

**MICHAEL SHAND AM KC**  
**CHANCELLOR OF THE DIOCESE OF MELBOURNE 2007 – 2020**

***The response of the Anglican Diocese of Melbourne  
to the incidence of institutional child sexual abuse<sup>1</sup>***

1. Michael Shand was appointed Chancellor of the Anglican diocese of Melbourne in July 2007 – the Chancellor is the principal confidential legal adviser to the Archbishop in legal and related matters. Subject to the chancellor's overriding duty to the Archbishop, the chancellor may provide advice to the synod and other agencies of the diocese. He retired as chancellor on 31 March 2020 and continues in legal practice at the Bar.
2. From January 2017 to October 2019, Michael Shand served as a founding director of [Kooyoora Ltd](#), the non for profit complaints and screening company. From 2006 to 2007, he served as Chairman of the Victorian Bar Council. He has practised as a barrister at the Victorian Bar since 1980, a Queen's Counsel since 1997. He served as a director of Barristers' Clerking Services Pty Ltd (now [List A Barristers](#)) from 1990 to 1992 and from 1997 to 1999 and as a director of [Barristers Chambers Ltd](#) from 2004 to 2006.
3. He is also a Fellow of the Chartered Institute of Arbitrators and a chartered arbitrator since 2003, serving on the Council of the Chartered Institute of Arbitrators Australian Branch from 2003 to 2006, and as President of the [Chartered Institute of Arbitrators \(Australia\) Ltd](#) in 2006. He served as a director of the [Australian Centre for International Commercial Arbitration Ltd](#) (ACICA), from 2006 to 2016.

**Church roles**

4. He has held the following principal honorary roles in the Anglican Church:
  - (a) Chancellor of the Anglican diocese of Melbourne, 2007–2020;
  - (b) Chancellor to the Primate of the Anglican Church of Australia from October 2019 to 31 March 2020;
  - (c) ex officio member of the Archbishop in Council of the diocese of Melbourne from 2007 to 2020;
  - (d) ex officio Trustee of the Melbourne Anglican Trust Corporation from 2007 to 2020;
  - (e) member of the Provincial Working Group on Professional Standards, from late 2014 to 2016;

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- (f) Presidential member of the Special Tribunal of the National Church, since 2011;
  - (g) member of the Professional Standards Commission of the National Church from 2014 to 2017; and
  - (h) representative of the General Synod of the National Church, since 2011;
  - (i) a lay canon and member of the Chapter of St Paul's Cathedral from 2011 – 2023; and
  - (j) member of the Provincial Legal Committee from 2002 to 2020.
5. He served as Chancellor of the Anglican diocese of Ballarat from 2002 to 2010, having been appointed by Bishop David Silk and, from 2004, serving under his successor, Bishop Michael Hough.

### ***Law making in the Church in Victoria***

6. In Victoria, it is the Synod of each Anglican diocese that enacts laws for the diocese. The General Synod of the National Church has a limited law making jurisdiction. The diocesan synod in a Victorian diocese acts with the enabling authority conferred by the Victorian Parliament in the [Church of England Act 1854](#). It empowers a 'Church Assembly' or Synod of a diocese to pass legislation binding on members of the Church in the diocese, when passed by separate vote of the House of Clergy and the House of Laity and approved by the Bishop of the diocese. It has been regarded as revolutionary for its time, in introducing in 1854 the model of democratic synodical government of the Church of England in the colonies.<sup>2</sup>

### ***2003 - 2007***

7. In 2003, the 'Anglican Bishop of Ballarat' and 'Anglican Diocese of Ballarat' along with the Rt Rev Peter Hollingworth were sued in the Supreme Court of Victoria by the late Ms Annie Jarmyn who alleged she had suffered abuse at the hands of church workers. The proceedings raised the issue of finding the proper institutional defendant in the Church for a plaintiff to sue. The proceedings came to an end after Annie Jarmyn died in late April 2003.

