

DIOCESE OF CANADA
THE ANGLICAN CATHOLIC CHURCH OF CANADA
CHURCH DISCIPLINE ORDINANCE, 2004

No. 4, 2004

An ordinance to provide a means of disciplining persons who fail to meet the standards of behaviour expected of clergymen and persons holding positions in this Diocese and, where appropriate, for ensuring that such persons do not pose a risk to the safety of members of the Diocese or of the public.

THE DIOCESAN SYNOD OF THE DIOCESE OF CANADA OF THE ANGLICAN CATHOLIC CHURCH OF CANADA ORDAINS AND ENACTS as follows: -

Citation

1. This ordinance may be cited as the “Church Discipline Ordinance, 2004”.

Definitions

2. (1) In this Ordinance –

“Advisers” means the persons appointed under section 14.

“Allegations” means allegations that a person has engaged in Unacceptable Behaviour and includes facts and circumstances that are not in dispute, and “Allegation” has a corresponding meaning.

“Child” means a person under the age of eighteen years and “Children” has a corresponding meaning.

“Child Abuse” means conduct which would be regarded by right thinking members of the Church in this Diocese as abuse of a Child and, without limiting the generality thereof means –

- a. assault, including sexual assault of, or
- b. ill-treatment or neglect of, or
- c. exposing or subjecting to behaviour that psychologically harms, a Child, and includes Allegations of Child Abuse or an Allegation that may involve Child Abuse.

“Church Warden” means a person in office under Part IV of the Congregations Ordinance, 2004.

“Complaint” means a communication in which Allegations are or an Allegation is made.

“Complainant” means a person who makes a Complaint.

“Diocesan Response Officer” means the officer appointed pursuant to section 3 of this Ordinance, and in the case of an Allegation against the person holding that office such other person as the Bishop may appoint for the conduct of the Investigation provided for in section 4 of this ordinance.

“Disable Person” means a person who is –

- a. a Child;
- b. a person under legal disability such that the conduct of his affairs is lawfully vested in some other person or persons;
- c. incapable of managing his affairs; or
- d. feeble minded or suffering from such handicap of body or mind, by way of coma, paralysis or otherwise, whether or not induced by any drug or by any medical or other treatment, that he is unable to receive communications respecting his property or affairs, or to express his informed will respecting his property or affairs.

“Experienced Lawyer” means –

- a. a person who is or who has been a judge or justice of a court or quasi-judicial tribunal in Canada or of a superior court of record elsewhere in Her Majesty’s dominions;
- b. a person who has been admitted as a legal practitioner in Canada or elsewhere in Her Majesty’s dominions; and has practised for a period of or periods aggregating at least 10 years in Canada or elsewhere in Her Majesty’s dominions.

“Exempt Conduct” means conduct which is the subject of a declaration by the Bishop under section 17.

“Injured Party” means a person –

- a. who has been the subject of;
- b. who claims to have the subject of; or
- c. in the case of a person who is a Disable Person, whose Representative claims has been the subject of,

the Unacceptable Behaviour of a Licensed Clergyman or an Other Person.

“Licensed Clergyman” means a man in Holy Orders who holds a licence from the Bishop and is ordinarily resident within the Diocese.

“Other Person” means a person who is not a Licensed Clergyman and who –

- a. holds a Position;
- b. has held a Position and is ordinarily resident in the Diocese;

- c. is in Holy Orders, ordinarily resident and communicant in the Diocese, and does not hold or has not held a Position; or
- d. has requested that the Bishop make a declaration under section 17.

“Position” means each of the following –

- a. an office in the Diocese;
- b. an office as a licensed Lay Reader;
- c. an office as a licensed or authorized deaconess;
- d. Church Warden of a congregation;
- e. membership of a parish council, advisory board or select vestry of a congregation constituted under the Congregations Ordinance, 2004;
- f. directorship of any congregational corporation or registered society;
- g. membership of any other board, council or committee constituted by Ordinance or Rule of the Synod or Regulation of the Diocesan Council or of the Bishop-in-Council or by resolution of a parish council, advisory board or select vestry of a congregation;
- h. an appointment by a curate, Church Warden or parish council, advisory board or select vestry of a congregation;
- i. membership of a board of trustees of any trust constituted for the purposed or any purpose of the Diocese; and
- j. any other position of leadership within the Diocese or a congregation.

