engage in sex outside of marriage.

Earlier this year I wrote to my clergy to establish parameters for the conversation around same sex identity and marriage in the following terms:

Dear Brothers and Sisters

Questions have been raised with me about the current debate about marriage equality. I want to be clear about the current position so that you may be informed should this become a matter of debate in your parish or agency.

Does the Diocese of Wangaratta have a stated position on the removal of the words ‘of a man and a woman’ from the definition of marriage in the Marriage Act 1961 of the Commonwealth of Australia?

The answer is that the Synod of the Diocese of Wangaratta has not considered the matter. However the General Synod of our Church did consider the matter in 2004 at the 13th General Synod. You may remember that in 2004 the Parliament amended the definition of marriage in the Marriage Act. Before the Marriage Amendment Act 2004 there was no definition of marriage in the 1961 Act, and the definition was based in the common law. The 2004 Amendment incorporated the common law definition of marriage into the Act as:

Marriage means the union of a man and a woman to the exclusion of all others, voluntarily entered into for life.

In a suite of resolutions the 2004 General Synod considered questions of ordination, marriage and blessing in relation to same sex persons. The two resolutions dealing with marriage are as follows:

62/04 SEXUALITY & GENDER RELATIONSHIPS – 2 Recognising that this is a matter of ongoing debate and conversation in this church and that we all have an obligation to listen to each other with respect, this General Synod does not condone the liturgical blessing of same sex relationships.

64/04 SEXUALITY & GENDER RELATIONSHIPS – 4 This General Synod welcomes the initiative of the Federal Parliament in clarifying

that marriage, at law in this country, is the union of a man and a woman to the exclusion of all others, voluntarily entered into for life.

Resolutions of General Synod, whilst not having the force of law, do express the mind of the church and are to be taken seriously.

You will see that resolutions themselves recognise that even eleven years ago the question of sexuality and gender relationships was (and continues to be) a matter of ongoing debate and conversation for our church. Society has moved on considerably since 2004. Developments such as the recognition of same sex marriage by referendum in Ireland and by the Supreme Court of the United States of America have focussed the debate, and it continues.

There is some clouded thinking in the current debate about the status of marriage in Australia within the church. At least two things are happening when a registered minister of religion conducts a service of holy matrimony. One of these things is purely secular, involving the disposition of property, both real and personal, and custodial care of children. This is a matter for the state. My own view is that the church does not have an interest in this aspect of marriage. The second is proclaiming God's blessing on a relationship. That is peculiarly the business of the Church and not the state, at least when the marriage is between parties who claim an identity in Christ. In our service of matrimony these two aspects have become unhelpfully conflated, largely I suspect through our inheritance of the model of the established Church of England.

The Primate, Archbishop Philip Freier made a helpful contribution to our understanding of the nature of marriage in a recent piece in the Age, the text of which I now set out.

Seldom has such a fundamental human institution as marriage been so contested as now. Last month's ruling by the United States Supreme Court that bans on same-sex marriage are unconstitutional will surely provide impetus in Australia to move towards legislative change, just as the Irish referendum result did. Debate is intensifying.

Since white settlement in Australia, the church has acted as an unofficial guardian for the values and aspirations of marriage, especially as an institution that encourages the flourishing of families. Marriage carries important social and legal aspects, both in terms of legal protections such as legitimization of children or inheritance rights and in terms of building social climate. The state concerns itself in the regulation of this most personal and intimate of relationships because marriage is a foundational institution to our society.

In Australia the church inherited this role from the English system which had an established church with legal privileges that did not apply in

Australia but were long-assumed in the mono-cultural colonies. Church and state seemed natural allies in this cause.

It might be time to make sanctioning legal marriage a matter purely for the state.

But Australia is vastly more diverse today, and the church's influence has waned through a variety of causes. It will never again have the same dominant position as society's conscience and moral guardian. Christian advocates must accept that we are one voice among many, even though it is often a voice of considerable wisdom and experience.

That being so, it might be thought anomalous that the church remains the state's representative when it comes to performing marriage, that ministers of religion (along with civil celebrants) act on behalf of the state by performing a legal ceremony that is recognised and legitimised by the state.

The Marriage Act has already registered significant social changes, such as providing safeguards for de facto partners. Same-sex marriage would be a far more significant step away from the Christian understanding of marriage that prevailed when the law was first enacted.

While same-sex marriage stretches this conception of marriage, it seems that in other respects we as a society have very traditional perspectives. Bigamy or polygamy remain taboo. Yet if the argument from the freedom of human choice stands – that it is unjust to deny people the chance to marry whomsoever they want – then we should recognise that polygamy is widely practised in many societies around the world. Islam allows up to four wives – under certain circumstances – yet when a Melbourne sheikh proposed legalising polygamy several years ago the reaction was outrage.

It might be time to make sanctioning legal marriage a matter purely for the state. Perhaps the people who register marriages should simply be public servants who attest to the bona fides of the parties to the marriage. Marriage could be made more accessible by online registration and processing.

Under such a system, Australia would then operate as does much of Europe. There, for example, a couple goes to the state office and the ceremony is performed by a public servant. Then they emerge to enjoy whatever sort of celebration they choose, shared with family and friends.

Traditional church weddings could still be held in this way, along with ceremonies in the backyard or on surfboards at sea, as now, but they would be separate celebrations from the state-sanctioned legal approval.

For Christians, of course, holy matrimony includes a particular understanding of what the pair are committing themselves to which goes

well beyond what is legislated. The church's traditional understanding of marriage certainly agrees with the 2004 amendment that is now so controversial: "Marriage means the union of a man and a woman to the exclusion of all others, voluntarily entered into for life."

But Christians go further. We believe that marriage is ordained by God, that the vows have a particularly sacred character because they are explicitly made before God, and that the closeness and intensity of loving sexual relationships which are proper only within marriage teach us something of God's love. (Sadly, we have to recognise that Christians are not much better than the wider population at maintaining this commitment till death – Christians divorce at much the same rate as non-Christians.)

It is no longer reasonable for us to expect that the state's approach will be as prescriptive and demanding as the Christian understanding, but nor is it reasonable for the state to expect Christians to give up their comprehensive and long-standing view.

So the merit of a simple, one size fits all, legal contract carried out by the state, followed by personal celebrations of a near-infinite variety of possibilities, is that it protects particular practices without confining those who do not follow them.

Christians could preserve their concept of holy matrimony. Of course non-religious couples can be just as sincere and earnest in their vows, but what especially sets the Christian understanding apart from non-believers is that a third party is involved: God.

Even within Christianity, let alone wider society, what marriage does and should involve is a contested space. Many Christians support same-sex marriage, seeing it as an urgent issue of justice, but the centre of gravity among believers remains likely to be towards a conservative understanding.

One thing we know, because we have seen the pace of social change, is that we live in a society with a high appetite for social reform. A rethink of the place of the state in regulating marriage may be helpful. A revisiting of the delegation of a state function to all sorts of independent citizens, whether religious or civil celebrants, may produce separation of state and non-state actors in this important and foundational institution of marriage.

It just might strengthen the intention of those who look to marriage as a further and more complete step in their relationship.ⁱ

There is much loose talk about the Scriptural model of marriage. I prefer to use the term traditional. I think it not easy to infer a hard and fast model of marriage from Scripture. The Jewish Scriptures recognise things that we would not want to assert today – polygamy for example, or incest. The Gospels themselves seem to have different

understandings of the permanence of marriage and the conditions necessary for divorce. (Mark 10.2-12, cf Matthew 5.31-32; 19.3-12; Luke 16.18)

The Biblical Scholar William Loaderⁱⁱ from Murdoch University has made some helpful observations on the nature of marriage.

While countries with conservative governments, like New Zealand and United Kingdom, and most recently, Ireland, and even the US Supreme Court have recognised Gay Marriage, Australia is yet to pass such legislation. What follows is a very brief attempt to sketch why people decide the way they do.

Most people who oppose gay marriage do so ultimately because they also see same-sex relations as wrong. The up front arguments may vary, but this assumption lies behind them. And most in the Christian community who see same-sex relations as wrong do so because the Bible says so. Leviticus in the Old Testament calls it an abomination for men to lie with men as they do with women. Jews at the time when Christianity emerged had extended this to apply to both men and women. They often singled out this prohibition as a virtue to be contrasted with other cultures. This is why Paul uses it in Romans as his prime example of how human beings have gone wrong. They had denied God's true nature and as a result had denied their own true nature. Paul and the Jews of his time read the creation story as clearly defining that God made people male or female. That is their true nature. There are no homosexual people as such and for a man to act like a woman or vice versa was to pervert what God had made. For everyone is heterosexual. To deny this and give rein to feelings which go in the wrong direction is sin.

There are many people who still assume that all people are heterosexual, so that any feelings and actions which are directed to people of one's own sex are either a deliberate act of perversion or a sign of psychological maladjustment which should be corrected. So at their best, people with such beliefs will seek to help those with a wrong orientation to find the correct one and they will do so often with great care and compassion. They should not be treated as bigots or hateful. It makes sense that they would not want to affirm gay marriage, because that would amount to affirming what they know is wrong. Some will see such wrongness as the result of Adam's sin, but Paul's argument is rather that it is tied to denying God's true nature.

Most people who support gay marriage do so because they have come into contact with people who are gay, whom they do not see as having deliberately perverted their sexuality or as sick. Sometimes it will be family members and the more openly people share their stories these days the more widespread is the realisation that some people simply are that way and that

it is not their fault nor a sign of psychological damage. This can happen in circles where there is reverence for the Bible. For some it means the parting of the ways with their faith. For others it leads them to ask how well Paul and his contemporaries understood the situation and whether other biblical values can help them address their situation. They have no problems agreeing with Paul where in fact what has happened is that people have deliberately perverted the way they naturally are. But what if the evidence before them has led them to conclude that there really are people who are gay and, indeed, some of them indeed are outstanding human individuals? These people, they conclude, fall outside of the categories which Paul and his fellow Jews assumed and so should not be treated as sinners or sick. They need support to make it possible for them to have healthy and supportive relationships, including marriage, without discrimination.

