



Anglican Church of Australia
Diocese of Ballarat

Safe Church Program

Protocol: Clearance for Ministry

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Clearance for Ministry
A protocol under the
Professional Standards Act 2010

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NOTE:

The Office of Professional Standards is established by the Archbishop to provide support to people who make complaints about abuse and other misconduct by Anglican clergy, church officers, church employees and volunteers in the Diocese of Melbourne and other subscribing dioceses in the Anglican Province of Victoria. The Director of Professional Standards is as independent as possible from the Church but is paid by the Church.

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1 Introduction

- 1.1 This protocol is made by the Bishop-in-Council of the Diocese of Ballarat pursuant to the *Professional Standards Act 2010* (**the Act**). It is intended:
- (a) to identify key aspects of the Act relating to clearance for ministry;
 - (b) to give useful information and guidelines about the way an application for a clearance for ministry will be handled.
- The guidelines relating to correspondence with an applicant for a clearance for ministry are highlighted by a line in the margin for convenience.
- 1.2 This Protocol operates in conjunction with the Power and Trust Protocol for responding to complaints of misconduct by Church workers and is intended to promote proper professional standards of ministry in the Church. For details of the role and powers of the Director, the Professional Standards Committee, the Professional Standards Board and the Professional Standards Review Board, please refer to the Act and the Power and Trust Protocol.
- 1.3 Using this protocol we will promptly respond to an application for a clearance for ministry.
- 1.4 Scope: Nothing in this Protocol shall exclude the jurisdiction of a secular court or tribunal or prevent any person from pursuing other actions and procedures which are available at law. It is not intended that this Protocol shall protect people from the law.
- 1.5 Definitions: In this Protocol, expressions used have the same meaning as in s 3 of the Act.
- 1.6 A reference in this Protocol to the Director includes so far as permitted by the Act a delegate of the PSC appointed to stand in for the Director when he or she is unavailable.

2 Clearance for ministry

- 2.1 When a Church worker intends for the purpose of ministry—
- (a) to transfer from one office licence or position of responsibility in a Church body in the Diocese to another in the Diocese;
 - (b) to take up an office licence or position of responsibility in a Church body in the Diocese;
 - (c) to transfer from one office licence or position of responsibility in a Church body in the Diocese to another in another diocese; or
 - (d) to take up an office licence or position of responsibility in a Church body in another diocese.
- the Church worker must obtain a clearance for ministry (s 50).

- 2.2 Clearances for Ministry must be renewed not more than every three years.

3 Ministry

- 3.1 Under the Act, 'Ministry' means ordained ministry or lay ministry authorised under the Authorised Lay Ministry (Adoption) Act 1992 or an equivalent Act of the synod of another diocese, as the case may be. (s 3)
- 3.2 A 'clearance for ministry' means in relation to ministry-
- (a) within the Diocese, the licence, permission to officiate or other relevant authority as the case may be of the Bishop; and
 - (b) outside the Diocese, written confirmation by the Bishop that the Church worker is fit for ministry either unconditionally or subject to certain conditions or restrictions. (s 3) This includes the 'Letter of Good Standing' that traditionally the Bishop has issued in an appropriate case.

4 Fitness for ministry

- 4.1 The Act makes it a condition of eligibility for a clearance for ministry within the Diocese that the Church worker is fit to hold the proposed office, licence or position of responsibility in the Church whether unconditionally or subject to certain conditions or restrictions. (s 51)

5 Codes of Conduct

- 5.1 The Bishop in Council of the Diocese has under the Act (s7) approved the following codes of conduct for observance by Church workers within the Diocese:
- ~~(a) Code of Good Practice for Clergy; and~~
 - (b) Faithfulness in Service, a national code of the Anglican Church of Australia as in force from time to time.
- 5.2 These codes together with the general law inform standards of conduct for determining fitness for ministry of clergy and lay people.

6 Applying for a clearance for ministry

- 6.1 Any application by a Church worker for a clearance for ministry shall be made to the Bishop. (s 52)
- 6.2 The specifications of applications for, and renewals of, Clearances for Ministry are prescribed by Bishop-in-Council in Schedule A and Schedule B of this Protocol.

