

Council of the Diocese Act 2016

Be It Enacted by the Bishop, the Clergy and the Laity of the Anglican Church of Australia within the Diocese of Bendigo duly met in Synod according to law as follows:

1. Citation

1.1. This Act may be cited as the Council of the Diocese Act 2016 and shall commence upon receiving Episcopal assent.

2. Definitions

“**appointed member**” means a member nominated or elected to the Council or to the Executive Committee and includes ex officio members;

“**Council**” means the Council constituted in accordance with section 4;

“**Diocesan Corporation**” means the Bendigo Anglican Diocesan Corporation incorporated under the Bendigo Anglican Diocesan Corporation Act 2014;

“**professional standards scheme**” means any scheme which Synod has approved from time to time to regulate the conduct of church workers;

3. The Council

3.1. In temporal affairs of the Church the Bishop must subject to any contrary Act of the Synod act either:-

- a) with the consent of the Council to be constituted in accordance with this Act and which shall assist the Bishop; or
- b) as episcopal Director of the Diocesan Corporation.

3.2. The Council shall from time to time determine which of the temporal affairs of the Diocese are to be governed by the Diocesan Corporation.

4. Composition of Council

4.1. The Council shall consist of the following members:-

- a) four clerical members elected by the members of Synod;
- b) four lay members elected by the members of Synod;

- c) two clerical and two lay persons of the Diocese nominated by the Bishop;
- d) one member, nominated by the Bishop, being either the Dean of Bendigo or one of the Archdeacons of the Diocese;
- e) the Vicar-General;
- f) the Chancellor;
- g) the Advocate.

4.2 The Registrar shall be the Secretary of the Council, and may speak at meetings but shall not have a vote.

4.3 A nominated or elected member of Council must either:

- a) in the case of a clerical member, hold a licence from the Bishop, or
- b) in the case of a lay member, be on the electoral roll of a parish of the Diocese.

5. Term of Office

5.1. The nominated and elected members shall hold office until the commencement of the third ordinary session of Synod following their appointment or election, except as otherwise provided.

5.2. The Bishop may make nominations at any time on or after the first day of each ordinary session of Synod.

6. Filling of Vacancies

6.1. A vacancy in the office of an elected member shall be filled for the remainder of the member's term by a clerical member or lay person as the case requires, elected by the Council.

6.2. A vacancy in the office of a nominated member shall be filled for the remainder of the member's term by a cleric or a lay person, as the case requires, appointed by the Bishop after consultation with the members of the Council.

6.3. No vacancy in the membership of the Council however caused shall affect the validity of the proceedings of the Council provided that a quorum of members is present.

6.4. The nomination or election of a member to fill a vacancy shall be deemed to date from the time when the ordinary vacancy was filled.

7. Fitness

7.1 All appointed members must be fit to hold office either unconditionally or subject to any condition or restriction.

7.2 Any appointed member must when requested in writing by the Registrar sign a declaration and undertaking in or to the effect of the form in the First Schedule.

8. Office becomes vacant

8.1 An appointed member ceases to hold office and that office becomes vacant and a new election or nomination may be made if he or she—

- a) fails to sign a declaration and undertaking as required by section 7.2 and that default continues for 14 days after written request to the person by the Registrar to provide the declaration and undertaking;
- b) having signed the declaration and undertaking, fails, within one month of giving the undertaking, to apply to the Office of Professional Standards for a clearance for ministry or clearance for service (as the case may be);
- c) fails for more than 60 days to consent to act as a director of the Bendigo Anglican Diocesan Corporation incorporated under the Bendigo Anglican Diocesan Corporation Act 2014;
- d) resigns as a director of the Bendigo Anglican Diocesan Corporation incorporated under the Bendigo Anglican Diocesan Corporation Act 2014, by notice in writing given to that Corporation;
- e) resigns in writing to the Registrar;
- f) ceases to be qualified in accordance with section 4.3;
- g) dies; or
- h) becomes a disqualified person.

8.2 All appointed members cease to hold office at the commencement of the third ordinary session of Synod following nomination or election.

9. Disqualified person

9.1 Subject to subsection (3) a member of the Council or the Executive Committee who is—

- a) an undischarged bankrupt; or

- b) a person who has been convicted of an offence punishable by more than 5 years imprisonment; or
- c) permanently or for a period of more than 12 months incapable to a substantial degree by reason of mental incapacity or physical disability to discharge the duties of the role office or position—

is a disqualified person and may not hold that role office or position.

9.2 A person who is subject to a prohibition order under the diocesan professional standards scheme may not act as an appointed member and that person is a disqualified person to the extent, but only to the extent, of that prohibition.

9.3 The participation of a disqualified person in a meeting of the Council or the Executive Committee does not invalidate the meeting or any proceedings at it.

10. Removal from Office

10.1. An elected member may be removed from office by a majority vote of Synod.

10.2. A nominated member may be removed from office by the Bishop.

11. Meetings of Council

11.1. The Council is convened by the Bishop.

11.2 The Council must be convened by the Bishop at least four times each year and may be convened by the Bishop at other times at the Bishop's discretion.

