

## **CANON 22** **DISCIPLINE**

### **1. Interpretation**

In this Canon,

- (a) "Bishop" means the Bishop of Toronto;
- (b) "Canon XVIII" means Canon XVIII of the General Synod of the Church;
- (c) "Church" means the Anglican Church of Canada;
- (d) "Court" means the Diocesan Court of Arbitration; and
- (e) "Supreme Court of Appeal" shall mean the Supreme Court of Appeal of the Anglican Church of Canada.

### **2. Jurisdiction of the Bishop**

It is hereby reaffirmed that the Bishop of the Diocese has by virtue of the office of the Bishop of the Diocese of Toronto, ecclesiastical jurisdiction, authority and power of discipline over all clergy and laity, members of the Anglican Church within the Diocese or under the jurisdiction of the Bishop, and has always had jurisdiction in respect of all ecclesiastical causes within the diocese and all offences against the laws ecclesiastical.

3. Nothing contained herein shall affect the jurisdiction and authority of the Bishop over any cleric holding the licence of such Bishop in respect of any offence alleged to have been committed by such cleric in a Diocese other than such cleric's own Diocese for which act the cleric would be subject to discipline if resident within such cleric's own Diocese, nor in respect of any offence alleged to have been committed in respect to any licence held by such cleric of any other Bishop.

### **4. Those Subject to Discipline**

Every priest, deacon or layperson holding the licence of the Bishop of the Diocese, or any office or appointment or charge under the jurisdiction of the Bishop, or who is in any sense subject to the Bishop's jurisdiction or receiving any allowance from or discharging any duties for the Synod, or any parish of the diocese, shall be liable to a complaint under this Canon and upon such complaint being admitted or proven shall be subject to discipline as set out in this Canon.

### **5. Ecclesiastical Offences**

All persons who are subject to ecclesiastical jurisdiction in the Church shall be liable to discipline for any of the following offences:

- (i) conviction of an indictable offence;
- (ii) immorality;
- (iii) disobedience to the bishop to whom such person has sworn canonical obedience;
- (iv) violation of any lawful Constitution or Canon of the Church, whether of a diocese, province or the General Synod by which the person is bound;
- (v) wilful or habitual neglect of the exercise of the ministry of the person without cause;
- (vi) wilful or habitual neglect of the duties of any office or position of trust to which the person has been appointed or elected;
- (vii) teaching or advocating doctrines contrary to those accepted by the Anglican Church of Canada; or
- (viii) contemptuous or disrespectful conduct towards the bishop of the diocese in matters pertaining to the administration of the affairs of the diocese or a parish.

### **6. The Bishop's Initial Disciplinary Jurisdiction**

Where it has been alleged that a priest, deacon or lay person subject to discipline under section 4 has committed an ecclesiastical offence, the Bishop shall have initial jurisdiction with respect to the determination of whether an ecclesiastical offence has been committed and the penalty for the commission of the offence.

## **7. Making a Complaint**

- (a) A complaint may be made by any person to the Bishop against anyone identified in section 4 of the Canon (the "Respondent") alleging the commission of an ecclesiastical offence as set out in this Canon. The complaint shall be delivered in writing to the Bishop setting out in detail the nature of the alleged offence.
- (b) The Bishop may also issue a complaint himself or herself.
- (c) The Bishop shall forward a copy of the complaint to the Respondent within seven (7) days of receipt of the complaint.

## **8. Where a complaint is made pursuant to this Canon, the Bishop shall either:**

- (a) Dismiss the complaint where it appears to the Bishop that:
  - (i) the complaint is trivial, vexatious or made in bad faith;
  - (ii) the facts on which the complaint is based occurred more than six (6) months before the complaint is made unless the Bishop is satisfied that the delay was incurred in good faith and no substantial prejudice will result to any person affected by the delay; or
  - (iii) the complaint does not set forth facts that, if established, would constitute the commission of an ecclesiastical offence.
- (b) Accept the resignation of the Respondent on such terms as to the Bishop appear just and equitable;
- (c) Determine the penalty to be imposed if the Respondent admits committing the offence;  
OR
- (d) Appoint a Committee of Inquiry consisting of one or more persons to investigate the complaint.

## **9. Where the Bishop dismisses a complaint pursuant to section 8, the Bishop shall make a decision in writing with reasons, and send a copy of the decision to the complainant and the respondent. In such a case, no further proceedings may be taken pursuant to this Canon with respect to the complaint.**

## **10. Inhibition**

If the Bishop considers that because of circumstances presented to him/her, the interests of the Diocese or of a parish require that a priest or deacon not continue to exercise the functions of ordained ministry, pending an investigation of the cleric's conduct, whether or not a complaint has been made under the Canon, he/she may cause a notice to be served on the cleric inhibiting him/her from performing the functions of ordained ministry within the Diocese or elsewhere in Canada, until the investigation is complete or until the inhibition has been withdrawn.