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<sup>2</sup> 'Trinity College Melbourne paper No 29: *'To Strive, To Seek, To Find, and not to Yield', The Making of the (Victoria) Church of England Act 1854* by Professor Robin Sharwood, AM

8. After Michael Shand had been appointed chancellor of the Anglican diocese of Melbourne in July 2007, Archbishop Philip Freier asked him to review the professional standards regime of the diocese. He undertook this process with wide consultation of complainants, respondents, the Director of Professional Standards, the members of the Professional Standards Committee and the Provincial Legal Committee. The latter comprises the chancellors and advocates of each of the 5 Anglican dioceses in Victoria – the others being Ballarat, Bendigo, Wangaratta and Gippsland.
9. Neither the diocese of Melbourne nor any of the other four dioceses in Victoria had adopted the [\*Model Professional Standards Ordinance 2004\*](#) of the General Synod of the National Church. The ordinance provided for a professional standards committee to evaluate *examinable conduct* by a clergy or lay person. All Victorian dioceses had instead adopted a Power and Trust Protocol, establishing a Professional Standards Committee to determine complaints against Church workers.

**2008: *Ballarat***

10. In 2008, the then Bishop of Ballarat was the subject of complaints from at least 12 of the clergy of the diocese and a lay person. The complaints did not concern sexual abuse and were investigated over a period of at least 18 months by the Episcopal Standards Commission of the National Church. At that time the only legislation in force in the diocese of Ballarat that provided a process to deal with the complaints was the [\*Special Tribunal Canon 2007\*](#), a canon of the General Synod. This was by way of a charge of an ecclesiastical offence to be heard by the Special Tribunal. The diocese had not adopted the *Episcopal Standards Canon 2007*, discussed below. Eventually, following a settlement reached in June 2010 and before the Commission had concluded its consideration of the matter, the Bishop resigned and no proceedings were commenced in the Special Tribunal. The matter highlighted the need for appropriate diocesan episcopal standards legislation to deal effectively with complaints against the Diocesan Bishop. Action was to follow in 2011 but work was already under way developing a legislated complaints system for clergy and lay people.

***Professional Standards Bill 2009 (Melbourne)***

11. Following the extensive review and consultation referred to above and with the support of Archbishop Freier and his Council, in October 2009, Michael Shand moved before the Synod of the Diocese of Melbourne the adoption of the *Professional Standards Bill 2009*. Synod enacted the legislation which he had drafted, the [Professional Standards Act 2009](#). It set up a clear legislative 'complaint based' framework for dealing with complaints against clergy and certain lay people based on the question of fitness of the Church worker. It had a similar structure to the [Model Professional Standards Ordinance 2004](#). The Committee would refer questions whether allegations against clergy and other Church workers had been made out and whether the person was fit for office to the Professional Standards Board for adjudication. On an application for review, the Professional Standards Review Board would consider the matter afresh, in similar fashion to how the Victorian Civil and Administrative Tribunal (VCAT) works in Victoria. The Board or Review Board made recommendations about the Church worker to which the Church authority was empowered to give effect. For clergy, the Church authority was the Archbishop.
12. The *Professional Standards Act 2009* also introduced a requirement for clearance for ministry for clergy and authorised lay ministers. The Archbishop granted or refused a clearance, following an objective assessment and recommendation of the person's fitness for office by the Professional Standards Committee or Professional Standards Board or Review Board. The Archbishop was empowered to give effect to any recommendation.
13. The following year, 2010, the governing body of the diocese (the Archbishop in Council, that is, the Archbishop and members of the Diocesan Council) approved the applicable codes of conduct, regulations, and protocols for complaint handling and clearance for ministry. The Professional Standards Committee and Boards were appointed. It was mandatory for the Committee to include at least one person who is not a member of the Church and so far as reasonably practicable, to have at least one man and at least one woman. Similar provisions applied to the Board and the Review Board. Michael Shand drafted the regulations and protocols.

14. In 2010 and 2011, the Anglican dioceses of Ballarat and Wangaratta followed suit and passed virtually the same Professional Standards legislation and shared the same Director, Committee and Boards.