7 How the application is handled

7.1 Generally, the Bishop refers the application or the matter of a prospective application for a clearance for ministry in the first instance to his specially authorised delegate Diocesan Safe Church Officer (DSCO) and the Director of Professional Standards (DPS). They, in collaboration, process it generally as follows:

- (a) Facilities for the online submission of a Clearance for Ministry application, a Nationally Coordinated Criminal History Check, and the application or renewal of a Working with Children Card shall be made available to all applicants.
- (b) The Bishop's delegate shall acknowledge to the applicant receipt of the application. If a prospective applicant has not completed an application, the delegate may send the applicant an application form.
- (c) The delegate shall in the appropriate case forward the applicant for completion an application for a Working with Children card.
- (d) The delegate shall forward the applicant an application for a National Police Certificate for completion and return to the delegate.
- (e) The delegate shall generate and/or update a Safety Management Online account for the applicant
- (f) The National Police Certificate will be issued direct to the applicant who is responsible for posting the original to the Director who shall inform the delegate of the date and reference number of the National Police Certificate.
- (g) The delegate shall request a search of the National Professional Standards Register and communicate the results in strict confidence to the Director.
- (h) If to the best of his or her knowledge information or belief, the Director is of the opinion—
 - (a) in the case of an applicant for a clearance for ministry within the Diocese, that the applicant is unconditionally fit for the proposed office licence or position of responsibility; or
 - (b) in the case of an applicant for a clearance for ministry outside the Diocese, that the applicant is unconditionally fit for ministry—
 the Director shall inform the delegate to that effect (the DPS fitness

clearance).

- (g) The delegate shall refer to the Bishop:
 - (i) the results of the National Register search and the National Police check;
 - (ii) the results of the application for a Working with Children card, where applicable; and
 - (iii) the DPS fitness clearance.
- (h) If to the best of his or her knowledge information or belief, the Director is of an opinion in relation to the application other than as stated in paragraph (f), the Director shall inform the Bishop to that effect.

7.2 If, upon consideration, the matters referred to in paragraphs 7.1(g) and (h) raise no question about the fitness for ministry of the applicant, the Bishop may at that time decide the application for a clearance for ministry and the applicant will be notified of the outcome.

Reference to the PSC

7.3 If, upon consideration, the matters referred to in paragraph 7.1(g) or (h) raise a question about the fitness for ministry of the applicant, the Bishop may refer the matter to the PSC for a determination and advice by the PSC and if necessary, the Board as to fitness for ministry. (s 52)

Consideration of the matter by the PSC

7.4 Upon a reference of a matter to the PSC by the Bishop, the Director shall review any professional standards history of the applicant and investigate any particular issues. The Director shall then report through the Chair to the PSC on the matter.

7.5 The provisions of the Power and Trust Protocol relating to an investigation shall apply to any investigation under this Protocol.

7.6 The PSC shall consider the matter; it may meet from time to time as determined by the chair or a majority of its members and may conduct its business by telephone or electronic communication. (s 14(2))

7.7 If to the best of its knowledge information or belief, the PSC is of the opinion—

- (a) in the case of an applicant for a clearance for ministry within the Diocese, that the applicant is unconditionally fit for the proposed office licence or position of responsibility; or
- (b) in the case of an applicant for a clearance for ministry outside the Diocese, that the applicant is unconditionally fit for ministry—

the PSC shall determine accordingly and recommend to the Bishop to

that effect (the PSC fitness clearance) (s 53).

- 7.8 A certificate as to the fitness for ministry of a Church worker issued by the PSC shall be conclusive evidence of the determination and recommendation of the PSC in that respect. (s 54)
- 7.9 The Bishop, after receiving the favourable determination and recommendation of the PSC may in his discretion grant or refuse the clearance for ministry.