## **11. Investigation of Complaint**

- (a) Where the Bishop appoints a Committee of Inquiry to investigate the complaint, the Committee shall gather evidence respecting the complaint and submit a report to the Bishop containing particulars of the evidence gathered and its findings of fact within sixty (60) days of its appointment.
- (b) Upon receipt of the report, the Bishop shall either dismiss the complaint or deliver a copy of the report to the Respondent and invite the Respondent to meet with the Bishop within thirty (30) days of receipt of the report to respond to the report.
- (c) After meeting with the Respondent or after giving the Respondent an opportunity to meet with the Bishop, the Bishop shall either dismiss the complaint or determine that an ecclesiastical offence has been committed. In the event that the Bishop determines that an ecclesiastical offence has been committed, the Bishop shall provide a further opportunity for the Respondent to make submissions on penalty before any penalty is imposed.
- (d) Any decision made by the Bishop shall be in writing with reasons and forwarded to the Complainant and the Respondent.
- (e) The Bishop may obtain advice from the Chancellor or Vice Chancellors or such other persons as the Bishop considers appropriate.
- (f) The Bishop may delegate his/her authority in connection with a particular complaint in writing to a member of the College of Bishops.
- (g) If the Respondent admits committing the offence, the Bishop may determine the penalty to be imposed.

## **12. Imposition of Discipline**

- (a) The Bishop may impose the following discipline on the Respondent:
  - (i) a reprimand or admonition, orally or in writing, in public or in private;
  - (ii) suspension from the exercise of ministry or office;
  - (iii) deprivation of office or ministry;
  - (iv) deposition from the exercise of ministry if the person is ordained;
  - (v) withdrawal of licence or appointment;
  - (vi) acceptance of resignation on such terms as the Bishop considers just and equitable in lieu of or in addition to any other discipline;
  - (vii) such other discipline as appears to the Bishop to be appropriate having regard to all the circumstances.
- (b) The terms “admonition”, “suspension”, “deposition” and “deprivation” shall have the same meaning as in Canon XVIII of General Synod.

## **13. Submission to Diocesan Court of Arbitration (“DCA”)**

- (a) In the event that the Respondent is not satisfied with the Bishop’s decision that an ecclesiastical offence has been committed or with the penalty imposed, the Respondent may notify the Bishop in writing of his/her intention to submit the Bishop’s decision or the penalty to the DCA within fourteen (14) days of receipt of the notification of the decision and penalty to the Respondent by the Bishop.
- (b) The notice shall contain the name of the Respondent’s appointee to the DCA.
- (c) The Bishop shall within fourteen days of the receipt of the notice of referral to the DCA, inform the Respondent of his/her appointee to the DCA. The two appointees shall, within fourteen (14) days of the appointment of the second of them, appoint a third person who is a communicant member of the Church who shall be the chair. If the Bishop fails to appoint an arbitrator or if the two appointees fail to agree upon a chair within the time limit, the appointment shall be made by the Chancellor of the Ecclesiastical Province of Ontario upon the request of either party.
- (d) In the event that the Respondent is a priest or deacon, the appointees of the Bishop and the Respondent shall be members of the clergy and the chair a member of the laity.
- (e) In the event that the Respondent is a layperson, the appointees of the Bishop and the Respondent shall be members of the laity and the chair a member of the clergy.

## **14. Procedure before DCA**

- (a) All hearings by the DCA shall be conducted according to the principles of natural justice as set out in Canon XVIII of General Synod.
- (b) The parties to the DCA shall be the Bishop and the Respondent.
- (c) Where a hearing by the DCA is of a determination by the Bishop that an ecclesiastical offence has been committed, the hearing shall be conducted as if it were an original hearing. The DCA may confirm or set aside the Bishop’s determination.
- (d) The DCA shall hold an oral hearing at which time the parties may be represented by counsel or other representative, may call and examine witnesses and may present submissions to the arbitration board.
- (e) The chair of the DCA has the authority:
  - (i) to require either party to furnish particulars before or during a hearing;
  - (ii) to require either party to produce documents or things that might be relevant to the matter before or during a hearing;
  - (iii) to fix dates for the commencement and continuation of hearings;
  - (iv) to make interim orders concerning procedural matters.
- (f) Where the hearing by the DCA is of a determination by the Bishop of the penalty appropriate for the commission of the ecclesiastical offence, the DCA may substitute such other penalty for the offence as seems just and reasonable in all the circumstances.
- (g) The decision of the majority is the decision of the DCA, but if there is no majority, the decision of the chair governs.
- (h) Subject to any right of appeal conferred by the Canons of the Provincial Synod or the General Synod, the decision of the DCA is final and binding on the Bishop and the Respondent.

- (i) The Bishop shall appoint counsel to the DCA for a period of two (2) years. Counsel shall act as counsel to the DCA in any matter which comes before it during the period of his/her appointment.

**15. Complaint Against a Bishop**

In the event that a complaint is made against the Bishop or any member of the College of Bishops or a retired Bishop, the complaint shall be referred to the Court of Appeal for the Ecclesiastical Province of Ontario to determine whether an ecclesiastical offence has been committed and the determination of a penalty for the commission of the offence.

**16. Appeal**

- (a) A party to a proceeding before the DCA may appeal to the Court of Appeal for the Ecclesiastical Province of Ontario from a decision of the DCA in accordance with the Rules of the Provincial Synod.
- (b) On notice of appeal by a Respondent being given and service as provided in the Rules of the Provincial Synod, the decision of the DCA shall be stayed until further order of the Court of Appeal.