***Episcopal Standards legislation: 2011***

15. The work done on professional standards provided a model for dealing with complaints against diocesan bishops. It made sense to use a similar process. Legislation governing the conduct of the diocesan bishop was a key element in the legislative framework. The head of a diocese holds a central position in the diocesan hierarchy and should be as accountable as any Church worker.<sup>3</sup>
16. In 2007, the General Synod of the Anglican Church of Australia enacted the [Episcopal Standards Canon 2007](#) (the 2007 Canon). The 2007 canon relates to the diocesan bishop. With the exception of the diocese of Bendigo, for a number of reasons, the other dioceses in the province of Victoria did not adopt the canon.
17. In October 2011, following a year of consultation with the other Victorian dioceses through the Provincial Council of Victoria and with the support of Archbishop Freier and his Council, Michael Shand moved at the October Synod of the diocese of Melbourne the adoption of a Bill for an [Episcopal Standards Act 2011](#) which he had drafted. Synod passed the Act. It incorporated a complaints regime similar to the Professional Standards legislation for clergy and other Church workers that the Synod of the diocese had already enacted. It related exclusively to the Archbishop of Melbourne and put in place a process by which the holder of that office can be held accountable for misconduct. The latter included– “any other conduct unbecoming or inappropriate to the office and duties and functions of the Bishop of a Diocese”.
18. The [Episcopal Standards Act 2011](#) departed from the 2007 Canon in the following principal areas –
  - (a) The concept of a ‘Church authority’ consisting of a bench of 3 senior diocesan bishops including the Primate and the next senior Metropolitan rather than the President of an Episcopal Standards Board;

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<sup>3</sup> The Royal Commission into Institutional Responses to Child Sexual Abuse was later in 2017 to recommend (No 16.1) that the Anglican Church of Australia should adopt a uniform episcopal standards framework that ensures that bishops and former bishops are accountable to an appropriate authority or body in relation to their response to complaints of child sexual abuse.

- (b) The concept of a 'complaint of misconduct' in lieu of that of knowledge of 'examinable conduct' and the definition of 'misconduct';
  - (c) The nature of the appeal process, in particular a merits review by a Review Board rather than a limited right of appeal before a barrister;
  - (d) Requiring the consent of a respondent for a medical examination – the 2007 Canon empowered the Board to require a Bishop to submit to a medical examination (s47(1));
  - (e) The circumstances in which the diocesan bishop might be suspended and by whom. Under the 2007 canon, the President of the Professional Standards Board could stand down the diocesan bishop with the consent of the diocesan council;
  - (f) The concept of a diocesan episcopal standards committee in place of the National Episcopal Standards Commission.
19. Subsequently, the diocesan council approved the applicable codes of conduct, regulations, and protocols for complaint handling. Meeting when the Archbishop was not present, the diocesan council appointed the Director of Episcopal Standards (then, Ms Noreen Megay, current Director Daryl Williams AM KC) and the Episcopal Standards Committee (current Chair, Professor Greg Reinhardt AM). Michael Shand drafted the regulations and the protocol.
20. Again, in 2012, the dioceses of Ballarat and Wangaratta followed suit and passed corresponding Episcopal Standards legislation, regulations and protocols and again shared the same Director and Committee.

***General Synod Model Episcopal Standards Ordinance: 2010 - 2014***

21. In October 2010, the Standing Committee of General Synod appointed the Episcopal Ministry Task Force to consider issues at the National level concerning the accountability of diocesan bishops. It met for the first time in August 2011. The committee included the Most Rev Dr Philip Freier, the Archbishop of Melbourne, the Most Rev Dr Peter Watson, the Archbishop of Sydney, the Rt Rev Garry Weatherill, the Bishop of Ballarat and lay representatives including the Chair, the Hon Justice David Bleby from Adelaide, Mr Garth Blake SC, Ms Leigh Haywood and Michael Shand. The committee had 5 meetings, the last in February 2014 and recommended to General Synod a [Model Episcopal Standards Ordinance](#) based on the Melbourne legislation, but with changes.

22. In July 2014 at its meeting in Adelaide, General Synod approved, without dissent but without debate, the model ordinance for adoption by dioceses. The relevant Church authority was designated to be a council of senior diocesan bishops who were bound to give effect to a recommendation of the Episcopal Standards Board or Review Board or any permissible modification of the same: s100.
23. In October 2015, the Synod of the diocese of Melbourne enacted the [Episcopal Standards Act 2015](#), adopting the model ordinance. The Synod of the Diocese of Bendigo did likewise, as did the dioceses of Adelaide, Willochra and The Murray. See the [comparison of diocesan legislation](#) tendered to the Royal Commission in March 2017. The Act included in the definition of 'misconduct', as well as the conduct unbecoming paragraph in the 2011 Melbourne Act a further head of misconduct, being an 'act or omission, or series of acts or omissions, made inappropriately or unreasonably in response to a complaint about the conduct of a person...'