“Prohibition” means an order made by the Bishop under sections 11(1), 12(1) or 13 and includes an Inhibition of a Licensed Clergyman, and “prohibited” has a like meaning.

“Representative” means, in relation to a Disable Person, -

- a. a parent or guardian; or
- b. any person responsible for his welfare or otherwise acting on his behalf.

“Report” means a report of an Experienced Lawyer pursuant to section 4(3).

“Sexual Misconduct” means sexual conduct which would be regarded by right thinking members of the Church in this Diocese as disgraceful and inconsistent with the standards to be observed by a Christian.

“Subject” means a Licensed Clergyman or Other Person who is alleged to have engaged in Unacceptable Behaviour.

“Tribunal” means a tribunal appointed under this Ordinance.

“Unacceptable Behaviour” means –

- a. in the case of a Licensed Clergyman –
 - (i) Sexual Misconduct or Child Abuse after ordination as a deacon;
 - (ii) Sexual Misconduct which could constitute a criminal offence or Child Abuse prior to ordination as a deacon which, at the time the Allegations are made is productive, or if known publicly would be productive, of scandal or evil report, other than Exempt Conduct; or
 - (iii) Sexual Misconduct not falling within paragraph (a)(ii) prior to ordination as a deacon where such ordination takes place after this Ordinance comes force, which, at the time the Allegations are made is productive, or if known publicly would be productive, of scandal or evil report, other than conduct which prior to ordination as a deacon was fully disclosed in writing to the bishop by whom or on whose behalf that person was ordained and for which any appropriate reparation has been made; and

- b. in the case of an Other Person –
 - (i) Sexual Misconduct or Child Abuse while or after holding a Position;
 - (ii) Sexual Misconduct which could constitute a criminal offence or Child Abuse prior to first holding a Position which, at the time the Allegations are made is productive, or if known publicly would be productive, of scandal or evil report, other than Exempt conduct; or
 - (iii) Sexual Misconduct not falling within paragraph (b)(ii) prior to first holding a Position where the person first held a Position after this Ordinance came into force which at the time the Allegations are made is productive, or if known publicly would be productive, of scandal or ill report, other than conduct which was fully disclosed in writing to the Bishop and for which any appropriate reparation has been made; and

- c. any threat, intimidation or inducement made by or at the direction or with the consent of a Subject intended –
 - (i) to dissuade another person from making Allegations to the Diocesan Response Officer;
 - (ii) to persuade any person who has made any Allegations to withdraw such Allegations: or
 - (iii) to persuade an Injured Party or a Representative to consent to the withdrawal of any Allegations.

- (2) Nothing in this Ordinance shall be construed as restricting any right which the employer of a Subject may have to terminate that employment.

Investigation by the Diocesan Response Officer

3. There shall be a Diocesan Response Officer appointed by the Diocesan Council on the nomination of the Bishop who shall hold office for such term as the Diocesan Council shall determine.

4. (1) If the Diocesan Response Officer –
- a. receives a complaint that a person, being a Licensed Clergyman or an Other Person, has engaged in Unacceptable Behaviour; or
 - b. knows or reasonably suspects or is put on reasonable notice that a person, being a Licensed Clergyman or an Other Person, has or may have engaged in Unacceptable Behaviour which, if substantiated before a Tribunal, would in the opinion of the Diocesan Response Officer be likely to result in the Tribunal making a recommendation in terms of section 9(1)(a) or (b),
- then the Diocesan Response Officer shall promptly investigate the Allegations or appoint a person or persons to investigate the Allegations in accordance with this section.