8 An adverse opinion of the PSC on fitness for ministry

- 8.1 After investigation in accordance with Part 8 of the Act or under a corresponding provision of an Act or Ordinance of another diocese, the PSC may form the opinion that in connection with the application by a Church worker for a clearance for ministry, by reason of alleged abuse or other conduct, the church worker may not be fit for ministry in the Church either generally or to hold a proposed office, licence or position of responsibility in the Church or may be fit subject to certain conditions or restrictions.
- 8.2 In that event, the PSC shall refer the matter for determination to the Professional Standards Board or if it is more appropriate, to an equivalent body which has jurisdiction. (s 56) The Professional Standards Regulations prescribe the form to be used in that reference.
- 8.3 The Director shall give the applicant a written report of any investigation and any opinion of the PSC and the grounds relied on and notice that the applicant may advance any submissions to the Board if he or she wishes to do so (s 59)¹.
- 8.4 The Director shall also give the applicant a copy of the Act and this Protocol.

9 Reference to the Professional Standards Board

- 9.1 The Professional Standards Board (**the Board**) comprises 4 persons including a President and Deputy President and is constituted so as collectively to provide experience and appropriate professional qualifications in -
- (a) law;
 - (b) the ordained or authorized lay ministry; and
 - (c) child protection, investigations, social work, ethics or counselling

¹ The guidelines relating to correspondence with an applicant for a clearance for ministry are highlighted by the line in the margin for convenience.

and shall so far as reasonably practicable have -

- (i) one member of the clergy;
- (ii) at least one man and at least one woman; and
- (iii) two members who are not members of the Church (s 35).

9.2 Where an application is referred to the Board, the Board shall consider the matter expeditiously and make any finding on any relevant question of fact, taking into account-

- (a) the final report if any of the investigator including attachments;
- (b) any material received from the applicant;
- (c) any other evidentiary material;
- (d) such report of the PSC as may be submitted; and
- (e) any applicable professional standards prescribed by a code of conduct (s 61).

9.3 If the Board is satisfied that:

- (a) the applicant is unfit, whether temporarily or permanently, then or in the future to hold the particular or any office licence or position of responsibility in the Church; or
- (b) in the exercise of the applicant's ministry or in the performance of any function, the Church worker should be subject to certain conditions or restrictions

the Board may determine accordingly and recommend to the Bishop as it sees fit, including that the application for a clearance for ministry be refused (s 62).

9.4 If the Board is satisfied that the applicant is fit to hold the particular or any office licence or position of responsibility in the Church, the Board shall determine accordingly and recommend to the Bishop as it sees fit.

9.5 Within 7 days of the Board making any final finding of fact or recommendation on the application (**the decision**) that is adverse to the applicant, the Director shall inform the applicant -

- (a) that he or she may within 30 days from the date of the decision or such further period as the Professional Standards Review Board may allow, apply to the Professional Standards Review Board for a fresh administrative reconsideration of the matter; and
- (b) that if he or she does not apply to the Review Board for a review, the Director will give notice of the decision and the reasons for making it to the Bishop and that he or she has the opportunity

within a further 14 days to address any submissions to the Bishop².

10 Professional Standards Review Board

10.1 The Professional Standards Review Board comprises 3 persons appointed by the President or Deputy President from a panel of 7 persons comprising -

- (a) a President and a Deputy President, both of whom shall be or shall have been either a judicial officer or a practising barrister or solicitor of at least 10 years' standing of the Supreme Court of a State or Territory; and
- (b) five other persons of whom at least -
 - (i) two shall not be members of the Church;
 - (ii) two shall be members of the clergy; and
 - (iii) three shall have professional qualifications and experience in child protection, investigations, social work, ethics or counselling (s 70).

10.2 For the purpose of any application to the Review Board, the Review Board shall consist of the President or Deputy President, who shall be the presiding member, one clergy member and one lay member of the panel. So far as it is reasonably practicable, the Review Board shall include at least-

- (a) one man and at least one woman; and
- (b) one person who is not a member of the Church (s 73(2) and (3)).

11 Application for review

11.1 In this part, "decision" means any finding of fact, determination or recommendation by the Board concerning fitness for ministry.

11.2 If an applicant has applied for a clearance for ministry, and is aggrieved by a decision of the Board, he or she may within 30 days from the date of the decision or such further period as the Professional Standards Review Board may allow, apply to the Review Board for a fresh administrative reconsideration of the matter. The PSC may also make such application if it thinks fit (s 83).