At one level it comes down to how we assess what we experience. Is it really true that all people are heterosexual? Then not supporting gay marriage makes sense. If it is not true, then we wrong them by not allowing them to have committed relations recognised in society as marriage. For people of faith it also comes down to how we approach scripture. Are there precedents for recognising that biblical writers might not have had adequate information about some aspects of life? Indeed there are and some of them we simply take for granted. Thus most people these days would not share the views of Paul and his fellow Jews that creation all began just 6000 years ago, nor that it happened over 6 days, nor about how women were made, nor about languages came about (the tower of Babel) and much more. Respectful reading does not ridicule such ideas, but does recognise that they rest on assumptions which few today would share. So it is not all that strange that many would not consider mention of the creation of male and female in Gen 1:27 as an authoritative basis for believing that all people are heterosexual. It makes little sense to dismiss other elements in Genesis 1 while talking this verse as absolute science.

There are, indeed, a number of areas where social change and a better understanding have led to respectful revision of biblically based prohibitions and patterns. We have abandoned, for instance, attitudes towards slaves and women which see them as inferior. We have abandoned the absolute prohibition of divorce except for adultery and the absolute requirement that it be enforced where adultery has taken place. These changes have been driven in part by applying the flexibility and compassion we see in Jesus in his approach to scripture and its laws. It is never easy to set aside some commandments in favour of others. The early church on New Testament times engaged in heated debate over whether to keep or abandon the biblical command to circumcise male converts. The more liberal stance which

argued it should not be enforced won through because people stood under the impact of Jesus' approach.

Pressures to revise what we have inherited as biblical rules must be treated cautiously. The pressure to go soft on honesty or to engage in what amounts to theft, so that we keep wealth and keep it from others, are to be resisted. Love and respect have to be central in all our dealings. Our response to the debate on gay marriage needs to be carried out in that spirit. In principle it should not be a problem to revise or restrict the application of biblical commands. Whether we do so or not will depend to a large extent on how we evaluate what we see around us. Is everyone heterosexual or not? That will determine how our love flows. My own view is that the belief that everyone is heterosexual and that anyone feeling or acting otherwise is either sinful or in some way psychologically damaged is simply incorrect, just as I believe that the idea that the universe is only 6000 years old is incorrect. I would like to persuade others that this is so, but at least I hope I can encourage people to think about it.

One of the slightly strange arguments brought against gay marriage is that such couples will end up bringing up children and they might be disadvantaged. This overlooks two things: gay couples can already by law adopt children and do; and all parenting needs to consider carefully the range of a child's experiences, whether starting from a mixed or same gender marriage, and the challenge and privilege of parenting is much larger than what just two people do.ⁱⁱⁱ

I have set out these matters at some length to identify the parameters of the debate in which we are engaged. I do not believe that there are any 'set 'em up knock 'em down arguments'. As Christians we hold Holy Scripture to be normative, but the Bible itself and the history of the Church over two millennia tell us that the Scriptures speak into culture. The history of the engagement of the Church with science has been less than helpful. As we seek to develop our understanding of Christian anthropology we can not afford to ignore scientific research into the nature of human sexual identity.

And so the debate for our Church continues. I again draw attention to the 2004 General Synod Resolution, which sets out the parameters for us. 'Recognising that this is a matter of ongoing debate and conversation in this church ... we all have an obligation to listen to each other with respect.'

I do not seek to impose constraints on the debate, other than the need for respectful conversation. However until the Diocese has come to a view on these matters, contributions to the debate should be made in your private capacity and not in your representative capacity. I would therefore be grateful if you did not use your formal ecclesiastical title when making public comment. The Bishop is the only one to speak for the Diocese of Wangaratta, and I want there to be no mixed message about this.

I hope that this reflection is helpful as you engage with the contemporary debate. If the Commonwealth legislates in this area, both the Diocese and the National Church will need to seek to understand what this means for us. The way forward may not yet be clear, and the road may be bumpy. Let us be confident that the God of truth will lead us into all truth. And let us be careful lest our words and our deeds cause needless hurt to those who do not see the world as we do.

- 18. The Anglican Church of Australia’s website, as at 30 October 2015, includes the following statement under the heading ‘Internal Diversity’:**

Significant theological differences also exist which can prevent closer co-operation between dioceses. The conferencing approach and development of community fostering initiatives have served to improve mutual understanding and co-operation on matters of considerable importance, such as child protection.

Please set out your understanding of any significant theological differences between your and any other diocese, and the effect, if any, of those differences on the protection of children in the Anglican Church.

The Anglican Church has ever been a broad church, encompassing a variety of theological and ecclesiological understandings. The Australian Church has its conservative Evangelical and Catholic wings. The Diocese I serve can be described as modern or liberal Catholic. Whilst these different positions may inhibit cooperation at some levels, there has been unanimity in our determination to establish proper systems and procedures in relation to child protection. Theological difference has not proved to be a barrier to a concerted and united approach.

Ordination and theological training

- 19. The relationship, if any, between your Diocese and any of the theological colleges in Australia.**

The Diocese of Wangaratta uses Trinity College Theological School as its training institution.

- 20. Your Diocese’s approach, policies and practices in relation to conducting psychological assessments of candidates for ordination training and ordination itself, since 1 January 1960.**

Because we are a small Diocese with only a few ordinands, prior to 2011 the approach was ad hoc, without any set requirement for psychological assessment. From 2011 I introduced a more formalised procedure.

Discernment procedures 2011-2015

1. Biographical and autobiographical reading to expand the enquirers comprehension of being human.
2. A written autobiography by the enquirer exploring every facet of their life and experience, not least their sense of sexual identity and expression

Some enquirers might make a determined attempt to avoid this step. This in itself will signal that the individual ought not to proceed any further at this stage. Ordination is not primarily to bring cure to the unresolved issues in a person's life.

Such issues include inconsistency in employment, fractured relationships, emotional or mental instability, low or over inflated self-esteem, tension regarding sexual awareness and expression, issues of childhood or adolescent abuse and the inclination to remain a victim.

Social, medical and psychological assessments will only be of value to the individual and the community if these earlier searchings have been truthfully undertaken and appraised.

3. A full medical is required.
4. A Psychological Assessment is currently carried out for the Diocese of Wangaratta by Dr. Barry Rogers a Registered Psychologist in Canterbury. Vic, who provides a consultation and report to the enquirer.

A written report comes to the Diocese with a copy to the individual. The cost is shared by both parties.

Recommendations to do with ongoing consultations or therapy are the prime responsibility of the enquirer.

5. Completion of The Confidential Application for Clearance for Ministry - Professional Standards Regulations 2010.

Completion of The Safe Ministry Check - Diocese of Wangaratta.

Certification of a current Working with Children Check.

Certification of a current National Police Check [Diocese of Wangaratta CFV No.02/96].

National approaches to professional standards and inter-diocesan cooperation

21. **Your Diocese's approach to adopting the Anglican Church of Australia General Synod model ordinances and policy guidelines on child protection.**

The Diocese of Wangaratta has been fully engaged in the development of procedures and protocols for child protection. General Synod developed a model Professional Standards Ordinance and at the General Synod of 2004 encouraged the Dioceses to adopt it in their Dioceses. The Dioceses of Victoria were concerned that some aspects of the regime were incompatible with the 1854 Act and did not wish to be put in a position that actions taken pursuant to the model Ordinance were deemed invalid. In addition the Dioceses had a view that at that time the protocols which were operating in the Province of Victoria were a more appropriate response to the matter. As such the Diocese has been engaged with the other Dioceses of the province of Victoria in responding to the issues of child abuse.

- 22. Please indicate which General Synod model ordinances, policy guidelines and resolutions on child protection have been adopted or responded to by your Diocese, and how, by completing the table at Schedule B.**

See Schedule B attached.

- 23. The key differences, if any, between the national model *Professional Standards Ordinance* (as amended 2008) and your Diocese's equivalent ordinance/s, and the reasons for your Diocese either adopting the national model, not adopting it, or partially adopting it.**

In 2003 the Provincial Dioceses, including the Diocese of Wangaratta, adopted the Power and Trust Protocol as a non-legislative protocol to deal with matters of abuse. A Professional Standards Committee and a Director of Professional Standards was appointed by the Diocese of Melbourne to investigate complaints. The Diocese of Wangaratta was able to use the services of the Committee and the Director, as it would have been a waste of resources, and potentially less effective and consistent, to try to appoint its own Committee or Director.

Also the General Synod of 2004 approved a code of conduct known as Faithfulness in Service and recommended that Dioceses adopt the code. The Diocese of Wangaratta adopted Faithfulness in Service as a Code of Conduct for use in the Diocese by resolution of the Synod of 2006 pursuant to the provisions of the Parish Administration Act 1984.

It became clear that the Power and Trust Protocol was inadequate in that without the force of legislation there may be some concerns as to enforceability. As a result the Dioceses of the Province co-operated in the creation of legislation that would legislate for a professional standards regime. The Diocese of Melbourne enacted professional standard legislation in 2009 and in 2010 the Synod of the Diocese of Wangaratta enacted the Professional Standards Act 2010 as complementary legislation to that of the Diocese of Melbourne.

Although the Act is similar to the model Ordinance, there are a number of differences, namely:

- Provision for mandatory reporting in certain instances
- Specific detail as to the investigation process.
- Immediate suspension of the affected person if there is deemed to be an unacceptable risk, subject to review.
- Clearance for Ministry provisions
- Provision of a Professional Standards Review Board to review determinations of the Professional Standards Committee, this ensuring that the affected person is afforded natural justice
- Provisions to ensure confidentiality
- Provisions relating to the indemnity of those with functions under the Act

In addition to the Act Bishop-in-Council has made the Professional Standards Regulations 2010, adopted the Code of Good Practice for Clergy, adopted the Clearance for Ministry protocol and confirmed the use of Faithfulness in Service as a Code of Conduct for the Diocese.

As a further matter it had been a concern that the Bishop of the Diocese could not be covered under the Professional Standards legislation due to the unique nature of the role of Bishop, and the provisions of the Constitution of the Australian Church. At the General Synod of 2007 the Episcopal Standards Canon 2007 was passed. Again it was considered by most of the Victorian Dioceses that the Canon was not valid because of the Act of 1854, and therefore it was necessary to prepare legislation which would comply with the 1854 Act. Following discussions with the Provincial Dioceses legislation was prepared and was enacted by the Diocese of Melbourne in 2011. In 2012 the Synod of the Diocese of Wangaratta enacted the Episcopal Standards Act 2012 being complementary to the Melbourne legislation. It is very similar to the scheme in the Professional Standards legislation. As a result the Bishop is placed in the same position as the other clergy with respect to professional standards.