#### ***Incorporation of a Diocesan Corporation: 2015***

24. In June 2015, the Synod of the diocese of Melbourne enacted the [Melbourne Anglican Diocesan Corporation Act 2015](#) authorising the incorporation of a diocesan corporation and constituting that legal entity as the employer of diocesan office staff and the legal appointor of office holders, clergy and lay, in the diocese, that is to say, to preclude an *Ellis defence*.<sup>4</sup> This was to ensure that the diocese had available to it a legal entity which could be legally accountable to the community for the conduct of its clergy and lay people and could serve as the *employer* for Workcover purposes. With the assistance of the advocate of the diocese, Dr Ian Gibson, Michael Shand drafted the legislation for the incorporation which included in a schedule the constitution of the Melbourne Anglican Diocesan Corporation Ltd, a company limited by guarantee under the *Corporations Act 2001* (Cth). This [constitution](#), prepared by Mr John Emerson of Herbert Smith Freehills, set modern governance standards for the new corporation, including disclosure of interests provisions. The Archbishop was given, as chair of directors, a right of veto on board decisions in like fashion to his

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<sup>4</sup> The *Ellis defence* was a legal strategy used by the Roman Catholic Church in Australia to avoid civil liability for child sexual abuse claims by arguing it was not a single, suable legal entity. The defence was based on the 2007 NSW Court of Appeal decision in *Trustees of the Roman Catholic Church for the Archdiocese of Sydney v Ellis & Anor* (2007) 70 NSWLR 565; (2007) 63 ACSR 346; [2007] NSWCA 117.

right of veto on decisions of the governing body of the diocese, the Archbishop in Council.

25. The other dioceses in Victoria each incorporated their own diocesan corporations. A long period of consultation between the dioceses, assisted by the Provincial Legal Committee and facilitated by the Registrar of the diocese of Bendigo, Ms Anne Baker and Melbourne diocesan staff member, Ms Susan Foley, had taken place to facilitate these steps.

***Professional Standards Uniform legislation: 2014 - 2016***

26. In August 2014, the Provincial Council of Victoria resolved to establish a provincial working group, chaired by the Bishop of Bendigo, the Rt Rev Andrew Curnow AM, to undertake a review of professional standards across the Province with a view to establishing a common Provincial Model Ordinance for Professional Standards for clergy and Church workers. The group comprised representatives of all five dioceses in Victoria and a consultant, Ms Angela Cannon. The latter had conducted audits of professional standards files in the five Victorian dioceses. General Synod had passed a resolution for a model ordinance on episcopal standards and the Royal Commission into Institutional Responses to Child Sexual Abuse had been established.
27. Following extensive consultation and with the support of Archbishop Freier and his diocesan council and the Provincial working group, in October 2016, Michael Shand moved at the Synod of the diocese the adoption of [the Professional Standards Uniform Act Adoption Bill 2016](#) which incorporated the *Professional Standards Uniform Act 2016* (Melbourne). The Archbishop supported the introduction of this legislation in his [Charge to Synod](#). Michael Shand gave the [second reading speech](#) to Synod on the Bill.
28. This step followed around two years of consultation within the Province of Victoria, including the Provincial Legal Committee as well as with the Professional Standards Commission of the National Church. The Synod of the diocese of Bendigo had passed similar legislation earlier in 2016. The scheme is modelled broadly along the lines of the *Health Practitioner Regulation National Law* and the Australian Health Practitioner Regulation Agency, substituting dioceses for States and the scheme corporation for the Agency.



