

**IN THE PROFESSIONAL STANDARDS BOARD  
ANGLICAN DIOCESE OF MELBOURNE**

**IN THE MATTER of a complaint against Rev DM**

<b>BOARD MEMBERS:</b>	Mr Stephen Wilmoth (President) Bishop Peter Danaher Ms Kerry Walker Dr Philip Greenway Rev Chris Appleby
<b>WHERE HELD:</b>	Melbourne
<b>DATE OF HEARING:</b>	28 January 2016
<b>DATE OF DETERMINATION:</b>	25 February 2016
<b>CASE MAY BE CITED AS:</b>	<i>Professional Standards Committee v Rev DM</i>
<b>MEDIUM NEUTRAL CITATION:</b>	[2016] PSB (Melb) 2

**FITNESS FOR OFFICE – sexual assault of a child - deposition from Holy Orders – Professional Standards Act 2009, s62**

In 1978, the Rev DM (the respondent), then aged 33 and when a Church worker as defined by s 3 of the Professional Standards Act 2009, sexually assaulted a 12-year-old girl. On 27 November 2014, the respondent was found guilty in the Magistrates' Court of one count of unlawfully/indecently assaulting the girl, and sentenced to an imprisonment term of 3 months. The sentence was wholly suspended for 2 years under s 27 of the *Sentencing Act* 1991 on the ground of it being a first offence. There was no subsequent offending.

**Held:**

- (1) The Board declares itself to be satisfied that the respondent, being a Church worker as defined by s3 of the Act, is unfit to hold any office, licence or position of responsibility in the Church or to remain in Holy Orders.
- (2) By consent, the Board recommends to the Archbishop pursuant to s 62 of the Act that the respondent cease to hold any office now held or any office, licence or position of responsibility in the Church or in the employment of the Church body.
- (3) The Board further recommends, by consent, that the respondent be deposed from Holy Orders.

APPEARANCES:	<u>Counsel</u>	<u>Solicitors</u>
For the PSC	Mr Mark Gibson	PSC
For the Respondent	No appearance	

**Referral** by the Professional Standards Committee under s 56 of the *Professional Standards Act 2009 (the Act)* of a complaint against the respondent raising a question of fitness for office.

### **The Board: Reasons for determination and recommendations**

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#### **Recommendations**

1. The Board declares itself to be satisfied that the Rev DM (the respondent), being a Church worker as defined by s 3 of the Act, is unfit to hold any office, licence or position of responsibility in the Church or to remain in Holy Orders and by consent recommends to the Archbishop pursuant to s 62 of the Act that the respondent cease to hold any office now held or any office, licence or position of responsibility in the Church or in the employment of the Church body. The Board further recommends, by consent, that the respondent be deposed from Holy Orders.

##### *(1) Nature of the reference*

2. The Professional Standards Committee (the PSC) by its letter (the letter) of 21 October 2015 has referred to the Professional Standards Board (the Board) pursuant to s 56 of the Professional Standards Act 2009 ("the Act") a complaint against the respondent. The full terms of the letter are contained in paragraph 6 hereof.
3. The Board's task is to determine whether or not the complaint is established, and, if so, whether the respondent is fit to hold a position of responsibility in the Church, and if fit, whether he should be subject to certain conditions or restrictions and/or remain in Holy Orders, and to make any of the recommendations contained in s 62 of the Act.

(2) *The complaint*

4. As described in the letter, the PSC investigated alleged conduct by the respondent, which occurred in 1978 when he was a Church worker as defined by s 3 of the Act, in the nature of sexual assault of a 12-year-old girl .... On 27 November 2014, the respondent was found guilty in the Geelong Magistrates' Court of one count of unlawfully/indecently assaulting [the girl], and sentenced to an imprisonment term of 3 months, which was wholly suspended for 2 years under s 27 of the *Sentencing Act* 1991 on the ground of it being a first offence, there having been no subsequent offending, and the offence having occurred in 1978.

(3) *The process leading to reference to the Board*

5. The PSC investigated the alleged conduct in accordance with Part 8 of the Act and noted that the Professional Standards Committee of the Diocese of Gippsland, where the respondent was licensed at the time of the offending, recommended that the respondent, as a convicted person, be deposed from Holy Orders. As the respondent was residing in the Diocese of Melbourne, the Archbishop has required a recommendation to him through the Melbourne Professional Standards process. The Bishop of W referred this matter to the Archbishop pursuant to s 4 of the *Holy Orders, Relinquishment and Deposition Canon* 2004.
6. The PSC's letter states as follows:

At its meeting of 30 September 2015, the Professional Standards Committee (the Committee) resolved, pursuant to s 56 of the *Professional Standards Act 2009* (the Act) to refer a matter to the Board. The matter concerns a complaint against [the respondent]. The Committee formed an opinion that the conduct forming the subject of the complaint and court proceedings against [the respondent] calls into question whether [the respondent] as a Church worker is fit to hold any role, office, licence or position of responsibility within this Diocese or to be or remain in Holy Orders or in the employment of a Church body.