The following protocols apply to professional standards matters in the Diocese of Wangaratta:

- Episcopal Standards Act 2012 (Annexure ‘G’)
- Professional Standards Amendment Act 2010 (Annexure ‘H’)
- Professional Standards Regulations 2010 (Annexure ‘I’)
- Code of Good Practice for Clergy (Annexure ‘J’)
- Power and Trust in the Church Protocol (Annexure ‘K’)
- Clearance for Ministry Protocol (Annexure ‘L’)
- Protocol for complaints of misconduct against Church volunteers (Annexure ‘M’)
- Faithfulness in Service (Annexure ‘N’)

24. Your views on whether each diocese in Australia should:

- (a) maintain its own, unique professional standards framework**

- (b) **agree to and adopt a nationally consistent professional standards framework that is administered by each diocese**
- (c) **refer its powers in relation to professional standards to a centrally administered quasi-independent Church body to make decisions on matters such as clergy and Church worker discipline, complaints-handling and redress, with the outcomes of such decisions to be implemented by each diocese, or**
- (d) **adopt any other approach for managing professional standards.**

We have already adopted the General Synod professional standards framework. The Dioceses of Melbourne and Bendigo have established an independent corporation to deal with professional standards and redress matters and have amended their respective synod acts accordingly. This Diocese will be a client of this corporation and at the June 2017 Synod enabling legislation will be presented

- 25. Any process, procedure or practice adopted by your Diocese, or adopted or recommended by the General Synod of the Anglican Church of Australia, in relation to responding to complaints of child sexual abuse made in relation to one or more other dioceses, and where multiple dioceses may have jurisdiction to respond, including but not limited to the handling of such complaints, the conduct of disciplinary proceedings, or the payment of compensation.**

Prior to 2010: Where a complaint of sexual abuse was made to the diocese that currently licenses the member of clergy or was their last licensed diocese or they have retired to that diocese in the first instance it is that diocese which initially has responsibility for the conduct of the complaint process. The rationale for this policy is that the Bishop of the current licensing diocese has the relevant jurisdiction in relation to dispositions should the matter be substantiated against the member of clergy.

However section 26 of the *Professional Standards Act 2010* provides that the PSC (Professional Standards Committee) may, if it thinks appropriate, refer the complaint or the investigation of the complaint to an equivalent body or bodies. The Act does not set out the circumstances when this should happen but would include referring the matter to the Diocese where the actual conduct took place. This may be transferred because the complainant and or witnesses are all located interstate and transferring the matter to the relevant OPS in that diocese would ensure that not only the complaint and investigation of the matter is conducted more effectively and efficiently but the appropriate pastoral and psychological supports can be put in place for the complainant and the relevant DPS being able to have face to face contact more easily.

Where there is a disagreement about whether the matter should be referred there is a process set out in the act of how this should be determined (PSA Section 26 (2-5)).

In relation to redress, the diocese who currently licenses the respondent is, in the first instance, responsible for awarding financial redress to a complainant. However it has been the practice between dioceses to ask for contributions of redress if the conduct occurred solely within a prior diocese for which the current diocese was not aware. Contributions from other dioceses have also been made where the sending diocese did not make the receiving diocese aware of misconduct issues, and the misconduct was subsequent to their moving to the new diocese. In effect this works in a similar way to co-defendants in a civil suit contribution between the parties i.e. between the two dioceses. These rules will need to be made explicit in relation to the National Church interactions regarding redress both under their own schemes and the proposed National or State scheme.

Sections 21 and 26 of the *Professional Standards Act 2010* deal with the response to complaints of CSA where for any reason jurisdiction flows over more than one diocese.

Across all Australian Dioceses the general outcome is that the Diocese where the Respondent was licensed or authorized when the events occurred takes carriage of the complaint, disciplinary proceedings and any reparation. If the complainant is currently residing in another Diocese then that Diocese will assist in providing a contact point and care for the Complainant. If the Respondent now resides in another Diocese, and/or is licensed or has an authority through another Diocese other than where the events occurred, then that Diocese must have a close connection to the proceedings as that Diocese will have responsibilities in regard to disciplinary proceedings.

Director may have corresponding capacity for another diocese.

21 *The Director may act in a corresponding capacity for another diocese of the Church either generally or for a particular case or matter.*

How PSC may respond to a complaint

s.26(2) amended by No. 1/1012

26(1) *The PSC may, if it thinks it appropriate to do so, refer a complaint, or the investigation of a complaint, to an equivalent body or bodies.*

(2) *When the PSC and an equivalent body or equivalent bodies have the power and duty to investigate information concerning the alleged misconduct of the same person to whom this Act applies 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 56(a) should be referred to the Board or to an equivalent body which has jurisdiction—*

the PSC shall refer the disagreement for decision by the Director and the persons acting in a corresponding capacity for every other diocese acting together.

(3) *The PSC shall act in accordance with the unanimous decision of the persons 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 Act 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 proper and expeditious conduct of the investigation or referral as the case may be.*

Professional Standards in the Anglican Diocese of Wangaratta

Please provide a chronological account of your Diocese’s approach to professional standards from 1 January 1990 to the date of this letter, with reference to all key policies, procedures, processes, practices and legislation (if any) relating to the protection of children.

By way of general comment, the Diocese of Wangaratta has not the resources to maintain its own professional standards framework. We therefore adopt and replicate the framework of the Diocese of Melbourne, Our practices and processes mirror those of the Diocese of Melbourne.

Prevention

26. Screening and assessing suitability of Bishops, clergy, lay and volunteer staff (collectively for the purpose of this Statement, Church workers), prior to:

(a) officiating as a member of clergy

Prior to 2010 when clergy were moving from one diocese to another “Letters of Good Standing” were usually requested from the Bishop of the receiving diocese from the Bishop of the sending diocese. These were fairly generic letters and most did not specifically refer to professional standards matters. Bishops spoke to each other asking for oral references as well. In some cases this resulted in clergy not being received into the new diocese. In others clergy were received where there was prior misconduct. (This is an observation from the recent file review looking at over 4000 files in files in prior to 1990.) At times the misconduct was not known by the sending Bishop; sometimes it was but was not mentioned in the Letters of Good Standing. The appointment of the Director of Professional Standards in 2002 and the development of the Sexual Abuse and Harassment Within the Church discussion paper recommending new protocols and setting up the office of the Director of professional Standards and the Professional Standards committee endeavoured to make the clearance processes more independent. All clergy required Police Checks from July 2007.

The 2010 Act strengthens this independence. Under the PSA 2010 Part 11 provides for clearance for ministry. It provides that a church worker is to obtain a clearance of ministry for the purposes of ministry. Section 3 sets out who is a church worker and includes members of clergy and lay ministers etc. It does not include Diocesan Bishops, but I provide a current Police Check and ensure that I have a current working with children card.

Section 50 of the PSA provides that a church worker must obtain a clearance for ministry when the church worker intends to:

- a) transfer from one office licence or position of responsibility in a church body to another in the same diocese;
- b) to take up an office licence or position of responsibility in the Wangaratta diocese for the first time; and or
- c) to transfer for one office licence or position of responsibility in a church body in the diocese to another diocese.

The Clearance for Ministry Protocol 2010 sets out that clergy referred to in the above categories must fill in an application for Clearance for Ministry set out in schedule 1 of the PSA. They must also obtain a police check, WWCC (where relevant) and an Anglican National Register Check. The application for clearance is made to the Bishop. The DPS then looks at all these checks and if there are any adverse findings during the clearance process she may investigate further. Alternatively she may advise the Bishop of the issues who then may in turn request advice from the PSC and or the Board in relation to fitness of ministry. If such matters are referred, then the PSC and or the Board can make recommendations back to the Church Authority. For instance the recommendation may state that the relevant person should not be licensed in the Diocese of Wangaratta. Alternatively it may recommend that a conditional licence only is granted subject to specific provisions. These provisions are set out in the PSA. The Church Authority or in the case of the Wangaratta Diocese, the Bishop is the final decision maker in this process under the current PSA.

Any retired member of clergy or visiting member of clergy must apply to the Bishop for a Permission to Officiate (PTO) if they wish to be a locum or conduct a particular ceremony e.g. marriage of a family member.

Under the proposed Provincial Professional Standards scheme, the PSA has been amended as a result of the file reviews to ensure the process is truly independent. The new Act provides that the Bishop cannot licence a member of clergy or appoint them to a position within the Diocese without being given a clearance from the Office of Professional Standards (OPS). This means that the Bishop or Church Authority will no longer have discretion to license clergy despite the OPS having misgivings etc.

It should be noted that the amendments to the *Working with Children Act* in 2014 now requires all “Ministers of Religion” to have WWCC in relevant circumstances. (This will be a challenge in relation to overseas clergy who do not have a WWCC regime and to obtain a WWCC from a Victorian scheme will have little or no benefit, unless they

have been previously resident in Victoria.) The current practice is to request a Letter of Good Standing from the relevant overseas Bishops in relation to such people. If a DPS network or equivalent exists in the overseas country, to make inquiries with such relevant people. It should be noted in third world countries such equivalent networks do not exist. The OPS practice when requesting Letters of for Good Standing now specifically asks if there are any known misconduct issues or complaints known. It is proposed that this type of request becomes a pro forma across the Province as part of the implementation of the Provincial Professional Standards scheme and a pro forma Letter of Good Standing is produced. This is as a result of the reference given to clergy and teachers which was highlighted in some of the case studies by the Royal Commission and in relation to historical matters identified in the file review.

The diocese welcomes the Royal Commission report on WWCC to ensure that the regimes are consistent across Australia so that all checks are uniform and can be relied on as such. Note for instance the Victorian WWCC does not recognise substantiated matters under the Anglican Professional Standards regime. The Diocese would like such matters to be recognised by the WWCC regime in the future. This has been raised with the Victorian state government in recent discussions.

