

PROFESSIONAL STANDARDS ORDINANCE 2004
AMENDING ORDINANCE 2021
Ordinance No. 20 of 2021

An Ordinance to amend the Professional Standards Ordinance 2004 to update, replace and add definitions.

PREAMBLE

Whereas provisions for matters involving professional standards and fitness for office or duty are contained in the Professional Standards Ordinance 2004; and

Whereas it is desirable to have the Ordinance amended to ensure that the Professional Standards Board, the Professional Standards Committee and the Director of Professional Standards are able to receive information about and initiate action in relation to all forms of conduct and/or misconduct that might be considered to make a church worker unfit for office;

Therefore, the Bishop-in-Council in pursuance of powers provided in clause 48.2 of the Diocesan Governance Ordinance 2008 hereby decrees and enacts as follows:

AMENDMENTS

1. Replace the definitions of the terms listed below in clause 2 (1) with the following:

“Information” means information of whatever nature and from whatever source relating to alleged conduct of a Church worker wherever or whenever occurring involving:

- a. child abuse, sexual misconduct and/or criminal conduct;
- b. alleged inappropriate or unreasonable conduct or omission of a Church worker who had knowledge of conduct of another Church worker involving child abuse and/or sexual misconduct; and/or
- c. alleged process failure;
- d. any other conduct, including bullying, emotional abuse, harassment, spiritual abuse and physical abuse (as defined in GEN 002 Faithfulness in Service), that is unbecoming or inappropriate to the role, office or position of the Church worker or their duties and functions whenever and wherever occurring which, if established, would on its face be considered to be examinable conduct;
- e. Wilful or reckless failure to comply with a prohibition, restriction or condition imposed by a Church authority.

“Process failure” means the failure by a Church body or Church authority (or any individual Church Worker) to deal appropriately with or to investigate any of the conduct set out in sub clauses a. and b. of the definition of information, including:

- a. Conduct that impedes or undermines a professional standards process.
- b. The failure without reasonable excuse to perform a function under a professional standards process.
- c. The failure without reasonable excuse to comply with the laws of the Commonwealth, a State or Territory requiring the reporting of child abuse to the police or other authority.

2. Add new definitions to clause 2(1) as follows:

“Misconduct” in relation to a Church worker means:

- a. Child abuse
- b. Sexual misconduct
- c. Criminal conduct
- d. Conduct that impedes or undermines a professional standards process.
- e. The failure without reasonable excuse to perform a function under a professional standards process.
- f. The failure without reasonable excuse to comply with the laws of the Commonwealth, a State or Territory requiring the reporting of child abuse to the police or other authority.

“Child abuse” has the same meaning as reportable conduct.

“Criminal conduct” means all crimes as defined in any criminal code or crimes legislation currently in force and applicable to the church worker at the time of the alleged conduct and punishable by imprisonment for twelve months or more.

“Reportable conduct” means conduct as defined in Part 4 of the Children’s Guardian Act 2019 whether or not a criminal proceeding in relation to the conduct has been commenced or concluded:

- a. An offence of a sexual nature under a law of the State, another State, a Territory, or the Commonwealth, committed against, with or in the presence of a child;
- b. Conduct with, towards or in the presence of a child that is sexual in nature but is not a sexual offence, including grooming and the possession, making or distribution of child exploitation material;
- c. Conduct towards a child that is unreasonable and seriously inappropriate, improper, inhumane or cruel;
- d. A significant failure to provide adequate and proper food, supervision, nursing, clothing, medical aid or lodging for the child, that causes or is likely to cause harm to a child, by:
 - i. a person with parental responsibility for the child, or
 - ii. an authorised carer of the child, or
 - iii. an employee, if the child is in the employee’s care.
- e. The intentional or reckless application of physical force without lawful justification or excuse, or any act which intentionally or recklessly causes another to apprehend immediate and unlawful violence;
- f. An offence under section 43B or 316A of the Crimes Act 1900;
- g. Behaviour that causes significant emotional or psychological harm to a child.

“Sexual misconduct” means sexual assault, sexual harassment, or sexually inappropriate behaviour in relation to an adult.

3. Amend the definition of “examinable conduct” in clause 2 (1) by adding the words “including misconduct” in brackets after the word conduct in the first sentence.

COMMENCEMENT

4. This Ordinance shall come into effect upon receiving the assent of the Bishop.

SHORT TITLE

5. This Ordinance may be cited as the Professional Standards Ordinance Amending Ordinance 2021.

ASSENT

We hereby certify that this Ordinance was passed by Bishop-in-Council on the Twenty-fourth day of June, 2021 and that the Ordinance as printed is in accordance with the Ordinance as passed.


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Chair of Committees


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Registrar

I assent to this Ordinance.


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Bishop


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Date