29. The legislation, which Michael Shand drafted with valuable assistance from the working group, addresses some [core standards](#) (discussed below) that in his opinion an institution such as the Anglican Church should address in responding to the incidence of child sexual abuse. As with the model Episcopal Standards Ordinance approved by General Synod, the Church authority is bound to give effect to a recommendation of the Board or Review Board or any permissible modification of the same: s118. The current version of the *Professional Standards Uniform Act 2016 - 2024* is [here](#).
30. The scheme corporation, [Kooyoora Ltd](#) was incorporated on 12 January 2017 and commenced operations on 1 July 2017. The company operates within the [structure of the professional standards uniform scheme](#) legislated by the Synod of the diocese. It was formed in response to the imperative for a better way of handling complaints, screening and redress and to promote a culture of child safety among participating institutions.
31. With Mr Ian Dallas, the Chancellor of the diocese of Bendigo and Ms Anne Baker, the former Registrar of that diocese, Michael Shand was one of the founding directors for the purpose of establishing the company and the scheme. This initiative was also due to the vision and leadership of Bishop Andrew Curnow AM and his chairing of the Working Group that led to the formation of the company and the professional standards uniform scheme it now administers. Ms Anne Baker also served as founding executive director. She was succeeded in September 2018 by Ms Fiona Boyle, former CEO of Gippsland Centre against Sexual Assault.
32. Michael Shand prepared the Professional Standards Uniform Regulations and the separate Protocols for–
  - complaint handling,
  - clearance for ministry,
  - clearance for service, and
  - Safe ministry with Persons of Concern.

The Directors of Kooyoora Ltd approved these protocols and appointed the key office holders of the Kooyoora Office of Professional Standards as well as the members of the [Professional Standards Committee](#) (then Chair, Mr Daryl Williams QC) and the panels for the [Professional Standards Board](#) (then President Mr Stephen Wilmoth, now retired Justice Paul Cronin) and the

[Professional Standards Review Board](#) (President Hon Julie Dodds-Streeton). In March 2018, Archbishop in Council approved a Code of Conduct for Child Safety.

***The Royal Commission into Institutional Responses to Child Sexual Abuse***

33. On 17 March 2017, Michael Shand gave evidence in a [statement](#) to the Royal Commission into Institutional Responses to Child Sexual Abuse that the challenge for the 23 dioceses of the Anglican Church of Australia in the area of professional and episcopal standards was, in his opinion, to act together as part of the one institution in responding to child sexual abuse. That involved respecting diocesan autonomy but at the same time recognising the need for each diocese to adopt model legislation (with or without modifications) that met some core standards. He tendered to the Royal Commission a summary of those [core standards](#) including –

- A scheme corporation for the Church, operating an independent and well resourced Office of Professional Standards and an adjudication regime, with regional operations, for complaints, clearances and redress
- A common code of conduct that addresses child safety;
- Specified duties on clergy and other Church workers
- A clear demarcation of functions of Committee and adjudicating Boards
- A common clearance regime for clergy in ministry and for prescribed lay people in service that is administered by the scheme corporation;
- Transparency of process and affording procedural fairness
- A joint register of information
- Independent oversight by an Ombudsman and biennial audit

The Royal Commission discussed the role of Kooyoora Ltd in its final report, vol 16, [book 3](#), page 307.<sup>5</sup>

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<sup>5</sup> ‘We note, however, the emergence of another model that, in our view, could also achieve the implementation of nationally consistent standards in relation to child safety for the Anglican Church... the dioceses of Melbourne and Bendigo have established an independent corporate entity called Kooyoora Ltd.’

### **General Synod legislation: 2017**

34. The General Synod of the Anglican Church held in September 2017 at Maroochydore saw the enactment of significant child protection legislation for the Anglican Church of Australia that was prepared under the leadership of the Professional Standards Commission led by Mr Garth Blake AM SC. This included—

- [Safe Ministry to Children Canon 2017](#)
- [Episcopal Standards \(Child Protection\) Canon 2017](#)
- [Holy Orders \(Removal from Exercise\) Canon 2017](#)

Along with Justice Debra Mullins AO and Mr Garth Blake AM SC, Michael Shand participated in the task force that contributed to the preparation of the *Episcopal Standards (Child Protection) Canon 2017*. The advocate of the diocese of Melbourne, Dr Ian Gibson prepared the Bill for the *Holy Orders (Removal from Exercise) Canon 2017*.

35. At its meeting in October 2017, the Synod of the diocese of Melbourne adopted these canons to make them applicable as Church law in the diocese. At that same Synod, Michael Shand moved the adoption of the [Professional Standards Amendment Bill 2017](#) to amend the *Professional Standards Uniform Act 2016* (Melb). The [Explanatory Memorandum](#) explained the nature of the amendments. They included—

- to reflect recent enactments by General Synod;
- to introduce special procedures for the hearing of cases where it is sought to examine or cross examine a child or a victim of sexual abuse.
- to address an issue of indemnifying a witness; and
- to address an issue concerning the definition of “Church worker” in the model professional standards ordinance identified by the Appellate Tribunal in its [determination in the matter of Keith Slater](#).