² Under s 102 of the *Professional Standards Act*, each of the Board and the Review Board shall cause a copy of each determination and recommendation to be provided to-

- (a) the relevant Church authority;
- (b) the complainant;
- (c) the respondent; and
- (d) the Director and the PSC.

- 11.3 The Director shall give the applicant by notice the opportunity within 14 days to address any further submissions to the Review Board.
- 11.4 The Review Board may exercise all the powers of the Board under the Act and may –
- (a) affirm the decision under review; or
 - (b) vary the decision under review; or
 - (c) set aside the decision under review and make another decision in substitution for it; or
 - (d) set aside the decision under review and remit the matter for reconsideration by the Board in accordance with any directions or recommendations of the Review Board (s 86).
- 11.5 The Review Board shall deal with the application as expeditiously as possible and shall consider any further submissions from the applicant (s 87).
- 11.6 Within 7 days of the Review Board making a decision on the review that is adverse to the applicant, the Director shall inform the applicant that –
- (a) the Director will refer the decision including any recommendation or advice to the Bishop; and
 - (c) he or she has the opportunity within 14 days to address any submissions to the Bishop³.

12 Proceedings of the Board and the Review Board

- 12.1 Each of the Board and the Review Board –
- (a) must act with fairness and according to equity, good conscience, natural justice and the substantial merits of the case without regard to technicalities or legal forms; and
 - (b) is not bound by the rules of evidence but may inform itself on any matter in such manner as it thinks fit (s 88).
- 12.2 Part 15 of the Act contains provisions dealing with the proceedings of the Board and the Review Board.
- 12.3 Neither the Board nor the Review Board shall, in the course of inquiring into any question:
- (a) inquire into any matter which is or has been the subject of any formal investigation or enquiry conducted—
 - (i) under or pursuant to any provision of the Constitution; or
 - (ii) under or pursuant to a Canon of the General Synod, a

³ See footnote 2 above.

Canon or an Ordinance of another diocese relating to the discipline or professional standards of clergy or Church workers by a board of enquiry, tribunal or other body—

save to the extent of any fresh evidence that was not reasonably available during the previous formal investigation or enquiry, but may take into account the finding of any such formal investigation or enquiry; or

- (b) inquire into, make any findings in relation to or take into account any alleged breach of—
 - (i) faith of the Church, including the obligation to hold the faith;
 - (ii) ritual of the Church, including the rites according to the use of the Church and the obligation to abide by such use; or
 - (iii) ceremonial of the Church, including ceremonial according to the use of the Church and the obligation to abide by such use. (s 99)

13 The Bishop

13.1 Where any recommendation is made under the Act to the Bishop by the PSC (other than one favourable to the applicant), the Board or the Review Board (as the case may be), they shall give to the Bishop –

- (a) the findings of facts and recommendations constituting the decision of the PSC, the Board or the Review Board, as the case may be;
- (b) the reasons relied on in support of the decision;
- (c) the final report if any of the investigator and attachments;
- (d) any further material received from the applicant and any other relevant material; and
- (e) any applicable professional standards prescribed by a code of conduct.

13.2. The Bishop after receiving any determination and recommendation in accordance with this Act from the PSC, the Board or the Review Board (as the case may be) as to fitness for ministry may in the discretion of the Bishop grant or refuse the clearance for ministry. (s 55)

14 Completion of the Process

14.1 As appropriate the Director will liaise with those involved in this Protocol at the completion of the case and will seek comments about the process and may discuss possible improvements.

- 14.2 Any recommendations resulting from this activity will be provided to the Bishop and the Registrar.

15 Confidentiality

- 15.1 Part 17 of the Act imposes strict confidentiality obligations in connection with information received pursuant to the Act but requires or authorizes disclosure as set out in Parts 16 and 17 of this Protocol.

