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## *Diocese of Maitland-Newcastle – Faculties for Deacon Emeritus & Retired Deacons – Background Paper*

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This paper prepared by Chancellor Diocese of Maitland-Newcastle, 2023.

### *General background*

Universal law prefers to grant written faculties (i.e. a permission to exercise a power obtained by ordination) to clerics, in good standing, so as to reduce confusion and to ensure the action is both canonically legal (licit) and valid. In this paper we will specifically focus on deacons.

While all clerics have certain faculties, the parish priest (pastor) is the presbyter that is responsible for the proper administration and the proper use of all faculties of the clergy in his parish. He also has specific faculties granted to him (and not to assistant Priests or Deacons or retired clerics) as the proper pastor of the parish.

Unless otherwise stated a parish priest may sub-delegate these faculties to visiting clergy in good standing.

### *Faculties and their use*

Ordination gives numerous powers to individual clerics.

But a faculty or permission is needed to exercise that power.

Such permission is either granted to an individual by universal law or by the competent local authority.

Thus, it is possible to have the ‘powers’ given at ordination, but not have permission (the faculty) to use those powers. For example, being suspended, retired, or under a penalty.

### *Types*

Faculties fall into three categories

1. Those that are granted by universal law (for use anywhere with at least the assumed permission of the competent authority)
2. Those that come with an office (for use in that place – parish, chaplaincy, etc.)
3. Those that are reserved to or granted by the diocesan bishop (for use in that diocese)

See last page for examples.

Our diocesan faculties<sup>1</sup> reflect this structure.

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<sup>1</sup> <https://www.mn.catholic.org.au/about/office/bishops-office/particular-law/>

## *Jurisdiction*

It is important to understand that faculties are territory based. Whether we agree or not with this, the past mistakes made in the area of safeguarding, have resulted in a return to this territorial understanding. This also now includes the monitoring of the permissions and faculties being utilised to exercise ministry.

## *Some contributors to our bad practice*

We may remember that in the Ecclesiastical Province of NSW the bishops extended the delegation to all clergy in good standing to assist at Marriages. This was recently revoked as the bishops, at a provincial level, did not have the power to do this. But over time, I feel, it has given rise to the expectation that clergy may minister anytime, anywhere, without permission.

In the past bishops often simply granted faculties with – *you are given diocesan faculties* – without detailing what those faculties were. It is also important to note that by decree of Bishop Wright, 1 Jan 2017, all prior faculties have been revoked. The current faculties can be found on the diocesan website.

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## Civil Law and Church Safeguarding Standards

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NSW legislation classifies clergy who exercise their faculties<sup>2</sup> (conduct public ministry) as being in ‘*child-related work*’ irrespective of whether you hold any office or other ecclesiastic appointment. If a cleric is in child-related work in the Diocese of Maitland-Newcastle they:

- must hold a current WWCC (working with children check) that has been recorded and verified by the Bishop’s Office
- are subject to the reportable conduct scheme
- must meet the obligations and requirements of clergy set by the National Catholic Safeguarding Standards, including:
  - “*ongoing formation, support and supervision*”<sup>3</sup>
  - “*credentialing and movement*”<sup>4</sup>
  - “*ongoing education and training*”<sup>5</sup>.

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<sup>2</sup> There is an argument that merely holding faculties that would allow for public ministry, even without exercising those faculties, classifies a cleric as being in child-related work and subject to the requirements of the National Catholic Safeguarding Standards

<sup>3</sup> National Catholic Safeguarding Standards (Edition 1, 2019) Standard 5.5.3, 5.5.4

<sup>4</sup> Ibid, Standard 5.7.1

<sup>5</sup> Ibid, Standard 7.1.1, 7.1.2, 7.2.1, 7.3.3

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## Aim

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The aims of the clarifications provided by this paper are as follows

- To support and protect you
- To support and protect others
- To provide clarity
- To be able to meet the criteria of the various external audits
- To be consistent with and follow our own internal rules (canon law).