### **Redress: 2014 - 2018**

36. In August 2014, with Michael Shand’s assistance, Archbishop Freier made submissions on behalf of the diocese to the State Government in support of establishing a complaints and redress scheme, administered by an independent company, for institutions and survivors together with the proposal for the same.

37. Between November 2014 and October 2015, Michael Shand attended on behalf of the diocese meetings of a joint Victorian denominational working group to examine issues associated with establishing a State or Federal redress scheme. He also attended meetings with Government and survivors during this period.
38. In October 2015, Archbishop Freier made further submissions on behalf of the diocese addressing the State Government's consultation paper on redress.
39. Following discussions with the State Government and the announcement of the Commonwealth's proposals and consultation with the other dioceses in Victoria, on the instructions of the Archbishop, Michael Shand drafted and took to the December 2016 meeting of the Archbishop in Council proposed terms of reference to establish an interim redress scheme for the diocese and any participating dioceses. These were approved by the Archbishop in Council. The terms of reference were prepared in consultation with the solicitor acting for the diocese, Mr Philip Brewin of Nevett Ford, a legal practitioner practising daily in the field of redress and with survivors. With effect from July 2017, Kooyoora Ltd was appointed to manage the interim scheme.
40. The interim scheme was constituted by–
  - [Terms of Reference of Melbourne Anglican Redress Scheme approved 15 December 2016](#)
  - [Summary of scheme](#)
41. Synod had authorised the establishment of a redress scheme when enacting the *Professional Standards Uniform Act 2016*. There was unanimous support on the Diocesan Council for establishing the interim scheme. For a number of reasons, the diocese of Melbourne felt it was important to proceed with an interim scheme, and not delay until a Government scheme was established. First, as part of its desire to offer care and support for survivors, the Church in the diocese wanted, like other dioceses, to have its own scheme as part of its response to the incidence of child abuse. A survivor can choose whether to proceed through the Church scheme or the State scheme. Second, survivors have immediate needs. It was not helpful to defer giving them care and assistance under a scheme until some indeterminate date in the future.
42. Third, by adopting an interim scheme, the diocese approved a model for a scheme design which it saw as appropriately survivor focussed and otherwise meeting the guiding principles which the Church in the diocese articulates in the

Terms of Reference. The diocese saw merit, in the case of any State or Commonwealth scheme, in having an independent company or statutory agency administering the scheme.

43. The Commonwealth Government, Victoria and New South Wales introduced, effective from 1 July 2018, [the National Redress Scheme](#) to provide redress to survivors of child sexual abuse up to a limit of \$150,000 with counselling of \$5,000 and a direct personal response. It does not cover claims for physical abuse alone. It does not incorporate any process that would promote settlement of all claims including civil liability claims for amounts over \$150,000.

#### **Kooyoora Independent Redress Scheme: 2018**

44. The introduction of the National Redress Scheme did not dispense with the need for individual institutions to continue their own redress schemes for survivors who wished to avail themselves of such a scheme. To this end, with effect from February 2018, the diocese of Melbourne resolved to participate in a revised redress scheme, that replaced its interim scheme and is called the *Kooyoora Independent Redress Scheme*. Michael Shand drew the Terms of Reference of the scheme which closely follow those of the National Redress Scheme. This scheme is particularly relevant to redress claims that may end up in civil litigation.
45. Participating institutions are asked to follow defined model litigant principles. The key documents are–
  - [Outline of Kooyoora Independent Redress Scheme](#)
  - [Terms of Reference of the scheme](#)
  - [Model litigant principles](#).

The Anglican diocese of Melbourne joined the National Redress Scheme. The diocese has also enrolled as a participating institution in the Kooyoora Independent Redress Scheme in lieu of its interim scheme.

46. The scheme provides the opportunity at the option of the survivor for negotiation and settlement as the first stage of the process of all claims including civil litigation claims. The [Kooyoora Redress Manager](#) manages that process independently and impartially by a survivor focused and trauma informed process.

47. If no settlement is reached, the Scheme gives a survivor options–
- (a) to apply to the National Redress Scheme for determination of the application for redress if a respondent institution is a participating institution under that scheme;
  - (b) to consent to the referral of the application to the Scheme's adjudicating body for determination under this scheme so far as each respondent institution is a participating institution; and
  - (c) to withdraw the application for redress under this scheme and seek other recourse.

