

**ATTACHMENT 5****Anglican Church of Australia****Royal Commission Working Group****Principles for the use of names of persons who perpetrated, or failed to take action in relation to, child sexual abuse****Introduction**

The Church has followed the practice of naming organisations, buildings, commemorative plaques, trusts, bursaries, gifts, prizes, scholarships and events to honour the service of persons such as bishops, school principals, benefactors and others. In recognition of the impact of child sexual abuse on survivors and their families, their courage, and the pain they have experienced and continue to endure, the Church has a responsibility to ensure that appropriate consideration is given to the use of names in these circumstances. In particular, the Church recognises that this use of the name of persons who perpetrated child sexual abuse or failed to take action when they were aware of child sexual abuse will cause distress to survivors and their families. Accordingly, the Church has developed these principles to govern the use of names in these circumstances.

**Principles for the use of names of persons who perpetrated, or failed to take action in relation to, child sexual abuse**

1. The Church should always remove the name and image of persons who perpetrated child sexual abuse from, and not use their name or image in connection with, organisations, buildings, trusts, bursaries, gifts, prizes, scholarships and events for which it has responsibility.
2. The Church should normally remove the name and image of persons who failed to take reasonable action when they were aware of child sexual abuse, and not use their name or image in connection with, organisations, buildings, trusts, bursaries, gifts, prizes, scholarships and events for which it has responsibility.
3. The Church should not remove the name or image of persons who perpetrated child sexual abuse or failed to take action when they were aware, or held suspicions, of child sexual abuse from commemorative plaques which record historical events, such as the officiation or attendance of such persons at the opening of a building. It is inappropriate to “rewrite” history by removing reference to such persons.
4. Notwithstanding the behaviour or failure of such a person, there may be a significant connection within the community to their name. Acknowledging that the removal of names can result in hurt, confusion and anxiety within the community, the Church should exercise sensitivity with, and give consideration to, family members, past-students’ associations and other groups that may be particularly connected to the name. This process should ensure that relevant information is provided to interested persons, and appropriate respect is given to those impacted by the removal of the name.

20 August 2016

**Approved by Standing Committee Resolution SC2016/2/27, November 2016.**

## ATTACHMENT 6

### Recommendations of Amendments to *Faithfulness In Service*<sup>1</sup>

1. The following amendment be made in section 1 “About this Code”:
  - (a) delete the number “3” and substitute the number “5” in the last sentence of the section with the heading “Format and presentation”
  
2. The following amendment be made in section 2 “Key Terms”:
  - (a) delete the definition of “grooming” and substitute the following definition:
 

**“grooming** refers to actions deliberately undertaken with the aim of engaging and influencing an adult or a child for the purpose of sexual activity.

In the case of sexual abuse of a child, an offender may groom not only the child, but also those close to the child, including the child’s parents or guardians, other family members, clergy and church workers. Grooming can include providing gifts or favours to the child or their family.

In the case of sexual abuse of an adult, an offender may groom not only the adult, but also those close to them, including their children, clergy and church workers.”
  
  - (b) delete the definition of “sexual abuse of a child” and substitute the following definition:
 

**“sexual abuse of a child** means the use of a child by another person for his or her own sexual stimulation or gratification or for that of others. It includes:

    - making sexual advances to a child using any form of communication;
    - exposing oneself indecently to a child;
    - having or attempting to have vaginal or anal intercourse with a child;
    - penetrating or attempting to penetrate a child’s vagina or anus with an object or any bodily part;
    - kissing, touching, holding or fondling or attempting to kiss, touch, hold or fondle a child in a sexual manner;
    - staring at or secretly watching a child for the purpose of sexual stimulation or gratification;
    - making any gesture or action of a sexual nature in a child’s presence;
    - making sexual references or innuendo in a child’s presence using any form of communication;
    - discussing or inquiring about personal matters of a sexual nature with a child;
    - possessing, creating or exposing children to child exploitation material of a sexual nature;

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<sup>1</sup> Approved at the Standing Committee Meeting, November 2016 – Resolution SC2016/1/29.

- exposing a child to any form of sexually explicit or suggestive material including clothing with sexually explicit images or messages;
- giving goods, money, attention or affection in exchange for sexual activities with a child;
- giving goods, money, attention or affection in exchange for images of a child for the purpose of sexual gratification of themselves or others; and
- encouraging, or forcing or attempting to encourage or force a child:
  - to sexually touch or fondle another person;
  - to perform oral sex;
  - either to masturbate self or others, or to watch others masturbate; and
  - to engage in or watch any other sexual activity.