Advice has also been sought from legal counsel in relation to the ambit of the 2014 amendments to the *Working with Children Act*. The definition of “Minister of Religion” is potentially very wide ranging in the context of the Anglican Church’s structures. Whilst Section 3(1)(a) is fairly straight forward and states that: minister of religion is a person ordained or appointed as a recognised religious in an organised religious institution; Section 3(1)(b) states the appointed leader of a local religious congregation in an organised religious institution who has general authority over the operations of that congregation within the institution. This provision has been interpreted widely by Victorian Department of Justice (DOJ) representatives to include any person that is in charge of a roster, including lay readers, tea ladies and church cleaners within a Parish.

Hence advice has been sought as to the ambit of this definition as opposed to the requirement under the Act for “Relevant Volunteers in a Religious Organisation”. As a result, the current policies of the Diocese are under development awaiting the advice of counsel as, prior to this, some congregations were requiring all members of the congregation to obtain a WWCC.

As a result of the file review and recommendations made from the VPI and RC to date, the current screening policies and Diocesan and DPS practices are being reviewed and form part of the proposed Provincial Professional Standards Scheme. This includes amendments to the PSA 2009 and will form part of the protocols regarding clearances etc. It is proposed that all clearance processes across the Province be uniform as part of strengthening the Province’s due diligence processes.

The proposed Provincial Professional Standards Scheme also endeavours to make the clearance process truly independent from the Diocese. The provisions propose that the Professional Standards regime is set up under a company structure that is independent of the church. The scheme proposes all those employed by the company are no longer

employees of the diocese. Specifically the proposed Professional Standards Act requires that a member of clergy must obtain a clearance from the OPS before the Bishop can grant a licence to a member of clergy i.e. there is no longer discretion for a bishop to licence clergy without a clearance from the OPS.

Volunteers:

Professional Standards Act

The Act was amended in 2013 to incorporate volunteers. Bishop in Council pursuant of this adopted the “Protocol for complaints of Misconduct against Church Volunteers”

The Diocese had until 2012 followed the long established practice of the Bishop authorizing lay ministers to do various tasks within the worship framework of the parishes – Eucharistic assistants, lay readers. This authorization was designed to protect the sacredness within the act of worship.

In 2012 a new expanded authorizing regime was put in place based on managing the risk of volunteers holding positions representing the church.

The authorization was conceived around 3 levels (see Annexure ‘O’) –

LM1 – serving God within churches - hence in group setting

LM2 – ministering in the greater community – Leaders of parish groups and those working by themselves

LM3 – specific high level skilled lay ministries

The authorization was on the basis –

- (1) of the volunteer –
 - (i) completing and signing the General Synod derived questionnaire (Annexure ‘P’), church involvement history (Annexure ‘Q’) and a personal details form (Annexure ‘R’).
 - (ii) Obtaining a current police check and working with children card
 - (iii) Providing documentation to prove identity
- (2) the parish priest vetting the documentation and being satisfied that no issues presented – and then seeking the endorsement of the Parish Council of the applicants suitability.
- (3) If LM1 – the parish priest issues the authorization
 LM2 and LM3 – the application is sent on to the Registrar to confirm no issues which will enable the Bishop to issue his authorization

The authorization process works on a renewal on a 3 year cycle.

In light of the recommendations made in the file review, the VPI and the RC together with the 2014 amendments to the Victorian WWC Act these policies are currently being reviewed with a proposed new booklet to be published to guide safe practices. This information is also the subject of the Office of Professional Standards training seminars which are also being reviewed in light of the above recommendations.

(b) participating in activities involving children

See above

(c) holding positions of authority in relation to the formulation of policy on professional standards matters, and/or

(d) presiding over or participating in disciplinary proceedings.

1990 – 2009: It is not known what screening was in place in relation to the first Director of Professional Standards in 2003 and the establishment of the PSC at the same time.

Since the establishment of the OPS and the disciplinary bodies set up by the PSA all members of the Professional Standards Committee, PS Board and the PS Review Board are required to have a Police Check. Recommendations in the file review have also recommended that such bodies should have a WWCC in addition to the police check.

These recommendations, as well as the General Synod resolution in 2014 regarding a register of persons willing and able to be appointed to PS roles, will be taken into account in the implementation of the Provincial Professional Standards Act.

27. Training and educating Church workers and Church members on child sexual abuse and responding to instances of child sexual abuse.

The Diocese has joined the the National Council of Churches Safe Church Training Agreement which will provide a structured and accredited training regime. We currently have 2 accredited diocesan based trainers and have 2 in the pipeline. We will be adopting their training policies.

Disclosure and response

28. Internal reporting processes following a disclosure of child sexual abuse.

If the Respondent is still in ministry a decision and action regarding a Suspension is immediately undertaken – see the response to Q 33 below. Notification of the Respondent and/or others will be in consultation with the police after a report is made.

If the Respondent is deceased the disclosure is substantiated through the investigation process and in course the PSC and Diocesan leadership are informed of the information gained as progress towards reparation is taken.

We are currently reviewing the overall processes to bring them to the NCCA Safe Churches best practice.

29. Reporting allegations of child sexual abuse to the police, the Ombudsman and/or any government child protection agencies, including where:

- (a) a complainant does not consent to such disclosure, and/or
- (b) the information was disclosed in the context of a ‘confessional’.

Allegations of child sexual abuse are reported to police.

Efforts are made to have the Complainant self-report to police or if they prefer for this to be undertaken on their behalf and with their permission by the DPS. In both these situations the police are advised of contact details for the Complainant and the Complainant’s expected level of co-operation in respect of any potential police investigation.

If the Complainant does not consent to a disclosure it is explained that a report will be made by the DPS naming the Respondent, the details of the offence and the time frame but withholding the name of the Complainant. The DPS advises police that if they seek to follow up the report to contact the DPS who will approach the Complainant and request their co-operation.

The Diocese has only one priest who is authorised to hear confessions of child sexual abuse. He receives ongoing training through the national church. Whilst the sanctity of the confessional is held as an absolute theological principle, absolution would not be granted in the absence of repentance, and a real sign of that repentance would be the reporting of the matter by the person making the confession to the proper authorities.

30. Notifying an alleged perpetrator of allegations against him or her.

The process will depend on whether a police investigation is to be undertaken. If it is, then advice to the Respondent will be dependent on police permission to do so.

If there will not be a police investigation, or the police have given permission, the Complainant’s permission is sought to notify the Respondent of the allegations. Once obtained the Respondent is advised of the allegations in writing and is required to respond to them in writing within 3 weeks.

31. Providing pastoral care and counselling to complainants and/or alleged perpetrators following allegations of child sexual abuse.

Respect, pastoral care and ongoing long-term or episodic support is offered to those who make a complaint, to those who have suffered the secondary effects of abuse, and to those accused of the abuse. This care can be through independent professional counsellors or through pastoral care offered by licensed or authorized clergy, as the Complainant or Respondent choose.

Investigation

32. Investigating allegations of child sexual abuse.

Complaints regarding child sexual abuse are referred to police. If no police investigation is undertaken then Diocesan processes are undertaken.

The Protocol under the PSA explains that the role of the investigator is to gather information about a complaint and the allegations, make recommendations on findings on relevant questions of fact and to make a confidential report to the PSC.

The investigator is experienced, independent, objective and impartial to the complaint and without real or perceived conflict of interest in relation to the matter, the parties or the outcome. The complainant and the respondent are given a reasonable opportunity to present any relevant facts or circumstances on which they wish to rely.

Once investigated a final report is prepared including –

- (a) the complaint;
- (b) the steps taken in the investigation;
- (c) any responses from the complainant and the respondent;
- (d) any statements, records of interview and other relevant material; and
- (e) the investigator's recommendations on findings on any relevant questions of fact and a statement of the weight given to various accounts of the allegations.

33. Imposing restrictions on an alleged perpetrator's duties or involvement with the Church pending resolution of an investigation.

Part 10 of the PSA provides that:

PART 10 – SUSPENSION

Suspension of respondent where unacceptable risk or other orders or notion

s.40 amended by No. 1/2012

40 *Where after receipt of a complaint about the conduct of a Church worker and at any time during the progress of a complaint under this Act, the PSC is satisfied that there is an unacceptable risk of harm to any person if the respondent remains in his or her present office or position of responsibility pending the outcome of the complaint, the PSC may refer the matter to the Board or, as the urgency of the matter requires, make a recommendation direct to the Archbishop or other Church authority that pending that outcome–*

- (a) *the respondent be suspended or stood down from the duties of any office or position of responsibility held by the respondent or certain of those duties;*
- (b) *a prohibition order be made against the respondent; or*
- (c) *such other action be taken as may be thought fit.*

Respondent to be given notice before suspension or other orders or notion

41 Before making a recommendation pursuant to the preceding section or before referring the matter to the Board, the PSC shall give the respondent notice that grounds exist for the PSC being satisfied as stated in the preceding paragraph (specifying the same) and notice of any proposed recommendation and request the respondent to show cause in writing within 7 days why the recommendation should not be made.

No reference on notice where immediate unacceptable risk

42 The provisions of sections 41 and 44 shall not apply if the PSC is satisfied that there is an immediate unacceptable risk of harm to any person if the respondent remains in his or her present office or duties.

Referral to the Board

s.43 amended by No. 1/2012

43 Where the PSC is satisfied that there is an immediate unacceptable risk of harm to any person if the respondent remains in his or her present office or position of responsibility and makes a recommendation direct to the Archbishop or other Church authority pursuant to section 40—

- (a) the PSC must forthwith refer the matter to the Board; and
- (b) the Director must as soon as practicable give the respondent notice that—
 - (i) the recommendation has been made without notice and the grounds relied on;
 - (ii) the PSC will report the recommendation to the Board at its next meeting and that the Board will consider whether the recommendation should stand; and
 - (iii) the respondent may advance further submissions to the Board if he or she wishes to do so.

PSC or Board to consider respondent's response

44 The PSC or the Board (as the case may be) shall consider any response from the respondent received within the time specified above or any further period allowed, before making a decision on the recommendation to be made.

Powers of Board satisfied as to unacceptable risk

45 If the Board is satisfied that there is an unacceptable risk of harm to any person if the respondent remains in his or her present office or position of responsibility pending the outcome of the complaint, the Board may after considering any further response from the respondent—

- (a) determine accordingly and make a recommendation to the Archbishop or other Church authority that pending that outcome action be taken as referred to above in section 40; or where the PSC has already made a recommendation under section 40—
- (b) affirm or vary that recommendation; or
- (c) set aside that recommendation and make another in substitution for it.