### **2019 Amendments to the Professional Standards Uniform Act 2016 (Melb)**

48. In October 2019, the Synod of the diocese of Melbourne enacted the [Professional Standards Amendment Act 2019](#) which made further amendments to the Uniform Act. As the [Explanatory Memorandum](#) states, the amendments covered broadly the following areas:

- (a) **Ensuring timeliness PSC and Board:** They aimed to improve the timeliness with which matters are handled and to clarify the powers of the Professional Standards Committee to deal with some matters without referral to the Professional Standards Board: clauses 9 – 14, 32. They also sought to expedite the Professional Standards Board and Review Board dealing with a matter: clauses 40, 46.
- (b) **Persons of concern and safe ministry:** They introduced provisions contemplated by the General Synod Policy on safe ministry with persons of concern to ensure a legislative framework to facilitate a clear process for regulating such ministry and authorising and indemnifying those involved: clauses 8, 19, 30, 31, 37, 48. This included provision for a Person of Concern to obtain a clearance for participation in the life of a parish.
- (c) **Clearance for Service:** They simplified the requirements for clearance for service so that the one certificate of clearance can cover multiple roles: clauses 22 – 29.
- (d) **Mandatory recommendation for deposition from Holy Orders:** They introduced amendments intended to reflect the approach recommended by the Safe Ministry Commission that a person in religious ministry who

is convicted of child sexual abuse should be deposed from Holy Orders: clauses 38, 44.

- (e) **Audit:** They amended the requirements for audit of compliance with the Act, amongst other things, to dovetail them with the requirement of General Synod for a triennial audit of safe ministry standards: clauses 51 - 56.
- (f) **Technical drafting issues:** They addressed gaps in the legislation and remove uncertainty: clauses 31, 34, 35, 43, 50.

49. Following enactments of these amendments, Michael Shand prepared for the consideration of the Archbishop in Council a draft diocesan grievance policy and ancillary disciplinary policies for clergy and lay people in parishes and congregations, and for the Cathedral. These are intended to provide in the appropriate case an alternative process for pursuing a grievance to the formal complaint process under the professional standards legislation. They are yet to be approved.

#### **Governance Reform: 2013 - 2018**

50. The first significant governance reform in the diocese of Melbourne took place in 2013 with the enactment of the [Parish Governance Act 2013](#). This reform was led by the advocate of the diocese, Dr Ian Gibson, with assistance from the Rev Bradly Billings (now Bishop Billings) and to a lesser degree Michael Shand as chancellor.
51. Subsequently, the enactment of the [Melbourne Anglican Diocesan Corporation Act 2015](#) and the introduction of a diocesan corporation in 2016, being a company limited by guarantee and incorporated under the *Corporations Act 2001* (Cth) gave an opportunity to embrace more contemporary governance principles for a governing body of the diocese. This included provisions for meetings by electronic means, disclosure and dealing with conflicts of interest. It also provided a model which could aid in governance reform of other diocesan bodies, whose legislation was first enacted in the 19<sup>th</sup> century<sup>6</sup>. It was desirable so far as possible to have a consistent approach to governance whilst making allowance that some bodies were not corporate entities.

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<sup>6</sup> *Council of the Diocese Act 1878* (Melb) and the *Cathedral Act 1878* (Melb).

52. In 2016, the Chapter of the Cathedral under the project leadership of Dean Andreas Loewe, Dr Peter Sherlock and Leigh Mackay OAM, with Michael Shand's legal assistance, took to Synod a bill for a new [Cathedral Act 2016](#) to replace the existing *Cathedral Act 1878*. Synod enacted the new Cathedral legislation.
53. In 2018, after much work by the Archbishop in Council, bills were introduced in Synod for a new [Archbishop in Council Act 2018](#) and [Melbourne Anglican Trust Corporation Act 2018](#). Both Bills adopted similar governance principles to the *Cathedral Act 2016*. A feature of the *Archbishop in Council Act 2018* is that it guarantees equal numbers of men and women on the Archbishop in Council in the election of members by Synod. Michael Shand prepared the legislation in each case and moved their adoption at Synod.

6 January 2026