- (2) If the Bishop or any Auxiliary or Assistant Bishop or any Archpriest, Archdeacon, Rural Dean, Curate or Church Warden receives a Complaint that a person, being a Licensed Clergyman or an Other Person, has engaged in Unacceptable Behaviour the person receiving the Complaint shall
- a. forthwith refer that Complaint to the Diocesan Response Officer for investigation and the Complaint shall be deemed to have been made to the Diocesan Response Officer under section 4(1); and
 - b. shall inform the Complainant in writing that the Complaint has been referred to the Diocesan Response officer for investigation under this section.

- (3) The Diocesan Response Officer or the person or persons appointed by him to carry out the investigation under section 4(1) –
- a. shall carry out the investigation promptly;
 - b. shall invite the Injured Party or the Representative of the Injured Party to provide a written statement of the Allegations and, where appropriate, assist or provide assistance in its preparation;
 - c. may require an Injured Party who is competent to do so to verify the Allegations by statutory declaration;
 - d. shall notify the Subject of the nature of the Allegations and provide to him a copy of the statement and any statutory declaration made in support thereof;

- e. and shall invite the Subject to provide a written response within fourteen days or such longer period as the Diocesan Response Officer may allow.
- (4) If there is no Injured Party or no Injured party whose identity is known to the Diocesan Response Officer he shall without unnecessary delay provide the Subject with a written statement of the Allegations and invite the Subject to provide a written response thereto within fourteen days or such longer period as the Diocesan Response Officer may allow.
 - (5) If the Subject fails to provide a response under section 4(3) or section 4(4) or in such response admits the substance of the Allegations or any substantial part thereof, the Diocesan Response Officer shall appoint an Experienced Lawyer under section 5(1).
 - (6) The Diocesan Response Officer with the concurrence of a majority of the Advisers acting under section 14(2) may decline to investigate or to appoint a person or persons to investigate the Allegations or part of the Allegations and may revoke the appointment of any person or persons so appointed, or may decline to appoint an Experienced Lawyer under section 5(1) or revoke such an appointment in any one or more of the following circumstances –
 - a. if the Diocesan Response Officer considers that the Allegations, or part, are frivolous, vexatious or misconceived, or are not made in good faith or their subject matter is trivial;
 - b. where the person making the Allegations or the Injured Party, or both, has or have failed without sufficient reason to provide further particulars of the Allegations, or part, or to verify the Allegations, or part, on request by statutory declaration to the Diocesan Response Officer or to the person or persons appointed by the Diocesan Officer to investigate the Allegations;
 - c. where the Diocesan Response Officer is requested by each known Injured Party, or where an Injured Party is a Disable Person the Representative of that Injured Party, not to permit an investigation to commence or to determine the investigation;
 - d. where there is insufficient evidence to warrant an investigation;
 - e. where the Allegations to be investigated are withdrawn under section 15 and there is insufficient other evidence to warrant an investigation.
 - (7) If the Allegations involve Child Abuse and the Diocesan Response Officer does not investigate, or appoint one or more persons to investigate them, or revokes such an appointment because the Diocesan Response Officer considers the Allegations to be false, vexatious, misconceived or not made in good faith, or their subject

matter to be trivial, he shall make and retain a written record of his reasons for forming that considered opinion appending thereto the concurrence of the Advisers acting under section 14(2).

Remit to an Experienced Lawyer

5. (1) After any investigation under section 4 has been completed, the Diocesan Response Officer shall appoint an Experienced Lawyer and shall –
 - a. notify the Experienced Lawyer in writing of the identity of the Subject;
 - b. notify the Subject of the identity of the Experienced Lawyer;
 - c. notify the Experienced Lawyer and the Subject of all Allegations and material relevant to the Allegations concerning the Subject;
 - d. invite the Subject to provide any material relevant to the Allegations and make any written representations to the Experienced Lawyer within twenty-eight days; and
 - e. request from the Experienced Lawyer a report pursuant to section 5(3).
- (2) The Experienced Lawyer may require an Injured Party who is competent to do so to verify the Allegations by statutory declaration and may require a Subject to verify by statutory declaration any matter of fact included by him in the material or written representations provided pursuant to section 5(1)(d).
- (3) Within 42 days of receiving notification under section 5(1)(c), or such longer period as the Diocesan Response Officer may allow, the Experienced Lawyer shall report to the Diocesan Response Officer in writing as to –
 - a. whether there is prima facie evidence of the Subject having engaged in Unacceptable Behaviour;
 - b. if there is prima facie evidence of the Subject having engaged in Unacceptable Behaviour –
 - (i) the particulars of the Unacceptable Behaviour; and
 - (ii) whether having regard to all the evidence a Tribunal is not likely to find that the Subject engaged in Unacceptable Behaviour; and
 - c. if the Allegations involve Child Abuse and there is not prima facie evidence that the Subject engaged in Unacceptable Behaviour, whether the Allegations should be considered false, vexatious or misconceived or not made in good faith, or their the subject matter to be trivial.
- (4) On receiving the Report the Diocesan Response Officer shall provide a copy to the Subject and the Bishop.
- (5) If the Report states that –