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## Process

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During 2015 and 2016 a number of workshops were held with clergy to revise faculties for Priest, Deacons, and Lay Parish Leaders. This resulted in new faculties being promulgated in December 2016. These new faculties abrogated all proper faculties given by anyone.

Sometime after, Australian Catholic Safeguarding Limited (ACSL) undertook a review of retired clergy and religious and how their activity was managed and monitored. This led to a discussion of the terms – ministry, public ministry, retired, etc. In 2020 the Chancellor of Diocese of Maitland-Newcastle was placed on the Advisory Committee investigating such matters. In 2021 final agreement was reached.

During 2021 and 2022 meetings were held to which all retired clergy residing in the Diocese of Maitland-Newcastle were invited. These meetings discussed the outcomes of the ACSL decisions, and the framework detailed in this document. Consensus was reached by those in attendance on the distinctions between ‘Pastor Emeritus’ and ‘Retired Priest’ faculties.

In September 2022 discussions were held with Permanent Deacons and the outcome detailed was the same.

This document was presented to the College of Consultors at their September meeting. The College recommended that the Administrator adopt the faculties. Thus, finalising a process begun in 2015.

*Deacon Emeritus (based on c. 185)<sup>6</sup>*

These individuals would;

1. Fit the second last category of the CPD matrix (that is need to complete 5 hours CPD annually. This could be the annual parish leader's day, the annual diocesan retreat, etc)
2. Need to undertake the compulsory minimum safeguarding annual training
3. Need a WWCC
4. Be subject to the 'civil reportable conduct' scheme
5. Be given permission to exercise faculties obtained at ordination on a case by case basis by the proper pastor of the parish in which ministry (or supply) is being undertaken
6. Take such permission as presumed if booked for 'supply' or one-off ministries
7. On each occasion provide the required information via the 'Electronic Sacristy Register' upon arrival at the relevant church, oratory and chapel
8. Meet annually with an ordinary to discuss continuing in this role

additionally, these individuals may

9. choose to be placed on the diocesan 'supply' list, at their request
10. choose not to be placed on the diocesan 'supply' list, at their request
11. not have an ACMR number. The ACMR number is not required for ministry in this diocese. It is only required if ministering outside the diocese
12. Request a letter of good standing to minister outside the diocese on an ad-hoc basis if not having an ACMR number

These individuals would not;

13. have faculties associated with any ecclesiastical office
14. have other diocesan faculties
15. be placed on the roster for hospitals, aged care, and other enclosed lands sites.

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<sup>6</sup> Can. 185 The title 'emeritus' may be conferred on one who loses office by reason of age, or of resignation which has been accepted.

### *Retired Deacon - not active in ministry*

These individuals would;

16. fit the last category of the CPD matrix (that is have no CPD requirements)
17. be excluded from the 'civil reportable conduct' scheme
18. be able to attend and celebrate (under the exemption provided by Clause 20(1)(b) of the *NSW Child Protection (Working with Children) Regulation 2013*<sup>7</sup>, a maximum of 5 events annually, in NSW, at the cleric's choice. E.g. Chrism Mass, clerics funerals, family funerals, baptisms, etc.
19. If these were outside the diocese, and in NSW, a letter of good standing could replace the ACMR number.
20. If wishing to minister outside NSW, they should contact the office of Safeguarding for assistance as each state has its own different requirements
21. Within the Diocese of Maitland-Newcastle, be given permission to exercise faculties obtained at ordination by the presider at each of the 5 events. This permission is to be presumed if the presider knows you are present
22. complete the 'sacristy register' for each of the 5 one off events

These individuals would not;

23. need a WWCC
24. be required to have an ACMR number
25. have faculties associated with any ecclesiastical office
26. have permission to exercise faculties obtained at ordination, except for the 5 events
27. have other diocesan faculties
28. be placed on the diocesan 'supply' list
29. be placed on the roster for hospitals, aged care, and other enclosed lands sites

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### Non-Incardinated Clergy Residing in the Diocese

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These clergy can choose to be part of either of the above categories. This Diocese would be responsible for ensuring the relevant checks, CPD, etc are completed. It is important to note that whilst one may have faculties from one's incardinated diocese, only those obtained at ordination may be exercised in another diocese, and then only with permission.