Matters to be considered by PSC or Board before recommending suspension

- 46 Before making a recommendation under this Part, the PSC or the Board (as the case may be) shall take into account:
- (a) the seriousness of the alleged misconduct;
 - (b) the nature of the material to support or negate the allegations;
 - (c) the extent to which any person is at risk of harm;
 - (d) after consultation with the relevant Church body or its representative, the effect on the respondent, a relevant Church body and on the Church in the diocese of acting and of not acting under this Part; and
 - (e) any other allegation of similar conduct previously made to the PSC or to an equivalent body within the previous ten years;
- and may take into account any other relevant matter.

Powers under section 103 may be exercised while matter under consideration

- 47 The Archbishop or other Church authority may exercise the powers conferred by section 103 of this Act, notwithstanding that a recommendation under this Part is under consideration by the Board or the Review Board (as the case may be) by the process referred to above.

Termination of a Standing down or suspension

- 48 A standing down or suspension or prohibition order made by a Church authority following a recommendation under this Part or by the Review Board under Part 14 shall be terminated by the Church authority:
- (a) if the PSC terminates the investigation without referring the matter to the Board;
 - (b) upon any direction to that effect given by the Archbishop or other Church authority; or
 - (c) upon the Church authority giving effect to a recommendation of the Board or the Review Board as the case may be or such a recommendation as varied or modified by a Church authority under section 103.

Consequences of suspension, prohibition or voluntary standing down

- 49 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 a complaint is dealt with under this Act:
- (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; and
 - (d) the respondent is entitled to whatever stipend, salary, allowances and other benefits that he or she would otherwise have received and which are to be met or reimbursed from funds of the Diocese, the Parish or other Church body as the case may be.

Discipline

34. Codes of conduct or expected behaviours for Church workers.

There are several codes of conduct that apply to both clergy and Bishops and church workers. These are in addition to the exhortation and examination of a Deacon and Priest. The Power and Trust in the Church Protocol pursuant to the PS Act 2009 for Responding to Abuse, Harassment and other Misconduct in the Church states in clause 1.4 that the protocol was intended to operate in conjunction with:

- a) The Code of Good Practice for Clergy; and
- b) “Faithfulness in Service” the national code of personal behaviour and practice of pastoral ministry by clergy and church workers.

These codes provide a positive framework for conduct of church workers.

Faithfulness in Service was introduced in General Synod of the Anglican Church of Australia Child Protection Committee. It was adopted by General Synod in October 2004 and revised by the General Synod Standing Committee in April 2011. In 2014 there was a General Synod resolution to update Faithfulness in Service. By resolution of the Diocesan Synod Faithfulness in Service *as in force from time to time* was adopted as a Code of Conduct for clergy and lay workers of the Diocese. This ensures that the most current form of the protocol is adopted by the Diocese without need for further local amendment. The codes mentioned above are in addition to clergy’s Oaths taken upon ordinations.

35. Conducting disciplinary proceedings in respect of Church workers against whom:

(a) allegations of child sexual abuse have been made,

1999: December – A Victorian provincial protocol was published entitled: Protocol for dealing with Sexual Assault Harassment Complaints;

2001: General Synod appointed Justice David Bleby to develop benchmarks in relation to protocols and appropriate screening procedures, disciple guidelines and suggested model legislation for diocese.

2002: November – Melbourne Diocese issued a discussion paper and made recommendations re Sexual Harassment within the Church. This recommended the establishment of the Office of Professional Standards and appointing a Director of Professional Standards to make both the fitness and disciplinary process more independent of the church. It also recommended the establishment of the Professional Standards Committee (PSC) a group of experts and some non- Anglicans to receive and determine complaints and make recommendations to the Archbishop regarding disposition of relevant clergy.

2003: First DPS appointed and PSC established.

Discussion Paper Published in relation to the proposed protocol: Power and Trust in the Church: Responding to Abuse and Harassment within the Church.

2005: Power and Trust in the Church: Responding to Abuse and Harassment within the Church protocol, was adopted by the Wangaratta Diocese as were the Standard Operating Procedures Protocol

2010: The Wangaratta Diocese introduced its own Professional Standards Act (PSA). This was based on elements of the Power and Trust Protocol. It set out very clear structures for fitness and misconduct matters to be received, investigated, adjudicated and determinations made dispositions. The PSA affirmed the role of the PSC but referred more powers to it rather than the Director of Professional Standards. It also set up the Professional Standards Board and the Professional Standards Review Board. This was in an attempt to make decision making more transparent and informed under the scheme - decisions made by a panels of individuals who have a diversity of backgrounds and skill sets, rather than decision making residing in one person only. The PSA sets out the constitution and roles of the DPS (Part 5), the PSC (Part 4), the PS Board (Part 9) and the PS RB (Part 13).

The processes for conducting allegations of child sexual abuse or relevant fitness issues are set out under the PSA 2010 – Parts 7: Complaints of Misconduct; Part 10: Suspensions; Part 8: Investigations; Part 12: Reference of a Complaint or Matter to the Board. Part 14 gives both the PSC and or the respondent to have a decision of the Board reviewed. Part 15 sets out matters regarding the conduct of cases before the Board and review Board.

The Power and Trust in Churches Protocol was amended in 2010. This outlines the process from receiving a complaint, investigation, substantiation and determination. Once a complaint is made to the DPS the consent of the complainant is obtained to notify the respondent of the complainant. The matter is referred to the PSC to determine if there is sufficient evidence for the matter to proceed.

If the respondent makes admissions then the matter would be referred to the PSB to substantiate the matter and to make recommendations to the Church Authority in relation to disposition of the respondent. Such recommendations can include deposing Holy Orders, withdrawal of licence, a restricted or conditional licence with conditions being placed on it including supervision.

Where a matter is contested by a respondent the matter is referred to the Board who can decide the matter on the papers or hold a hearing. There has not been such a hearing in the Diocese of Wangaratta

Where a matter has been substantiated, a recommendation is then made to the Church Authority by the Board, regarding proposed disciplinary action. (S102 PSA.)

As a result of the diocesan file review, the VPI and RC this process has been reviewed and forms part of the Provincial Professional Standards Scheme. One of the key elements which this process needs to embrace is the therapeutic nature of the process is just as important, if not more, than the outcome. Consequently regard must be had to

the OPS and adjudicative personnel to ensure that they are relational, pastoral and have a thorough and comprehensive understanding of the issues and complexity of child sexual abuse matters consistent with the research in this area including Professional Development training.

Two information booklets, outlining the complaint investigation and adjudication process are required to be placed in all church foyers.

1. Information for people thinking about making a complaint. (Annexure 'S')
2. Information to people responding to a complaint. (Annexure 'T')

A Duty of Care handbook is also available. (Annexure 'U')

(b) allegations have been made in relation to the way a complaint of child sexual abuse has been handled.

Clause 22 of the Wangaratta Power and Trust in the Church Protocol, sets out a grievance procedure should anyone wish to make complaints about the way a child sexual abuse matter has been handled. It is recognised that this procedure is no longer adequate and does not have the level of independence required. The grievance is currently made to the Bishop or the Chair of the PSC. Indeed the grievance could relate to the respective parties role played in the matter and or the DPS and may not seen to be independent.

Under the proposed Provincial Professional Standards Scheme, an Ombudsman has been included to sit over and above all processes including the OPS and the decision making bodies, i.e. PSC, Professional Standards Board, Professional Standards Review Board and the Redress Assessment Board and the Bishop, to ensure that a person has the right to raise issues in relation to any part of the process. It is proposed that the Ombudsman would not only deal with the particular case and matter but could, where relevant, make recommendations to the overall Professional Standards Scheme practices and policies and also to those of the Diocese.

36. Church law offences that apply in your Diocese to matters concerning child sexual abuse and the handling of complaints of child sexual abuse.

The General Synod Offences Canon 1962 was adopted by the Wangaratta Synod in 1998. The 1981 amending canon was adopted in 1982 and further adopted in 1998, the 1998 amending canon was adopted in 1998 but the 2007 amending canon has not been formally adopted as the Appellate Tribunal has ruled that it is not necessary for a Diocese to adopt any such amendment for it to have effect in a Diocese.

Prior to Wangaratta adopting Sexual Abuse and Harassment Within the Church Policies and setting up the DPS and PSC, some of the offences were commonly cited in the files as being the basis for relevant misconduct matters being brought to the attention of the Bishop. In some cases police were involved, in others they weren't. In the early days some abuse matters were not considered to be criminal matters where there was

“consensual” sexual relationship when the age of consent was 16. Homosexuality in the state of Victoria was still a crime at the time and some of these matters were dealt with by the police. In others they were referred by the police to the Bishop, and then dealt with by the Bishop.

Section 1 of the Offences Canon 1962 – 1998 relevantly provides-

(1) A diocesan tribunal and a provincial tribunal in its original jurisdiction in addition to their respective powers under section 54(2) and section 55(3) of the Constitution may hear and determine charges made in respect of the following offences alleged to have been committed by a person who, at the time the charge is preferred, is licensed by the bishop of the Diocese or is in Holy Orders resident in the Diocese:

1. Unchastity.

5. Conduct, whenever occurring,

(a) which would be disgraceful if committed by a member of the clergy, and

(b) which at the time the charge is preferred is productive, or if known publicly would be productive, of scandal or evil report.

6. Any other offence prescribed by an ordinance of the Synod of the Diocese.

These offences were cited in the early days as grounds for discipline and removal.

Since 2010 these offences still exist concurrently with the unfitness dispositions provisions provided for under the PSA. They are also part of the proposed new Provincial Professional Standards Scheme.

37. The standard of proof applied in your Diocesan disciplinary proceedings relating to child sexual abuse matters.

The standard of proof provided by the PSA 2009 is on the balance of probability. Note this Act only deals with fitness and disciplinary issues and does not deal with redress. Section 93 of the PSA sets out the standard of proof applying to the Board and Review Board which is on the balance of probabilities as qualified by the Briginshaw test i.e. 93(2) PSA. Whilst there is no specific burden of proof set out in the Act for the PSC, the PSC has interpreted this provision and qualified it using the Briginshaw variation to it for the purpose of fitness and discipline where this is relevant to their decision making. The Act is silent in relation to deceased members of clergy where fitness is not an issue but substantiation of a complaint is. This is where the PSC has had the need to adjudicate in these matters.