- a. there is prima facie evidence of the Subject having engaged in Unacceptable Behaviour, but
 - b. having regard to all the evidence a Tribunal is not likely to find that the Subject engaged in Unacceptable Behaviour,

the Diocesan Response Officer with the concurrence of a majority of the Advisers acting under section 14(2) may but need not refer the matter to a Tribunal.
- (6) If the Report –
 - a. states that there is prima facie evidence of the Subject having engaged in Unacceptable Behaviour, but
 - b. does not include the opinion that having regard to all the evidence a Tribunal is not likely to find that the Subject engaged in Unacceptable Behaviour,

the Diocesan Response Officer shall refer the matter to a Tribunal.
- 6. (1) Where the Diocesan Response Officer is a person who is an Experienced Lawyer he may, with respect to an Allegation or part of an Allegation and with the consent of a majority of the Advisers acting under section 14(2), perform all the functions of an Experienced Lawyer under section 5 and subject to subsections 6(2) and 6(3) the provisions of that section shall apply *mutatis mutandis* to an investigation and report by the Diocesan Response Officer thereunder.
- (2) Where the Diocesan Response Officer acts pursuant to section 6(1) –
 - a. he shall prepare the Report required by section 5(3) and remit it to the Advisers; and
 - b. action by the Diocesan Response officer pursuant to subsections 5(5) or 5(6) shall require the concurrence of a majority of the Advisers acting under section 14(2).
- (3) If on receipt of a report under section 6(2) a majority of the Advisers do not concur in the proposed action of the Diocesan Response Officer pursuant to subsections 5(5) or 5(6), then the action to be taken thereunder shall be such as determined by a majority of the Advisers acting under section 14(2).

The Tribunal

- 7. (1) If the Diocesan Response Officer has referred a matter to a Tribunal the Bishop shall appoint a Tribunal and the Diocesan Response Officer shall –
 - a. notify the Subject and each Injured Party whose identity is known to the Diocesan Response Officer of such appointment; and

- b. provide the Tribunal and the Subject with particulars of all Allegations known to the Diocesan Response Officer concerning the Subject and which the Tribunal is to investigate.
- (2) A Tribunal shall comprise three persons appointed by the Bishop who collectively satisfy the requirements of section 7(3).
- (3) A Tribunal shall include –
 - a. an Experienced Lawyer not being the Experienced Lawyer referred to in section 5;
 - b. a person who is or has been a Licensed Clergyman in this or some other Diocese; and
 - c. at least one woman.
- (4) The Bishop shall appoint one of the members of a Tribunal to be the Presiding Member thereof.
- 8. (1) Subject to section 8(2) a Tribunal shall investigate the Allegations referred to it and all other Allegations which come to its attention in the course of that investigation.
- (2) A Tribunal is not required to investigate an Allegation, or part of an Allegation, while that Allegation, or part, is under active investigation by some other competent persons or body or is the subject of legal proceedings, civil or criminal.
- (3) In carrying out an investigation the Tribunal shall observe the rules of procedural fairness.
- (4) If at the commencement of, or during the conduct of, an investigation the Tribunal forms the opinion that there is prima facie evidence of the Subject having engaged in Unacceptable Behaviour and the Subject denies one or more of the facts alleged to constitute that Unacceptable Behaviour, the Tribunal shall conduct a hearing at which it may receive evidence, examine witnesses and administer oaths or affirmations to witnesses.
- (5) The Bishop may appoint an additional Experienced Lawyer to assist the Tribunal and the Tribunal may appoint an additional Experienced Lawyer to assist it if the Bishop has not done so.
- (6) Where the tribunal conducts a hearing pursuant to section 8(4) or otherwise in respect of an Allegation an Experienced Lawyer appointed pursuant to section 8(5) shall act independently of the Tribunal in respect of the facts in issue before the Tribunal and that Allegation.