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<sup>7</sup> <https://legislation.nsw.gov.au/view/html/inforce/current/s1-2013-0156>

*Civil & Church Safeguarding Compliance Checklist:*

	<b>Deacon Emeritus (based on c. 185)</b>	<b>Retired Deacon - not active in ministry</b>
Obligation to hold a current Working with Children Check (WWCC) and submit for recording and verification by the Bishop's Office <sup>8</sup>	<b>YES</b>	<b>NO</b>
Subject to the NSW Reportable Conduct Scheme <sup>9</sup>	<b>YES</b>	<b>NO</b>
Subject to investigation of alleged child abuse <sup>10</sup>	<b>YES</b>	<b>YES</b>
Subject to reporting to the Congregation for the Doctrine of the Faith (CDF) Vatican Curia <sup>11</sup>	<b>YES</b>	<b>YES</b>
Required to undertake ongoing formation, support and supervision <sup>12</sup> - subject to the Diocese's <i>Continuous Professional Development Classification Table</i>	<b>YES</b>	<b>NO</b>
Required to hold an Australian Catholic Ministry Register (ACMR) registration number, as a "priest in good standing" <sup>13</sup>	<b>YES</b>	<b>NO</b>
Required to complete the Sacristy Register when celebrating mass or other religious ceremony or devotion in church <sup>14</sup>	<b>YES</b>	<b>YES</b>
Required to undertake 1 hour per annum safeguarding training <sup>15</sup> [with ½ day <i>Safeguarding in Parishes</i> training redone every 6 years]	<b>YES</b>	<b>NO</b>

<sup>8</sup> Sections 8, 9, 9A Child Protection (Working with Children) Act 2012

<sup>9</sup> Part 4 Children's Guardian Act 2019, the Diocese must conduct an investigation into certain allegations of child abuse against a cleric and report to the Office of the Children's Guardian

<sup>10</sup> Stage 4 Procedures, The National Response Protocol (January 2021)

<sup>11</sup> Article 16, Sacramentorum Sanctitatis Tutela, the ecclesiastical authority of the Diocese must report allegations and their preliminary investigation if there is a semblance of truth to the CDF

<sup>12</sup> Standard 5.5.3 to 5.5.4, National Catholic Safeguarding Standards (Edition 1, 2019)

<sup>13</sup> Standard 5.7.1, Ibid

<sup>14</sup> Standard 5.7.1, Ibid

<sup>15</sup> Standard 7.1.1, 7.1.2, 7.2.1, 7.3.3, Ibid

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## Examples of Faculties

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*Those that are granted by universal law (for use anywhere with at least the assumed permission of the competent authority)*

- Preach
- Administer sacramentals and sacraments
- Baptise
- Christian Initiation
- Witness a marriage

See Faculties handbook for more and details

*Those that come with an office (for use in that place – parish, chaplaincy, etc.)*

- Grant permission for individuals to exercise those faculties granted by ordination in his territory
- Act in the person of the parish
- Dispensation relating to private vows
- Dispensation from Sunday obligation

See Faculties handbook for more and details

*Those that are reserved to or granted by the diocesan bishop (for use in that diocese)*

- Marriage dispensations
- Confirmation at baptism of an adult
- Communion under both kinds
- Stipend for bination or trination

See Faculties handbook for more and details

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## What is child related work as related to public ministry as related to the exemption?

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Ministry = is always public as it is conducted on behalf of the Church, and under the direction of a superior

Public ministry = when one acts as a cleric publicly

Child related work = when one acts as a cleric publicly and children are present

A retired priest may ask and may receive permission to celebrate Mass alone or with another priest. This would not constitute public ministry nor child related work.

A retired deacon may participate as a deacon. This would not constitute public ministry nor child related work

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*Revision Table*

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<b>Action</b>	<b>Date</b>	<b>Name</b>
Created	November 2023	Noumali R-Jenkins