The appropriate burden of proof to utilise within the PS regime has been a difficult issue within the Professional Standards regime where there is a live respondent and the issue is about fitness with potential disciplinary proceedings and potential determinations such as revoking a licence and deposition of Holy Orders. The burden

of proof in these circumstances needs to be one which is commensurate of the circumstances and the potential consequences to the respondent.

When the payment of redress has been considered there has been a number of occasions where the matter could not be substantiated using the Briginshaw standard. Therefore there was no consequence to the respondent. However redress was paid to the complainant based on, in effect, plausibility criteria. Note the plausibility test in relation to payments of redress is not a formal one. Rather this was the practice the DPS has been using for many years now, gleaned from the examination of files as part of the Cannon file review.

The proposed Provincial Professional Standards Scheme is currently considering this issue, i.e. the burden of proof in relation to fitness and disciplinary matters. It is proposed that this should remain the same i.e. the burden of proof as qualified by the Briginshaw test.

The Synod adopted the Victorian Model Litigant protocol in 2016.

Redress

38. A brief overview of your Diocesan processes and procedures relating to the resolution of claims for financial compensation, counselling, apologies and other redress by way of mediation, settlement negotiations, and/or civil litigation.

The Diocese is moving to use the newly set up Professional Standards Corporation which will give a formal structure in dealing with matters of redress.

Currently there is no formal redress scheme in place, as part of the Wangaratta Diocese PS framework. (Note section 18(1)(h) of the PSA 2010 provides that the PSC can advise the Church Authority as to the financial or other needs of a person affected by alleged misconduct, but this provision has not been relied on. Since 1999 the Diocese has been awarding payments of redress in some cases. The practice gleaned from the file review, has been that where a complainant and or their solicitor requested financial compensation, they would be awarded it. In practice with the exception of one case, any person who has requested compensation from the Wangaratta Diocese has received it if their complaint was credible and the respondent was deceased or no longer under the jurisdiction of the diocese. In cases where the matter may not have been substantiated using the balance of probabilities in relation to deceased clergy and the Briginshaw test for burden of proof where the person is still alive for the purposes of discipline and fitness, financial redress has been paid out in effect based on a “plausibility test”. The two most recent matters which have been presented were investigated and assessed by an independent assessor. Recommendations consistent with the Royal Commission’s matrix in the Redress Report were recommended to the Diocese and were paid by the Diocese to the complainants.

In relation to financial payments of redress, there has been much debate around the proposed burden of proof under the proposed government auspiced scheme as well as the proposed model, especially where there are current serving clergy. Under the

proposed Provincial Professional Standards Scheme, a separate *Redress Act* has been drafted. This Act recognises that there may be cases where the complainant does not wish to pursue the matter through the criminal courts or through the Anglican Professional Standards scheme where the alleged respondent is still alive. The current draft of the legislation proposes a balance of probability test not qualified by *Briginshaw*.

There should be no reason for this practice to change. However it is important that the Diocese maintains some safeguards under the redress scheme to ensure that, if warranted, in what we expect to be a minority of cases, there are grounds to decline the application where the credibility of the matter is an issue. Attempting to decline such applications on the basis of a “plausibility test” is very difficult. Indeed it is critical that any redress scheme introduced awards financial redress to those who have been abused. To do otherwise undermines the credibility of the scheme and is disrespectful to survivors. We acknowledge this is a complex and difficult issue but one which may need to be given further consideration.

Apology

The 9th Bishop David Farrer, an inaugural member of the Professional Standards Commission of General Synod, in his Charge to the 2002 Synod (Annexure ‘V’), incorporated the then Primates media release (17/3/02) on behalf of the General Synod Steering Committee -

“The Anglican Church declares its abhorrence of any sexual abuse of children, such behaviour is clearly contrary to both the gospel and the law. The Standing Committee acknowledges the benefits of many significant Anglican Ministries among children. However, the Church regrets that there have been instances of abuse involving some Anglican clergy, church officers and institutions and apologises to all victims of such misconduct for their ongoing hurt and the breakdown in pastoral relationships.

“The Church is sorry that in some places it has failed in the past adequately to respond to claims of abuse. It has now initiated steps to ensure that appropriate protocols are in place across Australia and commits itself to be open and transparent in dealing with this matter.”

Bishop Farrer further said in this Charge “ *This Synod can be assured that sexual misbehaviour towards children and those in a duty of care relationship will be dealt with appropriately including full co-operation with Police. This applies to clergy, lay officers and anyone who is a representative of the Church at any level.*

We have Diocesan and Provincial procedures in place to deal with the allegations of sexual harassment and we are awaiting the results of two major National Church Committees formed by General Synod. We are moving to a national set of protocols and procedures to deal with these matters.”

In his 2003 Charge (Annexure ‘W’) Bishop Farrer apologised on behalf of the Diocese

–

“Before going any further I unreservedly apologise on behalf of our diocese to anyone who has been hurt by sexual abuse or other forms of abuse by clergy or lay people working within the Church. Abuse of any person, and most especially of children, cannot be tolerated in the Church or the wider community.”

In our dealings with individuals a personal apology by the Bishop has been made as part of the settlement.

Civil Litigation

It appears from the file review that there was only one case where a writ was issued and litigation commenced. The matter was settled prior to hearing.

Settlement processes

However the new redress model under the proposed Provincial Professional Standards Scheme, contemplates matters to be resolved in a far more collaborative and restorative way. It is flexible. Matters should be resolved in the best way possible in any form available to parties, should an assisted process thought to be beneficial. The Diocese is cognizant that anyone used throughout the redress process, including mediators, have to have a background and be trained around the issues of child sexual abuse not just generalists. A code of conduct is proposed to be developed for any lawyers or agents that the Diocese may use or employ to ensure the way they conduct matters is consistent as a therapeutic and restorative approach. It is cognizant that many of the issues which have occurred in the past and raised in the RC have been by civil litigation lawyers who perceive the area of sexual abuse “compensation” in the same adversarial light as though it was Workers Compensation or an asbestos claim. They did and many still do not have the level of insight and understanding in relation to child sexual abuse which can affect an overall cultural change in the way these matters are actually dealt with. Whilst many rules may be changed, should they wish to still practice and be engaged in this area, professional bodies may wish that they be accredited before allowing them to do so. Alternatively there is a consistent code of conduct that all parties agree, to in both fitness and redress hearings.

Risk management

39. Notifying Church members and Church workers of allegations against a particular Church member of Church worker. Where there is such a policy, the level of detail included in any such notification.

There is no formal policy in relation to notifying church members and church workers of allegations re respondent. The PSC has a power under the PSA 2009 to stand a respondent down immediately or upon further investigation of the matter where allegations of sexual abuse have been made. Consideration is given to the individual

circumstances of each case as to what arrangements need to be put in place and what information is to be given to other church members.

Risk managing known or alleged offenders involved in the Diocese as Church workers or Church members.

From 2015 onwards.

The timing and extent of a parish notification would depend on whether a police investigation as being undertaken, the role of the Respondent and whether the Respondent was still in a parish and whether a suspension is enacted.

Usually a notification occurs when an outcome has been reached, or along the court criminal process. Detail is provided to an extent to be clear about the serious nature of the CSA allegations and when and where the events occurred. The name or other identifying details regarding the Complainant are never revealed.

40. Risk managing known or alleged offenders involved in the Diocese as Church workers or Church members.

Where there is a history of sexually based offences associated with a church worker or congregant a Memorandum of Agreement (MOU) is considered in regard to that person's continued association in parish life. (Copy Annexed 'X') The agreement considers the risk that the Person of Concern (POC) poses to the parish and its other members and whether the parish leadership is likely to be able to manage the safe engagement of that person in the parish. This will depend on the known offences, the vulnerability of others within the parish, the ability of leadership to provide appropriate pastoral care to the POC, the likely acceptance of a POC within the parish, the availability of services not attended by children and the POC's acceptance that the history must be known to certain (or all) participants in the parish. Persons on an MOU are also placed on the National Register. No person with an MOU is able to take on a leadership role within a parish.

Each MOU is tailored to the specific circumstances of the known offending and perceived risk. It is reviewed annually.

For approximately the last 5 years an MOU programme has been available to assist to integrate low risk POC's back into community life, however until recently there has been little take up of the formal process and little follow through with the annual reviews. In recognition of this failure the Office of Professional Standards (OPS) is reviewing all information about POCs and reviewing and updating current MOUs, as well as assisting parishes to consider and, where appropriate, to formalize the participation of any POCs known in the parish.

41. Identifying any other victims of known or alleged offenders.

The current practice of the DPS is that any other victim who is named in a file or is suspected of being abused is not currently pursued by the OPS. This is based on the DPS's view to respect the privacy of potential complainants hence wanting them to come forward of their own volition.

Nor is there a policy to actively notify relevant groups that an alleged offender has been convicted or matters have been substantiated against them under the Anglican Professional Standards regime.

These issues have been identified and will be addressed as part of the proposed Provincial Professional Standards regime in the protocols.

In the past if names of other potential victims were disclosed efforts were seldom made to try and locate the person. It was considered that in doing so an ‘out of the blue’ contact may be unwelcome and distressing. It was also very difficult to do so due to the extended passage of time. However Complainants were advised that if they knew the person’s whereabouts to encourage them to contact the Diocese and they would be welcomed and assisted.

More recently, whilst it is still recognized that ‘out of the blue’ contact may be unwelcome and distressing, efforts would be taken to try and locate a potential victim. However, this is often still an unsuccessful process, even when police are involved.

There have been incidences where this Diocese has put out a notice advising that contact would be welcomed from any person who wished to disclose experiences of abuse, and that support would be provided.

- 42. Declaring and managing actual or perceived conflicts of interest among Church workers involved in developing policy, conducting disciplinary proceedings, providing legal advice, giving pastoral care or otherwise responding to child sexual abuse, where they have a long-standing personal or professional relationship with a known or alleged offender.**

This has not arisen as a problem in the Diocese of Wangaratta

Information-sharing and record-keeping

- 43. Record-keeping in relation to allegations and complaints of child sexual abuse in the Diocese, parishes, para-Church youth groups, and Church institutions, including the:**

- (a) form of the records (for example, excel database or paper-based case files)**

Diocese:

Paper based files are kept in locked cabinets. All relevant documents are shared with the OPS

OPS:

The OPS has paper based case files kept in locked cabinets. Summarised case information is also held on the OPS File Register which is an excel spreadsheet. The recent file review made recommendations that all paper files be scanned to enable

electronic copies to be available as well as upgrading the excel spreadsheet to have far more detailed and comprehensive record to access quickly versus that on the paper file.