- (7) The Subject to whom the Allegations relate may give evidence and make representations and submissions to the Tribunal.
 - (8) Each Injured Party named in the Allegations, or if the Injured Party is a Disable Person, a Representative of the Injured Party, may give evidence and make representations and submissions to the Tribunal with the leave of the Tribunal.
 - (9) No person entitled to give evidence or make representations and submissions to a Tribunal is entitled to be represented by another person who is not a legal practitioner without the leave of the Tribunal.
 - (10) The Tribunal may discontinue a hearing if it is of the opinion that there are circumstances which prevent the Subject from receiving a fair hearing.
 - (11) In the case of an Allegation of Child Abuse, the Tribunal shall where possible determine whether the Allegation is false, vexatious or misconceived or not made in good faith, or is trivial in its subject matter.
 - (12) Subject to the provisions of this section and of section 9(4) the Tribunal shall determine its own procedures whether at a hearing or otherwise and may inform itself on any matter in such manner as it thinks fit.
9. (1) If the Tribunal determines that the Subject has engaged in Unacceptable Behaviour it shall recommend to the Bishop any one or more of the following –
- a. that, in the case of a Licensed Clergyman –
 - (i) the licence of that person –
 - (A) be suspended, the term of the suspension and any conditions to be applicable to the suspension or to the restoration of the licence; or
 - (B) be revoked; and/or
 - (ii) a Prohibition be issued, the term of the Prohibition and any limitations to be included in the Prohibition or on its withdrawal;
 - b. that in the case of an Other Person, a Prohibition be issued, the term of the Prohibition and any limitations to be included in the Prohibition or on its withdrawal;
 - c. that no further action be taken by the Bishop in relation to the Allegations.
- (2) The Tribunal may make other recommendations to the Bishop.
- (3) If the Allegations involve Child Abuse and the Tribunal makes a recommendation under section 9(1)(c) that no further action be taken

by the Bishop in relation to the Allegations, the Tribunal shall determine whether the Allegations or any of them are false, vexatious, misconceived or not made in good faith or are trivial in their subject matter.

- (4) In determining whether a Subject has engaged in Unacceptable Behaviour the Tribunal may inform itself on any matter in such manner as it thinks fit provided that it acts only on facts that are reasonably probative of the facts in issue and has allowed the Subject the opportunity to make representations thereon.
- (5) Any determination and recommendation of the Tribunal shall be contained in a report which –
 - a. sets out the Tribunal’s findings on material questions of fact;
 - b. refers to any evidence or other material on which the Tribunal’s findings are based; and
 - c. gives reasons for the Tribunal’s determination.

Suspension and Revocation of Licence

10. (1) If a Tribunal recommends to the Bishop that the licence of a Licensed Clergyman be suspended or revoked, the Bishop –
 - a. shall invite that person to show cause why the licence of that person should not be suspended or revoked, as the case may be; and
 - b. thereafter –
 - (i) subject to section 10(2), may by notice in writing to that person suspend that licence for such term and upon such conditions as the Bishop may determine; or
 - (ii) subject to section 10(3), may by notice in writing to that person revoke that licence.
- (2) If a Tribunal recommends that the licence of a Licensed Clergyman be suspended and also a term for the suspension or any conditions to be applicable to the suspension or to the restoration of the licence –
 - a. the Bishop may not suspend the licence for a longer term;
 - b. the suspension and restoration of the licence must be subject to the recommended conditions in addition to any conditions which the Bishop may impose; and
 - c. the suspension may not be indefinite unless it is made subject to specific conditions for the restoration of the licence.
- (3) If a Tribunal recommends that the licence of a Licensed Clergyman be suspended, with or without any term or conditions, the Bishop may not revoke that licence without first remitting the case to the Tribunal for further consideration and report after any further hearing the Tribunal considers appropriate or necessary.

