

OF THE MAINTENANCE OF MINISTRY STANDARDS:

PART A – INTRODUCTION & PRINCIPLES

1. *Duty to have regard to bishop's role*
Any body or person on whom functions in connection with the discipline of Ordained Ministers are conferred by this Title D must, when exercising those functions, have due regard to the role of the bishop who, by virtue of office and consecration, has pastoral and disciplinary responsibility.
2. *Who may complain*
Any person may make a complaint under this Title whether or not that person is the subject of that complaint.
3. *Initial assessment*
Each complaint will be initially assessed by the Registrar to determine whether there is sufficient substance to the complaint to make it deserving of further investigation, and if so whether the allegations if proven would constitute misconduct or unsatisfactory conduct.
4. *Due process and natural justice*
Ministers and Office Bearers subject to any process under this Title D are entitled to due process and natural justice including the right to be advised who has complained and of the nature of the allegations, to have time before responding to any allegations and to be heard in response to allegations. The Respondent has the right to consult and be represented by a lawyer at all stages of the disciplinary process.
5. *This Church as the Informant*
Where matters proceed to a disciplinary tribunal it is this Church that is the Informant, and which will prosecute the complaint.
6. *Informing of progress*
The Complainant in a matter and the Respondent must be kept informed of the procedural progress of any complaint.
7. *Undue delay and expense*
Undue delay and expense are to be avoided wherever possible.
8. *State processes*
Any investigation of any complaint by this Church is not in substitution for any state process and must not interfere with any processes of the State but notwithstanding that a process of the State is underway complaints may be dealt with under this Title D.

Licensing Bishops, Archbishops and the Registrar must bear in mind obligations to advise complainants, if it is appropriate, to take their complaints to other persons, groups or agencies including the Police.

9. *Customs of Tikanga*
The application of "Duties of Clerical Office," and "Pastoral Relationships" (Title D, Canon I, clauses 5 and 18) will take due account of the expectations and customs of each Tikanga within this Church of Ministers within that Tikanga.
The maintenance of "Duties of Clerical Office," and "Pastoral Relationships" (Title D, Canon I, clauses 5 and 18) across the Tikanga will be observed by the application of Title B Canon XX principles between the Tikanga.
10. *Pastoral care*
This Church has a duty to provide appropriate pastoral care and support both to any complainant and the respondent and the Registrar shall satisfy himself or herself that such support has been offered.
11. *Multiple complaints*
No Bishop, Minister or Office Bearer may be subject to this Title D process more than once in connection with the same incident or breach of standards.
12. *Protection*
Church communities need to be protected from damage by Ministers and Office Bearers who fall short of proper standards and also from harm done by unfounded or malicious complaints.

PART B – DISCIPLINARY PROCESS

13. The provisions of this canon shall have effect for the purpose of regulating proceedings against any Bishop, Minister or Office Bearer against whom a complaint has been received.
14. No disciplinary proceedings under this Title D may be instituted unless the behaviour in question, or the last instance of it in the case of a series of acts or omissions, occurred within the period of three years prior to the date of the complaint except for:
- (a) when the conduct complained of is conduct as a result of which the person concerned has been convicted proceedings may be instituted within three years of the conviction becoming conclusive;
 - (b) where the Registrar of the Ministry Standards Commission considers there was good reason why the complainant did not complain at an earlier date in which case the limitation period may extend from three to six years;
 - (c) where the misconduct in question is conduct of a sexual nature in which case there is no time period prescribed.

15. No disciplinary proceedings under this Title D may be instituted where a complaint deals with an event or events which have previously been the subject of a complaint which has been resolved or determined.
16. The Ministry Standards Commission may prescribe regulations, not inconsistent with this Title D, setting out the detailed process for the receipt of complaints, their investigation and the conduct of disciplinary proceedings covering matters such as:
 - (a) the form of complaints;
 - (b) where complaints may be lodged;
 - (c) any filing fees to be paid for any application and scales of costs which may be imposed in relation to proceedings;
 - (d) what supporting information, if any, should be provided with a complaint;
 - (e) the form of notification to respondents;
 - (f) whether disclosure of the complainant's contact details should be made to the respondent; and
 - (g) the steps to be taken prior to a hearing by any tribunal.