(b) nature of the information contained in the records, including what information, if any, is routinely recorded, and how consistently the information is represented across all records

OPS:

Prior to the appointment of a DPS in 2002, the documentation contained in files was more sporadic and often not that detailed. With the appointment of the first DPS, Jane Hendtlass, in 2002 who was a lawyer, the files were more detailed and comprehensive. Some of the information was however undated which has made following the conduct of the matter, years after the event, more challenging. The more recent files contain original and copies of statements, responses to statements, witness statements, copies of emails and correspondence sent, details of telephone conversations, minutes of meetings held, settlement negotiations, notes and copies of Deeds of Release where appropriate, file summaries and psychologists reports where appropriate. There is no pro-forma documentation which dictates the type of information to be kept on the file. However the PSA 2009 and relevant protocols set out, in effect, the steps to be taken in relation to each matter and as a result the resulting documentation which by inference should be found on the files. As part of the proposed Provincial Professional Standards Scheme, the lack of consistency of documentation across the Province has been identified as an issue which needs to be rectified. Consequently workshops are being conducted to try and streamline both process and documentation in an endeavour to have greater consistency where processes are common to all.

(c) maintenance and archiving of records.

Historical records are archived by contractual arrangement with Charles Sturt University at their Wagga Campus archive. Current records are kept in the office of the Diocesan Registrar in a secure filing cabinet.

OPS

OPS sex abuse files were sorted into date order, securely fastened and important parts colour coded to allow information such as counselling offered and police reports to be accessed quickly if required. Statements were filed separately in a plastic sleeve at the back of the file. A case summary was included on the top of the file. Following from the evidence given in the VPI, regarding documentation and file management from a number of bodies, the NSW Ombudsman's office model was the one which was preferred in relation to file and documentation management regarding complaint matters. It is proposed to give further consideration to this and recommence discussion with the office, as part of the implementation of the Provincial Professional Standards scheme so that all professional standards files from the five diocese are managed in the same way across the province using a uniform code based on their website information and discussion had with them to date

Whilst at this stage no OPS files have been archived, the OPS is currently working on a policy regarding archiving to ensure that the OPS files are separate from Diocesan files but are still accessible.

Diocesan Files

The recent file review found OPS correspondence and PS issues on personnel files. A recommendation has been made regarding this and it is proposed that this information be removed and kept securely at the OPS in keeping with the independence of that office. It is proposed to action this recommendation as part of the implementation of the proposed Provincial Professional Standards scheme.

Parishes, para-Church youth groups, and Church institutions

In relation to parishes and para-church youth groups under the PSA it is mandatory to report any suspicions or complaints regarding child sexual abuse to the OPS and or the police. Part 6 of the PSA 2010 sets out the mandatory provisions which bind all church workers in all of the above groups. The OPS may assist the person to report to police if they have not already done so. The OPS takes carriage and conduct of the matter immediately. The need to report the matter immediately to the OPS is one of the fundamental issues that are addressed in the Professional Standards training. This is as a consequence of well-meaning but unskilled parishioners, wardens and priests once being told of a complaint starting to inadvertently investigate the matter themselves by asking other people about the issue. The clear advice in the training seminars is that matter should not be discussed amongst parish or youth groups. They must be reported directly to the OPS who will make the decision of who should be notified in the parish or group. Consequently all records of complaints are primarily held with the OPS and not held in parishes or youth groups.

44. Information-sharing about or related to instances and allegations of child sexual abuse between your Diocese and:

(a) other Anglican dioceses in Australia

The Australian Directors of Professional Standards (DPSs) are members of an Anglican Network group which meets approximately 4 times per year. These meetings provide an opportunity for the DPSs to share information including information about CSA perpetrators and Persons of Concern who may have moved around Australia.

(b) other Anglican dioceses outside of Australia

The DPS shares information with other Anglican Dioceses outside of Australia as relevant including where a person may be seeking a reference for a position of any type. In this situation any professional Standards matters would be disclosed.

(c) the General Synod

The Anglican Church's National Register is a data base which allows the General Synod Office to hold information regarding persons still living and about whom a sexually based complaint has been made.

(d) other faith-based institutions

The DPS is a member of the Victorian Professional Standards Network which meets approximately 4 times a year. These meetings provide learning opportunity as well as opportunities for Professional Standards Directors and workers to share information interdenominationally, including information about CSA perpetrators and Persons of Concern who may be moving around the State.

(e) government and non-government institutions or statutory authorities (to the extent these are not addressed in paragraph 29).

See response to Q 29.

45. Information-sharing about or related to instances and allegations of child sexual abuse, directly between parishes, schools and Church institutions within your Diocese and:**(a) each other**

When instances of CSA become known within the Diocese the person, if still living, is placed on the National Register which has been operational since 2008. If the person is known to be within another part of the Church the Director of Professional Standards (DPS) will follow through with the concern and information.

(b) any of the institutions or bodies listed in sub-paragraphs 44 (a) to (e).

The DPS shares such information with all bodies listed in Q 44 above as the relevance of the connection is understood.

Inquiries and reviews**46. Details of any past inquiries into instances and allegations of child sexual abuse in the Diocese, including the:****(a) reasons the inquiry was established****(b) determination of the scope of the inquiry****(c) process by which those presiding over the inquiry were selected****(d) report and recommendations of the inquiry****(e) extent to which the inquiry's recommendations were implemented.**

There have been no inquiries.

47. Details of any independent reviews of, or legal challenges to, your Diocese's professional framework or processes.

There have been no reviews.

Research into prevalence of child sexual abuse

48. Your processes and procedures, if any, in relation to recording statistical data on child sexual abuse in your Diocese.

The DPS maintains a register in the form of an excel spreadsheet of all PS matters including child sex abuse. The recent file review also created an excel spreadsheet of just child sex related matters. Section 110 of the PSA 2010 provides for the PSC to report annually to the Bishop and the Bishop in Council in relation to these matters as does the new Provincial Professional Standards Act.

49. Your involvement in any research or study on sexual offending against children in your Diocese, and the results of any such research.

2009 Professor Patrick Parkinson

At the 2004 General Synod the Anglican Church of Australia took a proactive approach to the issue of child protection and put in place a number of strategies to improve policies and practices concerning child protection around the country. As part of this effort, the Professional Standards Commission requested a report on the nature and extent of reported child sexual abuse by clergy and church workers, including volunteers, since 1990. The study excluded Church schools and children's homes. Professor Patrick Parkinson and Emeritus Professor Kim Oates, both from the University of Sydney, were asked to conduct this study with the help of research assistant, Amanda Jayakody.

Professor Parkinson was chosen as he had served from 2004-2007 as Chairperson of the Family Law Council, an advisory body to the federal Attorney- General, and also chaired a review of the Child Support Scheme in 2004-05 which led to the enactment of major changes to the Child Support Scheme. Professor Parkinson is also well-known for his community work concerning child protection. He has been a member of the NSW Child Protection Council, and was Chairperson of a major review of the state law concerning child protection which led to the enactment of the *Children and Young Persons (Care and Protection) Act 1998*. He also works with churches on child protection issues. In short he was an expert in and familiar with child sexual abuse in an institutional setting.

The report analyses 191 alleged cases of child sexual abuse, reported from 17 Dioceses throughout Australia between 1990 and 2008 to see what lessons can be learned to improve efforts at child protection. This represented most, but not all of the reported cases across Australia in that period.

Angela Cannon Consulting 2013

This review was commissioned as part of the Anglican Church's organisational response to the VPI and then the Royal Commission into Institutional Child Sexual Assault. The Victorian member of the Anglican Church Royal Commission Working Group wrote to all Victorian Dioceses within the province, requesting them to conduct a review of their OPS, personnel and archived files for the reasons set out below.

The review was designed to identify information and issues to:

1. Assist Dioceses identify and understand issues regarding child sexual abuse which have been dealt with in the past;
2. Identify any potential mismanagement and due diligence issues;
3. Identify issues regarding disclosure and complaints;
4. Identify any issues, processes and procedures which may not have accorded with best practice complaint models; and to
5. Identify any matters where the process, procedures and the outcome, from an objective point view, could lead to complainant dissatisfaction of the process.

This was to be done, with the view of recognising the above and identifying and recommending responses so that the OPS or Diocese could consider and rectify any issues which arose during the course of the review, where appropriate to do so.

Anglican Royal Commission Working Group

The Anglican Working Group of the Royal Commission into Institutional Child Sexual Abuse developed a form to be filled out requesting all Dioceses to enter data from which they could extract statistical data regarding Dioceses and Provinces Australia wide.

The Diocese of Wangaratta as part of their file review filled in the form for all child sex files up until the date of the request in 2014. Because of concerns by the DPS network regarding privacy and confidentiality of using the Survey Monkey format, the RC Working Group acceded to the concerns of the DPSN and no data was ever collected on a National basis.

Challenges and reform

50. Any dialogue you have sought or engaged in with government for changes to civil or criminal law affecting professional standards matters.

On behalf of the Diocese of Wangaratta, The Diocese of Melbourne has engaged on a number of occasions with the Victoria state government on a number of issues. This included:

1. The laws in relation to vicarious liability.
2. Governance structures regarding Church corporate entities in keeping with the recommendations of the RC.

3. A concern of the Diocese is the current role and purpose of the Victorian WWCC. What is the purpose of the WWCC when it only records relevant criminal convictions, VIT outcomes, and Suitability Panel outcomes? Other proceedings should also be “notifiable” proceedings for the purpose of the WWCC i.e. matters of child abuse which have been substantiated under a National or State redress scheme or the Anglican PS Act regime. There are a number of respondents who have had abuse allegations substantiated against them under the current Anglican Pact regime who, despite this, would be eligible for a WWCC now. In some cases it is known that respondents have applied to different professions for employment and a WWCC would come back with no adverse finding. Consequently the Diocese of Melbourne requests that consideration be given by either the state or commonwealth government to accrediting institution’s fitness and disciplinary regimes and their findings and have them as “notifiable matters” under the WWCC. In such circumstances it would be up to the Department of Justice to see what consequences would result as a result of such notification, but it is suggested that it should result in a “show cause” notification to the alleged respondent which they could choose to defend or not.
4. A related concern is that the proposed Victoria redress scheme could make awards of redress in situations as stated above where the complainant does not wish to proceed with the matter, either in the criminal justice system or under the institution’s own complaint and disciplinary scheme. In these circumstances while the complaint may reveal a substantial and imminent risk by the respondent, the WWCC could remain intact.