- (4) The Bishop may give notice of a suspension or revocation of a licence under section 10(1) to such persons as he considers necessary to give it proper effect.

Prohibition of Persons Holding Positions

11. (1) If the Tribunal recommends that a Prohibition be issued the Bishop shall invite the Subject to shew cause why the Prohibition should not issue and thereafter he may prohibit a person from holding a Position.
- (2) A Prohibition may be –
 - a. absolute;
 - b. for a specified term;
 - c. indefinite;
 - d. limited to one or more specific Positions or in respect of all Positions; or
 - e. subject to conditions or limitations including conditions as to its withdrawal.
- (3) If a Tribunal recommends in relation to a Subject that a Prohibition be issued and also a term for the Prohibition or any limitations to be included in the Prohibition, then if the Bishop imposes a Prohibition –
 - a. the Bishop may not issue a Prohibition for a longer term;
 - b. the Prohibition must include the recommended limitations in addition to any other limitations which he may impose on the operation of the Prohibition;
and
 - c. the Prohibition may not be indefinite unless it is made subject to specific conditions for its withdrawal.
- (4) The Bishop may give notice of a Prohibition to such persons as he considers necessary to give it proper effect.
- (5) A person is not eligible to be appointed to a Position if that person is subject to a Prohibition which forbids that person from holding that Position.
- (6) Notwithstanding section 26 of the Congregations Ordinance, 2004, a person who holds a Position shall be deemed to vacate office if that person becomes subject to a Prohibition which forbids that person from holding that Position.
- (7) The Bishop may revoke a Prohibition issued under this section at any time with the concurrence of a majority of the Advisers acting under section 14(2).

Licensed Clergyman subject to Criminal Charge or Conviction

12. (1) If a Licensed Clergyman is charged with a criminal offence and the allegations giving rise to the criminal charge are sufficient, in the Bishop's opinion after receipt of advice from an Experienced Lawyer, to constitute Allegations of Unacceptable Behaviour, the Bishop shall suspend the licence of that Licensed Clergyman until the disposition of the criminal charge or, where that Licensed Clergyman is a Subject, the Bishop may issue a Prohibition subject to the terms of section 12(3).
- (2) If a Licensed Clergyman is convicted of a criminal offence and the facts established or admitted in his trial are sufficient, in the Bishop's opinion after receipt of advice from an Experienced Lawyer, to constitute Unacceptable Behaviour, the Bishop shall revoke the licence of that Licensed Clergyman.
- (3) If the Bishop is required to act under Section 12(1) and issues a Prohibition that Prohibition shall be limited to expire –
- a. upon the revocation of the Licensed Clergyman's licence under section 12(2);
 - b. if the Tribunal makes a recommendation under section 9(1)(c), on the receipt by the Bishop of the Tribunal's report;
 - c. if the Tribunal makes a recommendation under section 9(1)(a)(i)(B) that the Subject's licence be revoked, at the time the Bishop decides whether to revoke the licence;
 - d. if the Tribunal makes a recommendation under section 9(1)(a)(ii) that a Prohibition be issued in relation to the Subject, at the time the Bishop decides whether to issue the Prohibition;
 - e. if the Tribunal makes a recommendation under section 9(1)(a) that the Subject's licence be revoked and a recommendation that a Prohibition be issued, at the last to occur of the time the Bishop decides whether to revoke the licence and the time the Bishop decides whether to issue the Prohibition;
and
 - f. upon the discontinuance of a hearing by a Tribunal under section 8(10) or the withdrawal of all Allegations against the Subject in accordance with section 15.
- (4) During the period of suspension or Prohibition referred to in section 12(1), the Clergyman whose licence has been suspended or the Subject is entitled to receive whatever stipend, salary, allowance and other emoluments he would have been entitled to but for the suspension or Prohibition.
- (5) The Bishop may give notice of a revocation, suspension or Prohibition under this section to such persons as he considers necessary to give it proper effect.