11.3 Eight members, of whom at least four must be elected members, shall form a quorum.

12. Executive Committee

12.1. There shall be an Executive Committee of the Council of at least four members and no more than seven members comprising:-

- a) the Bishop;
- b) the Vicar General;
- c) the Chancellor;
- d) two members of the Council, being one clerical member and one lay member elected by the Council at the first meeting following the first session of each Synod;

- e) two members (who need not be members of Synod) appointed by the Executive Committee at its first meeting following the first session of each Synod.

12.2 The Registrar shall be the Secretary of the Executive Committee but is not a member of the Executive Committee.

12.3 The Bishop or the Bishop's nominee shall act as chair of the meetings.

12.4 The Executive Committee is to manage the business and affairs of the Diocese between meetings of the Council to the extent delegated by the Council but shall not have power to determine matters of policy.

13. Meetings of the Executive

13.1. The Executive Committee shall meet at least ten times each calendar year and shall report its decisions in writing to the Council.

14. Quorum

14.1. Four members of the Executive Committee shall constitute a quorum, provided that either the Bishop or Vicar General is present.

15. Sub-Committees of Executive Committee

15.1. The Executive Committee shall have the power to form sub-committees which may:-

- a) advise and make recommendations to the Executive Committee but shall not have the delegated power of the Executive Committee;
- b) co-opt members where necessary to obtain relevant expert advice.

16 Finance Committee

16.1 There shall be a Finance Committee which is a sub-committee of the Executive Committee.

16.2 The Finance Committee shall consist of the Registrar, the Bishop and three members (not necessarily members of the Council or of Synod) appointed by the Council for a period of three years.

- 16.3 The Finance Committee shall consider, advise and report to the Executive Committee and the Diocesan Corporation on all matters pertaining to the financial affairs of the Diocese, including but not limited to, the property and securities invested in the Trusts Corporation.
- 16.4 The Finance Committee shall meet at least six times each calendar year and shall report in writing to the Executive Committee following each of its meetings.

17. Vacancy on Executive Committee

- 17.1 In the event of a casual vacancy occurring on the Executive Committee in relation to elected members, the Council shall fill the vacancy.
- 17.2 The Executive Committee shall have the power to fill a vacancy in the co-opted positions.

18. Power of Council to Fill Casual Vacancy

- 18.1 In the event that a casual vacancy in any committee or body elected by Synod cannot otherwise be filled, the vacancy may be filled by the Council.

19. Sub-Committees

- 19.1 The Council may appoint sub-committees with such powers as the Council may determine.
- 19.2 The Council may revoke the delegated powers at any time.

20. Report to Synod

- 20.1 At each session of Synod the Bishop shall cause to be presented a report of the proceedings and decisions of the Council since the last session of Synod.
- 20.2 The Bishop shall present to each session of Synod the audited financial statements of the Council for the preceding year.

21. Conflict of Interest

- 21.1 If any member of the Council has a real or apparent interest in any matter before the Council that member shall declare the interest and the Council may determine that the member is ineligible to vote upon any motion concerning such proceedings.

22. Power to assent to General Synod Canons

22.1 The Council shall have the power to assent by resolution to a General Synod bill complying with the procedure described in subsection 28A(2) and 28A(3) of the Constitution.¹

23. Ministry Fund

23.1 The powers granted to the Ministry Fund Committee, including the power to make determinations under section 4 of the Diocesan Ministry Fund Act, are henceforth to be exercised by the Diocesan Corporation.

24. Transitional

24.1 All Council members, including those elected at the 2016 Synod, will hold office until the 2017 Synod, when their positions will become vacant.

25. Repeals

25.1 The Council of the Diocese Act 1977 and the Council of the Diocese (Amendment) Act 2004 are repealed, save:

- a) that the election and appointment of Council members at the 2016 Synod shall be made pursuant to the Council of the Diocese Act 1977, as amended by the Council of the Diocese (Amendment) Act 2004;
- b) that such repeal shall not affect the validity of any decisions made, acts done or actions taken in reliance on the Council of the Diocese Act 1977, as amended by the Council of the Diocese (Amendment) Act 2004.

26. Miscellaneous

26.1 Section 10(b) (3) of the Trusts Corporation Act 2015 is amended by deleting the words "the Diocese" and replacing it with the words "the Council of the Diocese".

26.2 Section 19 of Trusts Corporation Act is replaced by the following section: "Section 19 – The Trust Corporation must present audited financial statements to each ordinary session of Synod."

26.3 Section 16 of the Bendigo Anglican Diocesan Corporation Act 2014 is amended by replacing the entire section with: "Section 16 – The directors shall present to Synod audited financial statements for the preceding financial year."

¹ Section 22.1 replaced in 2017 according to the Miscellaneous Amendments Act 2017

THE FIRST SCHEDULE

Form of Declaration and Undertaking

I [name]

having been appointed or elected to the role office or position of []

DECLARE that I am qualified for that office under the provisions of the Acts of the Synod of the Diocese of Bendigo, that I am not a disqualified person within the meaning of that expression in the *Council of the Diocese Act 2016*, and that I will faithfully perform all the duties of that office or those offices and conform to the Acts of the Synod in relation to those duties.

I UNDERTAKE within one month of the date of this undertaking to apply to the Office of Professional Standards for a clearance for ministry or a clearance for service, as the case may be in the form prescribed pursuant to the professional standards legislation in force in the diocese from time to time.

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Date

Bishop's Assent

Passed by Synod on 28 May 2016

Signed by Bishop Andrew W Curnow, Bishop of Bendigo, 5 September 2016