The Anglican Diocese of Melbourne has raised this point on a number of occasions with the Victorian Department of Justice. Anglicans are concerned about prevention and protection of children in the broadest sense, not just on their own watch.

5. Practices have developed where a matter has been substantiated or allegations have been made against a respondent and the respondent leaves the Diocese and goes to another faith denomination or employer prior to a matter being substantiated or even after it has been. There has been a fear and reluctance by the DPS Network and indeed Bishops to provide detailed information to the new employer or institution for fear of breaching both privacy rules regarding the complainant and also the instigation of defamation proceedings by the respondent. Whilst the form of the information conveyed to the new institution is vital, to avoid such defamation actions, it would give institutions a far greater level of comfort if they were given immunity from suit from government should they provide such information in good faith, for the protection and prevention of further abuse.
6. Whilst the Melbourne OPS structure and regime has not been challenged to date based on the principles of administrative law, it is not immune from such procedures. If an institution’s fitness and disciplinary regime is accredited with

safeguards in place for both respondents and complainants, and grievance processes to a person such as the proposed ombudsman in the proposed Provincial Professional Standards Scheme e.g. a retired judge, consideration could be given via government to exempt such accredited schemes from being challenged under administrative law principles. This has occurred in the Diocese of Sydney.

If an institution's scheme is accredited consideration could be given by government to giving immunity from suit from any appointed decision makers on the disciplinary panels provided they acted in good faith. Whilst the PSA provides an indemnity from the Diocese in relation to such matters, such immunity would increase the pool of people to accept positions on the proposed disciplinary boards, which in the Anglican scheme are voluntary positions, if they knew they were immune from suit.

In particular this would be important in relation to attracting high profile and calibre people to such positions as the proposed Provincial Ombudsman and the Review Board.

51. Your understanding of any historical or current challenges facing your Diocese in relation to any of the above matters.

1. One of the current challenges faced by the OPS is where complainants discuss the matter in detail and then decide that they do not wish to report the matter to police or to formalize their complaint under the PS regime. Whilst the PSA allows for third party complaints to be made by the DPS on behalf of a complainant with the complainants consent, if no consent is forthcoming in effect the DPS is unable to progress the matter any further. From a prevention and liability perspective, the Diocese is concerned that the OPS has knowledge of a risk and because of the laws of privacy and a sensitivity of complainants in sexual assault matters being able to be autonomous in relation to their decision making to actually bring a complaint, it places the DPS and the Diocese in a difficult position. In effect the OPS has knowledge of a potential risk which needs to be assessed and addressed and disciplinary proceedings invoked if this is warranted. Indeed such knowledge would be a relevant factor in civil litigation proceedings. Without consent of a complainant this will be a difficult task. Whilst consideration has been given to making it a condition of receiving an award of financial redress, that the complainant must give consent to the OPS to use the information in fitness or disciplinary proceedings, this can seem a heavy handed approach. In effect this raises the competing public policies of a sexual assault complainant's right to choose to proceed with a matter, be it a third party complaint, with the issue of prevention of harm and further abuse to other children. This may need some legislative intervention which over-rides the privacy laws and associated

confidentiality issues with sexual assault complainants if the institution believes there is a real risk of harm to children.

The Diocese would welcome the RC's consideration and guidance to this vexed issue.

2. A number of issues around redress are related to the same public policy issues above and we share the Diocese of Melbourne's concerns. The Diocese of Melbourne, after considering the matter of redress under both the former state government and the current state government, raised the issue of the relations of any disciplinary proceedings regarding a respondent and that of a proposed redress scheme. The Diocese's concern was that an application may be made to a redress scheme in relation to a current serving member of clergy and be awarded financial redress. Whilst the institution no doubt would be notified that the allegation had been made, the complainant may not wish to pursue the matter under the criminal justice system or to make a formal complaint under the Anglican Professional Standards regime. As a result with no complaint or evidence, the Diocese would not be able to commence disciplinary proceedings against a respondent, even though the matter had been substantiated under the redress scheme and the evidence given by the complainant indicated a serious and immediate risk proposed by the alleged respondent.

In these circumstances the Diocese is in a no-win situation. It has knowledge of the abuse via the secular redress scheme but is not able to action the complaint and more importantly remove the respondent from active service without due cause. The current proposal under the proposed Victorian State scheme would appear to be that such information would remain confidential to the redress scheme and the institution, without the consent of the complainant. It could not be used by the institution, in order to protect the complainant's privacy and respect their right to decide. The information could not be used by the institution without the formal consent of the complainant.

It is considered that in these circumstances the information should be able to be used by the institution, where it is believed that the alleged respondent who is in active service or still retains their Holy Orders poses a risk to others or from a reputational risk, to allow such a person to continue to serve would undermine the credibility of the Institution. In these circumstances the institution should be able to use this information, with or without the complainant's consent, to commence disciplinary proceedings via a third part complaint without the formal consent of the complainant. This would require specific provision in the state legislation and relevant amendments to the state privacy laws. Alternatively it could be made a condition of receiving redress under a secular or institutional scheme, which could be waived if the circumstances of the case suggested that the welfare of the complainants would be in issue if such information was used. While at first this may seem heavy handed, it is about balancing two competing public policy arguments in the sexual abuse area: the right of the complainant for autonomy and

self-determination regarding decision making, with that of prevention of potential future harm to others. The Diocese would welcome further input and discussion of this matter by the RC to guide policy in this very complex and sensitive issue.

3. The issue of whether to depose a member of clergy from Holy Orders when a matter of child abuse has been substantiated against them is a complex one. Initially it was thought that such heinous conduct should not be condoned in any shape or form by the Diocese and that Holy Orders should be deposed. After being made aware of the research in this area, which seems to indicate that offenders are more likely to reoffend if ostracized from all forms of community we understand that the Diocese of Melbourne is currently reconsidering its position. Other faith denominations have been severely criticized for allowing convicted child abusers to remain in orders, it being seen as a gesture of acceptance of the behaviour. After Canon review of the files of the Province of Victoria it has become apparent that the majority of complainants that have complained directly to the church do not wish the matter to proceed under the criminal justice system. In effect the current PSA provides for a robust and contestable way of investigating, substantiating and determining disciplinary outcomes in sexual abuse matters, including the revocation of Holy Orders. It has become apparent from a number of cases that some clergy, once faced with a complaint, especially in the early days, simply disappeared and the relevant Diocese had no knowledge of their whereabouts. In other cases Bishops deposed clergy and again these clergy disappeared. In one or two cases clergy then reappeared in congregations in different faith denominations as parishioners or indeed clergy, unbeknown to the relevant Anglican Diocese.

If Holy Orders are revoked, then the Anglican Church has no jurisdiction over the respondent at all. They cannot put in place safety agreements or Memorandum of Understanding (MOUs). In cases where the person has not gone through the criminal justice system or the matter was prior to the Sex Offenders Register, there is no formal or informal supervision by the state authorities of the person at all. It is a matter of balancing the reputational risk of allowing such clergy to remain in Holy Orders but providing stringent restrictions and supervision in their places of worship or employment. This is against allowing such respondent to disappear into the ether and not being aware of their whereabouts. More importantly the congregations which they join are not aware of the serious risk they potentially pose.

It is in this vein that this issue is being given great consideration. The Diocese would welcome the RC reconsidering this issue in the light of prevention rather than a reputational issue for the relevant faith based institution. The Diocese has a genuine concern to act in the best interest of all children and consequently it believes that the way this may be achieved is by allowing such clergy to remain in Holy Orders without licence and with clear restrictions and supervision in place. We would welcome the RC consideration and guidance in this area as merely deposing clergy of Holy orders may not address the underlying problem, it may

well increase the chances of re-offending which is counter intuitive to the intended act of their deposition from Holy Orders. This is a perplexing issue.

ⁱ <http://www.theage.com.au/comment/debate-intensifying-on-samesex-marriage-issue-20150705-gi4jat>

ⁱⁱ William Loader is Emeritus Professor of New Testament at Murdoch University and a Minister of the Uniting Church in Australia. He is a leading world researcher on attitudes towards sexuality in early Judaism and Christianity and is widely published in the field including: *Making Sense of Sex: Attitudes towards Sexuality in Early Jewish and Christian Literature* (Grand Rapids: Eerdmans, 2013); *The New Testament on Sexuality* (Grand Rapids: Eerdmans, 2012); *Philo, Josephus, and the Testaments on Sexuality: Attitudes towards Sexuality in the Writings of Philo, Josephus, and the Testaments of the Twelve Patriarchs* (Grand Rapids: Eerdmans, 2011); *The Pseudepigrapha on Sexuality: Attitudes towards Sexuality in Apocalypses, Testament, Legends, Wisdom, and Related Literature* (Grand Rapids: Eerdmans, 2011); *Sexuality in the New Testament: Understanding the Key Texts* (London: SPCK; Louisville: Westminster John Knox, 2010); *The Dead Sea Scrolls on Sexuality: Attitudes towards Sexuality in Sectarian and Related Literature at Qumran* (Grand Rapids: Eerdmans, 2009); *Enoch, Levi, and Jubilees on Sexuality: Attitudes Towards Sexuality in the Early Enoch Literature, the Aramaic Levi Document, and the Book of Jubilees* (Grand Rapids: Eerdmans, 2007); *The New Testament - with Imagination: A Fresh Approach to its Writings and Themes* (Grand Rapids: Eerdmans, 2007); *Sexuality and the Jesus Tradition* (Grand Rapids: Eerdmans, 2005); *The Septuagint, Sexuality and the New Testament* (Grand Rapids: Eerdmans, 2004).

ⁱⁱⁱ <http://wwwstaff.murdoch.edu.au/~loader/LoaderGayMarriageDebate>