16 Co-operation with Government Authorities

- 16.1 If arising from an application for a clearance for ministry, the Director or the PSC forms the belief on reasonable grounds that a child is in need of protection within the meaning of that expression in the *Children, Youth and Young Families Act 2005*, the Director must notify the relevant child protection authorities.
- 16.2 The Director must notify the Police if the conduct disclosed in any application for a clearance for ministry may constitute an offence whether committed in or outside Victoria that is an indictable offence against a law of the Commonwealth or any jurisdiction in Australia punishable by imprisonment for not less than five years (whether or not the offence is or may be dealt with summarily).
- 16.3 The Director may notify the Police if the conduct disclosed may constitute any other criminal offence.

17 Co-operation with other Dioceses, other Denominations and other Child Related Employers

- 17.1 The Director is authorised to disclose to the Director of Professional Standards of another diocese and the body of another diocese exercising powers duties or functions equivalent to those of the PSC information in the possession of the PSC or the Director concerning alleged misconduct of a Church worker:
- (a) which is information that is relevant to, or arises during the course of, an investigation being undertaken by the PSC where the Director or the PSC knows that the Church worker is residing in the diocese of the equivalent body; or
 - (b) which is information concerning misconduct alleged to have occurred in the diocese of the equivalent body—
- and to co-operate with that Director and equivalent body.
- 17.2 The Director is authorized to disclose to the Director of Episcopal Standards and the Episcopal Standards Commission relevant details of information in its possession concerning the alleged conduct of a Bishop

referred to in section 56(6) of the Constitution, including the Bishop of a Diocese, and must co-operate with the Episcopal Standards Commission.

- 17.3 The Director is authorized to disclose to a person or body of another church exercising powers, duties or functions similar to those of the Director or the PSC details of information in its possession concerning the alleged misconduct of a person who the Director or the PSC has reason to believe is a member or purported member of that church and to co-operate with such person or body to whom the information is disclosed.

18 Grievance procedure

- 18.1 Any complaint or grievance about the operation of this Protocol should be addressed in writing both to the Bishop and to the Chair of the Professional Standards Committee marked confidential care of 209 Flinders Lane, Melbourne Victoria 3000.
- 18.2 The Chair shall forward the complaint or grievance to the Director and to the investigator or other staff member if any involved for a written response within 14 days and otherwise consider the matter, with or without assistance from the PSC as he or she judges appropriate to the circumstances.
- 18.3 The Chair will provide the person lodging the complaint or grievance and the Bishop and the Registrar with a written response and an outline of any proposed action.

Schedule A: Application and Renewal Specifications

	WWCC	Licence Type	
Class A - Clerics & Ordination Candidates			
1	Incumbent clerics	Yes	Licence
2	Stipendiary and honorary assistant clerics and chaplains	Yes	Licence
3	Clergypersons holding Permission to Officiate authorities	Yes	PTO
4	Seekers (persons exploring ordination)	Yes	Lay Licence
5	Ordination Candidates	Yes	Lay Licence
Class B - Governance & information Related			
6	Member of Bishop-in-Council	No	Permission
7	Director of Ballarat Anglican Diocese Corporation	No	Permission
8	Member of Synod	No	Permission
9	Member of General Synod	No	Permission
10	Lay member of the Cathedral Chapter	No	Lay Licence
11	Church warden or a member of a parish council	No	Permission
12	Parish treasurer or secretary	No	Permission
13	Parish or diocesan Safe Church Officer	No	Permission
14	Persons with Team Leader and above access level on the Child Safe Safety Management Online system	No	Permission
Class C - Child, Community and Liturgical Related			
15	Verger, master of ceremonies, head server, server coordinator or server where children participate in the serving ministry of that church.	Yes	Permission
16	Person authorised to conduct a Divine Liturgy (Service of the Word)	Yes	Lay Licence
17	Person authorised to conduct a Divine Liturgy (Service of the Word with Communion by Extension)	Yes	Lay Licence
18	Person authorised to prepare and preach sermons during Divine Liturgy	Yes	Lay Licence
19	Person authorised to administer Holy Communion during Divine Liturgy (Eucharistic Assistant)	Yes	Lay Licence
20	Person authorised to administer Holy Communion in a home, health or aged care facility	Yes	Lay Licence
21	Music director or coordinator, musician or vocalist in a choir or music group that includes children.	Yes	Lay Licence
22	Children's group leader, coordinator, helper or worker (including Sunday Schools and youth groups)	Yes	Lay Licence
23	Small group leader where children who are not accompanied by their parent/guardian are present.	Yes	Lay Licence
24	Crèche/playgroup coordinator	Yes	Lay Licence
25	Crèche/playgroup worker except parents/guardians where their children are actively present	Yes	Permission
26	Person engaged in an evangelism or outreach program	Yes	Lay Licence
27	Home/hospital/aged care pastoral care coordinator or visitor	Yes	Lay Licence