Interim Suspension and Prohibition

13. (1) Nothing in this Ordinance shall, except to the extent specifically provided herein, limit, restrict or abridge the right of the Bishop to inhibit or to suspend or revoke the licence of a Licensed Clergyman in accordance with canon law and the Ordinances in force in this Diocese.
- (2) If in relation to a Subject who is a Licensed Clergyman who has not been charged with any criminal offence –
 - a. Allegations relate to conduct which if established or admitted would constitute a criminal offence;
 - (i) in respect of which the Diocesan Response officer has received a report from an Experienced lawyer that there is prima facie evidence of the Subject having committed the offence but which does not state that having regard to all the evidence a Tribunal would be unlikely to find that the Subject had committed Unacceptable Behaviour; or
 - (ii) which the Subject has admitted having committed; and
 - b. the Bishop has invited the Subject to show cause why his licence should not be suspended or he should not be Prohibited, the Bishop may, by notice in writing to the Subject given at any time thereafter, and in a case falling within section 13(2)(a)(i) with the concurrence of a majority of the Advisers acting under section 14(2), do either or both of the following –
 - c. suspend the licence of the Subject;
 - d. issue a Prohibition against him.
- (3) A suspension or Prohibition under section 13(2) shall be limited to expire in the circumstances set out in section 12(3).
- (4) If in relation to a Subject who is an Other Person –
 - a. the Allegations related to conduct which if established or admitted would constitute a criminal offence –
 - (i) of which the Subject has been charged or convicted; or
 - (ii) in respect of which the Bishop has received a report from an Experienced Lawyer that there is prima facie evidence of the Subject having committed the offence but which does not state that having regard to all the evidence a Tribunal would be unlikely to find that the Subject had committed Unacceptable Behaviour; or
 - (iii) which the Subject has admitted having committed; and
 - b. the Bishop has invited the Subject to shew cause why he should not be Prohibited, the Bishop may by notice in writing to the Subject at any time thereafter issue a Prohibition against him.
- (5) A Prohibition by the Bishop under section 13(4) may be –
 - a. limited to specific Positions or in respect of all Positions; and
 - b. subject to conditions or limitations.

- (6) A prohibition issued by the Bishop under section 13(4) shall expire at the following time –
 - a. if the Tribunal discontinues a hearing under section 8(10);
 - b. if the Tribunal makes a recommendation to the Bishop under section 9(1)(c), on receipt by the Bishop of the Tribunal’s report;
 - c. when the Bishop makes a decision under section 11.
- (7) A person subject to a Prohibition issued under section 13(2)(d) or section 13(4) is suspended from any Position covered by the Prohibition and if appropriate the Position may be filled by a temporary appointment until the earlier of the expiry of –
 - a. the Prohibition; and
 - b. any term during which the Subject holds the Position.
- (8) A person subject to a Prohibition issued under this section is not eligible for a Position covered by the Prohibition.
- (9) During –
 - a. a suspension or Prohibition under this section; or
 - b. a period during which a Subject voluntarily stands down from a cure or Position while Allegations are dealt with under this Ordinance,
 the Subject is entitled to whatever stipend, salary, allowances and other benefits the Subject would have been otherwise entitled to receive.
- (10) The Bishop may give notice of a suspension or Prohibition issued under this section to such persons as he considers necessary to give it proper effect.

The Advisers

14. (1) The Bishop-in-Council shall from time to time appoint at least three Advisers and may revoke the appointment of any Adviser at any time.
- (2) The Advisers when acting collectively for the purposes of this Ordinance shall include –
 - a. an Experienced Lawyer;
 - b. a person who is or has been a Licensed Clergyman in this or some other Diocese;
 - c. at least one woman.

Withdrawal of Allegations

15. (1) Subject to section 15(2) a person who has made an Allegation may by written notice at any time to the Diocesan Response Officer withdraw that Allegation and the Diocesan Response Officer shall forthwith notify any person or persons appointed by him for the purposes of conducting an investigation under section 4 or the Experienced Lawyer

appointed pursuant to section 5, as the case may be, of the withdrawal of the Allegation.