Sexual abuse of a child does not include:

- sex education with the prior consent of a parent or guardian; or
- age appropriate consensual sexual behaviour between peers (i.e. the same or a similar age).”

(c) delete the definition of “sexual assault” and substitute the following definition:

“**sexual assault** means any intentional or reckless act, use of force or threat to use force involving some form of sexual activity against an adult without their consent. It includes:

- having or attempting to have vaginal or anal intercourse with a person without their consent;
- penetrating or attempting to penetrate another person’s vagina or anus with an object or any bodily part without that person’s consent;
- sexually touching and fondling or attempting to sexually touch or fondle a person without their consent;
- kissing or attempting to kiss another person without their consent;
- holding or attempting to hold another person in a sexual manner without their consent;
- forcing or attempting to force a person to sexually touch or fondle another person; and
- forcing or attempting to force a person to perform oral sex.”

(d) delete the definition of “sexual harassment” and substitute the following definition:

“**sexual harassment** means:

- an unwelcome sexual advance, or an unwelcome request for sexual favours, to the other person, or
- other unwelcome conduct of a sexual nature in relation to the other person,

in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated that the other person would be offended, humiliated or intimidated.

Such behaviour may consist of a single incident or several incidents over a period of time. It includes:

- asking a person for sex;
- giving a person to understand that you would like sexual favours from them;
- making any gesture, action or comment of a sexual nature to a person directly or making a comment of a sexual nature about them in their presence;
- making jokes containing sexual references or innuendo using any form of communication;
- exposing a person to any form of sexually explicit or suggestive material;
- making unwelcome physical contact such as touching, pinching, or patting;
- making unwelcome or unnecessary inquiries about or attempts to discuss personal matters of a sexual nature;
- deliberately intruding on an individual's personal space;
- staring at or secretly watching a person for the purpose of sexual stimulation or gratification; and
- stalking a person."

3. The following amendments be made in section 5 "Children":

- (a) add the following paragraph after of the first paragraph of the educational material with the heading "Characteristics and effects of child abuse" under paragraph 5.16:

"Grooming actions are designed to establish an emotional connection to lower the child's inhibitions through the development of a relationship with the child, and increased opportunity to see the child. Grooming involves psychological manipulation that is usually very subtle, drawn out, calculated, controlling and premeditated. Typically, grooming occurs incrementally: accessing the victim, initiating and maintaining the abuse, and concealing the abuse.

All Australian jurisdictions have grooming offences, which vary in scope and application. Grooming offences may target online or other electronic communications, subjecting children to child exploitation material, and/or using intoxicating substances to engage children for the purpose of sexual activity."

4. The following amendments be made in section 6 "Personal behaviour":

- (a) add the following sentence at the end of paragraph 6.3:

"Abuse in a family or domestic context is commonly known as "family and domestic violence".

14 October 2016

## Recommendations of Amendments to *Faithfulness In Service*<sup>1</sup>

1. The following amendments be made in section 2 “**Key Terms**”:
  - a. delete the definition of “bullying” and substitute the following definition:
 

“**bullying** means behaviour directed to a person or persons which:

    - is repeated;
    - is unreasonable (being behaviour that a reasonable person, having considered the circumstances, would see as unreasonable, including behaviour that is victimising, humiliating, intimidating or threatening); and
    - creates a risk to their health and safety.

Bullying can include:

    - making derogatory, demeaning or belittling comments or jokes about someone’s appearance, lifestyle, background, or capability;
    - communicating in an abusive manner;
    - spreading rumours or innuendo about someone or undermining in other ways their performance or reputation;
    - dismissing or minimising someone’s legitimate concerns or needs;
    - inappropriately ignoring, or excluding someone from information or activities;
    - touching someone threateningly or inappropriately
    - invading someone’s personal space or interfering with their personal property;
    - teasing someone, or playing pranks or practical jokes on someone;
    - displaying or distributing written or visual material that degrades or offends.

Bullying does not include lawful conduct of clergy or church workers carried out in a reasonable manner, such as:

    - disagreeing with or criticising someone’s belief or opinions or actions in an honest and respectful way;
    - giving information about inappropriate behaviour in an objective way to the person or persons concerned and to any other person with a proper reason for having that information;
    - setting reasonable performance goals, standards or deadlines;
    - giving information about unsatisfactory performance in an honest and constructive way;
    - taking legitimate disciplinary action.