**The Background**

[The respondent] was ordained a Deacon in the Diocese of W in 1977 and ordained into the Priesthood in 1978. He then worked in the Diocese of X before moving to ...chaplaincy in Melbourne in 1988. In 1995 he was suspended, then terminated, from ... chaplaincy because of alleged inappropriate conduct with adult women.

In 1998, [the respondent] received an unrestricted licence in the

Diocese of Melbourne (after a period of having a licence with some restrictions) and in 2005 in the Diocese of Y. He later had a period of licensing in the Diocese of Z.

When the National Register became operational, [the respondent] was placed on the National Register in respect of the ... complaint.

On 27 November 2014, [the respondent] was found guilty in the Geelong Magistrates' Court of one count of unlawfully/indecently assaulting a girl in 1978. The victim ... was twelve years of age at the time of the offence. [The respondent] pleaded not guilty. The Magistrate found the matter proven.

On 29 January 2015, [the respondent] was sentenced to a term of imprisonment for 3 months, wholly suspended for 2 years. A Sexual Offence Recording Order was made for a period of 8 years.

The Professional Standards Committee of the Diocese of W, where [the respondent] was licensed at the time of the offending, recommended that [the respondent], as a convicted person, be deposed from Holy Orders. The Bishop of W discussed this with Archbishop Freier who stated that on his Chancellor's advice, he could not act on advice from the Professional Standards Committee of the diocese of W, and required a recommendation through his own Diocese's Professional Standards process.

The Committee has now considered the matter, and has also recommended that [the respondent] should be deposed from Holy Orders. The Committee determined to refer the matter to the Professional Standards Board.

The Committee respectfully submits that [the respondent] should not be permitted to remain in Holy Orders as a priest of the Anglican Church.

#### **Conduct of the reference**

The Committee stands ready to provide any further information, to make submissions, or to otherwise participate in the Board's processes, at such time and in such manner as may be of best assistance to the Board. To that end, the Committee respectfully requests that it be notified (through the Director of Professional Standards) of any hearing which is to occur, and be given the opportunity to participate (including, but not only, by making submissions) at any such hearing.

#### *(4) The hearing*

7. The Board conducted a hearing on 28 January 2016 in the nature of a directions hearing as the respondent wrote to the Secretary of the Board on 22 December 2015, as follows:

I refer you to your letter dated 9 December and my letter to Ms. Claire Sargent [Director of Professional Standards] dated 7 December 2015.

Re the two questions referred to the Board:

- (i) I am no longer a church worker within the Diocese of any Church body.
- (ii) I consider myself as deposed from Holy Orders and wish to ensure that I am formally deposed.

In my letter to Ms. Sargent you will notice that I stated that ‘I withdrew permanently as a member of the Anglican Church in January 2014’.

Please note that with my 7 December 2015 letter, I returned my original certificates of baptism, confirmation, deaconing, and priesting.

I consider it incorrect and totally misleading for me to be addressed as Reverend ....

I do not intent to attend the directions hearing on Thursday 28 January 2016, or any other meetings whatsoever.

If further communication is required you may use the address below.

8. Consistently with his letter, the respondent did not attend the directions hearing on 28 January 2016. It should be noted that the respondent expressed the “wish to ensure that I am formally deposed” (from Holy Orders). The Board gave some consideration to, but did not decide (it being unnecessary to do so) the question of the respondent’s status, given that he considers himself at least informally “deposed from Holy Orders”. However, the Board considers that the respondent’s expressed wish “to ensure he is formally deposed” does constitute him providing his consent to that process.

(5) *The Respondent’s personal circumstances*

9. The respondent is a 61 year old Anglican priest, ordained in 1978. He thereafter worked in the Diocese of W before moving to ... chaplaincy in Melbourne in 1988. In 1995 he was suspended, then terminated, from ... chaplaincy because of alleged inappropriate conduct with adult women.
10. In 1998, the respondent received an unrestricted licence in the Diocese of Melbourne (after a period of having a licence with some restrictions) and in 2005 in the Diocese of Y. He later had a period of licensing in the Diocese of Z. When the National Register became operational, the respondent was placed on the National Register in respect of the 1995 complaint. It is therefore apparent that although the respondent has no other Court convictions for sexual offences before or after 1978, being the date of the offence for which

he was convicted and sentenced in 2015, in 1995 he was dealt with by the church for alleged inappropriate contact with adult women.

(6) *Conclusion*

11. The seriousness of the respondent's offence is obvious and is demonstrated by the term of imprisonment to which he was sentenced. It is to be noted that he pleaded not guilty, but had not appealed against conviction or sentence, and consents to being formally deposed from Holy Orders. Therefore, despite the length of time since its commission, its seriousness causes the Board to recommend, by consent, that:
  - (a) the respondent cease to hold any office, if any is now held (s 62(g) of the Act);
  - (b) the respondent be determined to be unfit to hold any office, licence or position of responsibility in the Church or to remain in Holy Orders (s 62(h)(i) of the Act), and
  - (c) the respondent be deposed from Holy Orders.

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**NOTES:**

1. *These anonymized reasons are made public pursuant to s108 of the Professional Standards Act 2009 (Melb).*
2. *Pursuant to ss 103 and 105 of the Act, on 6 May 2016, the Archbishop executed an instrument of deposition of the respondent Church worker from Holy Orders.*