28	Welcomer engaged in 'child related' work	Yes	Permission
29	Op shop coordinator or convener	Yes	Permission
30	Bus driver of children or elderly	Yes	Permission
31	Community meals coordinator or worker	Yes	Permission
32	Any salaried or otherwise remunerated layperson who is engaged in 'child related' work	Yes	Permission
Class D - Adult Related Lay Employees			
33	Any salaried or otherwise remunerated layperson who does not engage in 'child related' work	No	Permission

Schedule A Explanatory Notes

Application Forms by Class

CMA-A Class A Clerics and Ordinands

CMA-B Class B Governance & Information Related

CMA-C Class C Child Related, Community & Liturgical Related

CMA-D Class D Adult Related Lay Employees

Renewal Forms by Class

CMR-A Class A Clerics and Ordinands

CMR-B Class B Governance & Information Related

CMR-C Class C Child Related, Community & Liturgical Related

CMR-D Class D Adult Related Lay Employees

1. Application forms are for use in the **first application** for a Clearance for Ministry from 1 July 2018.
2. Renewal forms for use to renew a Clearance for Ministry, **extend an expiration date** after the first application by another renewal cycle.
3. If a Church Worker is engaged in ministries spanning **multiple classes**, then the highest class engaged in is used for their Clearance for Ministry. For example, a person engaged in pastoral care in the home (Class C) who is also a parish councillor (Class B) would use Class B forms.
4. The Safe Church Officer or Director of Professional Standards reserves the right to specify any clearance application or renewal form for an individual application or renewal.
5. An **National Police Checking Service** result, issued not more than three months prior to the Clearance for Ministry application, is required for the issuing of all Clearances for Ministry.
6. A validated **Working with Children Check** is required for ministries specified in Schedule A.
7. If a validated **Working with Children Check** is required for any ministry specified in schedule A then is it required for all ministries. For example, if a person is engaged as a Eucharistic Assistant (Class C) and as a member of Synod (Class B) they would need to submit a copy of their Working with Children Card with their Class B application.

8. For the purposes of this schedule, a member of a council, committee or other church body includes elected, appointed and ex officio members.
9. A **Permission to Proceed** is a document issued by the Safe Ministry Officer acknowledging the issuing or renewal of a Clearance for Ministry for ministries not requiring a licence yet are contingent on the currency of a Clearance for Ministry.
10. **Lay Licences** shall have the same expiration date as the expiration date of their Clearance for Ministry.
11. **Playgroups** require at least one person involved in the activity of the group to be appointed to the position of Playgroup Coordinator regardless if they are a parent/guardian whose children actively attend. This is to ensure that at least one person holds a Clearance for Ministry and is currently in Child Safe training.
12. **Teachers** who are registered with the **Victorian Institute of Teaching (VIT)**, may submit a copy of their VIT **registration** card in place of a Working With Children Card.
13. **Victoria Police or Australian Federal Police (AFP) officers** may submit a copy of their identity card, or proof of their employment, in place of a Working With Children Card.

Schedule B: Clearance for Ministry Application and Renewal Forms

Clearance for Ministry Applications

- CMA1 Class A Clergypersons, Seekers and Ordinand Candidates
- CMA2 Class B Governance & Information Related
- CMA3 Class C Child, Community & Liturgical Related
- CMA4 Class D Adult Related Lay Employees

Clearance for Ministry Renewals

- CMR1 Class A Clergypersons, Seekers and Ordinand Candidates
- CMR2 Class B Governance & Information Related
- CMR3 Class C Child, Community & Liturgical Related
- CMR4 Class D Adult Related Lay Employees

Each form is available as a separate form fillable document, coded as above.