Cyberbullying is a form of bullying which involves the use of information and communication technologies.”

11 November 2016

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<sup>1</sup> Approved at the Standing Committee Meeting, November 2016 – Resolution: SC2016/2/29

## ATTACHMENT 7

## Anglican Church of Australia

## Professional Standards Commission

**Protocol for determining the responsibility of dioceses for disciplining Church workers for misconduct<sup>1</sup>**

**Preamble**

Recognising that:

1. The *Safe Ministry Policy Statement* adopted by the General Synod on 4 October 2004 Includes the following commitment:

“The Anglican Church of Australia is committed to the physical, emotional and spiritual welfare and safety of all people, particularly within its own community. To ensure the safety of children and vulnerable people in our communities, the Church will:

...

- respond promptly to each concern raised about the behaviour of its clergy and church workers;”

2. The *Charter for the safety of people within the churches of the Anglican Communion* adopted by the General Synod on 30 June 2014 Includes the following commitment:

**“Effective responses to abuse**

2. We will have and implement policies and procedures to respond properly to allegations of abuse against clergy and other church personnel that include:

...

- (c) the impartial determination of allegations of abuse against clergy and other church personnel, and assessment of their suitability for future ministry;”

3. The failure to discipline Church workers for misconduct may expose people to the risk of harm.
4. More than one diocese may have jurisdiction to discipline a Church worker for misconduct.
5. The guiding principle for determining which diocese should exercise its jurisdiction to discipline a Church worker for misconduct is the diocese in which the current risk of harm to people predominantly arises.

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<sup>1</sup> Approved at the Standing Committee Meeting November 2016 by resolution SC2016/2/34.

The responsibility of dioceses for disciplining Church workers for misconduct is to be determined in accordance with the provisions of this Protocol.

## **Operative provisions**

### **Key terms**

1. In this Protocol:

**“Church”** means the Anglican Church of Australia;

**“Church authority”** means the person or body having administrative authority of or in a Church body to license, appoint, authorise, dismiss or suspend a Church worker;

**“Church body”** includes a parish, school, any body corporate, organization or association that exercises ministry within, or on behalf of, the Church;

**“Church worker”** means a person who is or who at any relevant time was:

- (a) a member of the clergy; or
- (b) a person employed by a Church body; or
- (c) a person holding a position or performing a function with the actual or apparent authority of a Church authority or Church body;

but excludes a bishop subject to the jurisdiction of the Special Tribunal of the Church;

**“Determiner”** means the person or body having power under the disciplinary or professional standards rules of a diocese to make findings or recommendations relating to the conduct of Church workers and may include the Diocesan Tribunal or the Professional Standards Board;

**“disciplinary action”** includes action taken under the disciplinary or professional standards rules of a diocese;

**“Investigator”** means the person or body having power under the disciplinary or professional standards rules of a diocese to investigate or cause to be investigated the conduct of Church workers and may include the Professional Standards Committee;

**“licensed”** means licensed or authorised by the bishop of a diocese of the Church;

**“misconduct”** means conduct or an omission wherever or whenever occurring which, if established, might:

- (a) constitute a breach of discipline or an ecclesiastical offence; or
- (b) call into question the fitness of a Church worker, whether temporarily or permanently, now or in the future to hold a particular or any office, licence or position of responsibility in the Church or to be or remain in Holy Orders or in the employment of a Church body; or
- (c) call into question whether, in the exercise of a Church worker’s ministry or employment, or in the performance of any function, the Church worker should be subject to certain conditions or restrictions.

**“National Register”** means the National Register established pursuant to the *National Register Canon 2007*.

2. For the purposes of this Protocol:

- (a) a person employed by a Church body; or
- (b) a person holding a position or performing a function with the actual or apparent authority of a Church authority or Church body;

will be taken to be engaged by a Church authority.

### ***Investigations***

3. Where misconduct is alleged against a Church worker who is:

- (a) licensed in a diocese; or
- (b) engaged by a Church authority in a diocese; or
- (c) resident, but not licensed or engaged by a Church authority, in a diocese;

and more than one diocese may have jurisdiction to take disciplinary action against the Church worker in respect of the alleged misconduct:

- (d) if the allegation is made under the disciplinary rules for Church workers of the diocese in which the Church worker is licensed, or predominantly undertakes ministry if licensed in more than one diocese, or is engaged or is resident, then the Investigator of that diocese should:
    - (i) investigate the alleged misconduct; and
    - (ii) if applicable, promptly notify the Director of Professional Standards of the diocese of the allegation to facilitate, if appropriate, the entry of information relating to the alleged misconduct on the National Register; and
    - (iii) promptly notify the Investigator of each other diocese that may have jurisdiction to take disciplinary action against the Church worker in respect of the alleged misconduct of the investigation of the alleged misconduct and its outcome, and the substance of the alleged misconduct; and
    - (iv) if satisfied that there is no jurisdiction to take disciplinary action against the Church worker in respect of the alleged misconduct, promptly disclose all relevant information obtained from the investigation to the Investigator of each other diocese that may have jurisdiction to take disciplinary action against the Church worker in respect of the alleged misconduct.
  - (e) if the allegation is made under the disciplinary rules for Church workers of another diocese, then the Investigator of that diocese should refer the allegation to the Investigator of the diocese in which the Church worker is licensed or engaged or resident who should take the steps in subparagraphs 3(d)(i) to (iv) of this Protocol.
4. The Investigator of a diocese to whom a notification is made pursuant to subparagraph 3(d)(iii) of this Protocol should:
- (a) promptly disclose to the Investigator making the notification all known information that may be relevant to the investigation;
  - (b) provide, so far as practicable, any assistance which may be requested by the Investigator making the notification.

***Determinations***

5. Where an Investigator of the diocese following an investigation forms the opinion that there are proper grounds to take disciplinary action in respect of the alleged misconduct against the Church worker who is:
- (a) licensed in the diocese; or
  - (b) engaged by a Church authority in the diocese; or
  - (c) resident, but not licensed or engaged by a Church authority, in the diocese;

and more than one diocese may have jurisdiction to take disciplinary action against the Church worker in respect of the alleged misconduct, the Investigator should disclose all relevant information obtained in the investigation to the Determiner of the diocese who should:

- (d) unless satisfied that there is no jurisdiction to do so, take disciplinary action against the Church worker; and
- (e) promptly notify the Director of Professional Standards of the diocese of the outcome of the disciplinary action to facilitate, if appropriate, the entry of information relating to the outcome on the National Register; and
- (f) promptly notify the Investigator of each other diocese that may have jurisdiction to take disciplinary action against the Church worker in respect of the alleged misconduct of the taking of the disciplinary action and its outcome; and
- (g) if satisfied that there is no jurisdiction to take disciplinary action against the Church worker in respect of the alleged misconduct, promptly disclose all relevant information obtained from the Investigator to the Investigator of each other diocese that may have jurisdiction to take disciplinary action against the Church worker in respect of the alleged misconduct.

***Further investigations and determinations***

6. Where information is disclosed pursuant to subparagraph 3(d)(iv) or 5(g) of this Protocol, then:
- (a) the following Investigator should take the steps in subparagraphs 3(d)(i) to (iv) of this Protocol so far as applicable:
    - (i) where information is disclosed to the Investigator of one diocese, that Investigator;
    - (ii) where information is disclosed to the Investigator of more than one diocese:
      - (A) firstly, the Investigator of the diocese in which the Church worker resides;
      - (B) secondly, the Investigator of the diocese in which the misconduct is alleged to have occurred or substantially occurred;
      - (C) thirdly, the Investigator of any other diocese to whom the information has been disclosed;
  - (b) if the Investigator of a diocese following an investigation forms the opinion that there are proper grounds to take disciplinary action in respect of the alleged misconduct against the Church worker, then the Investigator should disclose all relevant information obtained in the investigation to the Determiner of that diocese, and that Determiner should take the steps in subparagraphs 5(d) to (g) of this Protocol.

***Costs***

7. Subject to paragraph 8 of this Protocol, the costs of a diocese taking steps under this Protocol should be met by that diocese, but this should not preclude any arrangement between that diocese and one or more other dioceses or Church bodies for the sharing of such costs. Generally, the diocese or dioceses in which the misconduct has occurred should contribute to the cost of investigating and taking disciplinary action against the church worker.

8. Where prior to a Church worker becoming licensed in a diocese or engaged by a Church authority in a diocese, a Church authority or Church body of another diocese was aware of the alleged misconduct of the Church worker and:
- (a) had provided information as to the standing of the Church worker in that diocese to a Church authority or Church body of the first mentioned diocese without disclosing the alleged misconduct; or
  - (b) the Director of Professional Standards of that diocese, where required to do so, had failed to enter information relating to the misconduct on the National Register;

then that diocese should meet the costs of the first mentioned diocese in taking steps under this Protocol.