- (2) If an Allegation involves an Injured Party whose identity is known to the Diocesan Response Officer, the Allegation may be withdrawn under section 15(1) only with the written consent of the Injured Party or of his Representative.
- (3) Where a Tribunal has become seized of an Allegation, that Allegation may be withdrawn only with leave of the Tribunal.

Allegations Already Dealt With

16. No action is to be taken under this Ordinance in respect of Allegations against a Subject if Allegations against the Subject have been previously dealt with –
 - a. under this Ordinance; or
 - b. in any criminal proceedingsif the new Allegations are not materially different from such Allegations and unless the new Allegations are supported by apparently credible evidence of fresh facts likely to lead to a different result.

Exempt Conduct

17. (1) If prior to ordination as a deacon by or on behalf of the Bishop, a person fully discloses in writing to the Bishop conduct committed by that person which could constitute Child Abuse or a sexual offence under the criminal law of Canada, the Bishop, with the concurrence of a majority of the Advisers acting under section 14(2), may make a declaration that the conduct is Exempt Conduct.
- (2) If prior to being issued with any authority or licence required for a Position, a person who is not ordained fully discloses in writing to the Bishop conduct committed by that person which could constitute Child Abuse or a sexual offence under the criminal law of Canada, the Bishop, with the concurrence of a majority of the Advisers acting under section 14(2), may make a declaration that the conduct is Exempt Conduct.
- (3) If prior to being licensed by the Bishop, a person who has been ordained by or on behalf of a bishop of a diocese other than the Bishop and who has not previously been licensed by a Bishop fully discloses in writing to the Bishop conduct committed by that person prior to ordination as a deacon which could constitute Child Abuse or a sexual offence under the criminal law of Canada, the Bishop, with the concurrence of a majority of the Advisers acting under section 14(2), may make a declaration that the conduct is Exempt Conduct.
- (4) The Bishop shall not make a declaration that the conduct is Exempt Conduct –

- a. if the person is prohibited from working with children under any child protection legislation in force in Canada or elsewhere; and
 - b. unless the Bishop and a majority of the Advisers acting under section 14(2) consider that the person –
 - (i) has made any appropriate reparation for the conduct;
 - (ii) does not pose a risk to the safety of any person; and
 - (iii) is fit to be ordained, to be issued with an authority or to be licensed by the Bishop.
- (5) In deciding whether or not a person poses a risk to the safety of any person, the Bishop and the Advisers shall take into account –
- a. the seriousness of the conduct;
 - b. the age of the person at the time of the conduct;
 - c. the age of each victim at the time;
 - d. the difference in age between the person and each such victim;
 - e. the person’s criminal record, if any; and
 - f. such other matters as are considered relevant.
- (6) If the Bishop refuses to make a declaration under this section then the person is not entitled to apply again for a declaration under this section for a period of five years and, if the person is prohibited from working with children under any child protection legislation in force in Canada or elsewhere, until that person ceases to be a person so prohibited.

Relation between the Diocesan Response Officer and the Bishop and other Appointing Persons or Bodies

18. (1) The Diocesan Response Officer shall keep the Bishop fully informed of –
- a. any Allegations or knowledge or reasonable suspicion or notice of Unacceptable Behaviour under section 4(1);
 - b. any response provided by the Subject;
 - c. any appointment of a person or persons to investigate under section 4; and
 - d. the report of the Experienced Lawyer under section 5;
- and shall provide the Bishop with any other information reasonably requested by him.
- (2) The Diocesan Response Officer shall make a report to the Diocesan Council at least annually as to action taken under this Ordinance during the period under report.
- (3) The Bishop and/or the persons or bodies who appointed a Subject shall provide any information reasonably requested by the Diocesan Response Officer, the person or persons appointed to investigate under section 4, the Experienced Lawyer appointed under section 5, and a Tribunal.

Application

19. This Ordinance applies in respect of conduct whether occurring before, on or after the date on which this Ordinance comes into force.