PART C – ASSESSMENT OF COMPLAINT

17. Every complaint alleging a breach of standards received by a Bishop, Minister or Office Bearer must be notified to the Registrar in writing.
18. On receipt of the complaint the Registrar must then conduct an assessment of the complaint and form a view as to:
 - (a) whether the conduct complained of, if proven, could constitute unsatisfactory conduct or misconduct;
 - (b) whether there is sufficient substance to the complaint to justify proceeding further under this Title D;
 - (c) whether the complainant has a proper interest in making the complaint;
 - (d) whether the complaint is time-barred under clause 14 of this canon; and
 - (e) whether the event or events have already been complained of and the complaint has been resolved so that clause 15 applies.
19. Where the complaint is against an Ordained Minister then the complaint must be automatically dismissed where the complaint alleges the Ordained Minister:
 - (a) conducted a service of blessing which has been authorised pursuant to Title G Canon XIV clause 8;

- (b) refused to conduct a service of blessing which has been authorised pursuant to Title G Canon XIV clause 8; or
 - (c) preached or taught that such services are, or are not, consistent with Holy Scripture and the doctrine of this Church.
- 20. Where the complaint is against a Bishop then the complaint must be automatically dismissed where the complaint alleges the Bishop:
 - (a) authorised a service pursuant to Title G Canon XIV clause 8;
 - (b) refused to authorise a service pursuant to Title G Canon XIV clause 8; or
 - (c) preached or taught that such services are, or are not, consistent with Holy Scripture and the doctrine of this Church.
- 21. In assessing the complaint the Registrar may make such further enquiries of the complainant or respondent as the Registrar considers fit and must refer the complaint to the respondent and consider any submissions from the respondent on the complaint.
- 22. Having assessed the complaint the Registrar shall within 30 days of receipt of a complaint, or such further period of time the Registrar considers justified in the circumstances of the case, provide a written report to the Licensing Bishop or, in the case of a complaint about a Bishop, the Archbishop, setting out the Registrar's assessment of the complaint and the recommended course of action.
- 23. In any written report under clause 22 the Registrar shall:
 - (a) if the behaviour complained of, if proven, would constitute unsatisfactory conduct and none of clause 18(b) to (e) apply recommend that the Licensing Bishop or, in the case of a Bishop, the Archbishop resolve the complaint;
 - (b) if the behaviour complained of, if proven, would constitute misconduct and none of clause 18(b) to (e) apply recommend that disciplinary proceedings be instituted;
 - (c) if it is found the complainant has no proper interest in making the complaint recommend it be dismissed;
 - (d) if it is found the complaint is time-barred recommend it be dismissed;
 - (e) if it is found the conduct has already been complained of and the complaint has been resolved recommend it be dismissed;

- (f) if there is insufficient substance to the complaint to justify proceeding further under this Title D recommend it be dismissed; or
 - (g) if the Registrar considers on reasonable grounds that the complaint is vexatious recommend that it be dismissed.
24. The Licensing Bishop or, in the case of a Bishop, the Archbishop must follow the course of action recommended by the Registrar in any written report under clause 22 after the process at clauses 26 to 29 are completed at which point formal notice of the decision must be provided in writing to the complainant and respondent.
 25. At the same time as the written decision is provided, both the complainant and respondent shall be provided with the name of a person to be available to each of them for their pastoral support, chosen by the Registrar from the list of persons available to act as chaplains in that capacity.
 26. Where the Registrar recommends a complaint be dismissed the Registrar shall provide notice of that recommendation and a copy of the written report under clause 22 to the complainant and to the respondent.
 27. Within 30 days of receipt of a notice of recommendation and a copy of the written report under clause 22 the complainant may ask the Chair of the Ministry Standards Commission to review the recommendation. Such review shall be on the papers and shall not require an in-person hearing.
 28. If on a review under clause 27 the Chair of the Ministry Standards Commission considers the dismissal to be plainly wrong then he or she may:
 - (a) reverse the decision and direct the complaint proceed in accordance with clause 23(a) or (b) (as appropriate); or
 - (b) remit the matter back to the Registrar for reconsideration.
 29. Where a complaint is remitted to the Registrar for reconsideration and the Registrar recommends dismissal of the complaint following that reconsideration then clauses 27 and 28 of this canon will not apply.
 30. Where the Registrar proposes to extend the 30-day period in clause 22 he or she shall inform the complainant and the respondent.
 31. The Registrar may delegate any investigation work undertaken under this section to such person as he or she may designate.

PART D – FURTHER HANDLING OF COMPLAINTS OF UNSATISFACTORY CONDUCT

32. Where the Registrar considers the complaint to be one of unsatisfactory conduct then the further handling of the complaint will be solely at the discretion of the Licensing Bishop or, in the case of a Bishop, the Archbishop and the outcome shall not prevent the issuing of a 'safe to receive' letter although the fact of the complaint and its resolution may be noted.
33. The courses of conduct available to the Licensing Bishop or, in the case of a Bishop, the Archbishop include:
- (a) a process of reconciliation carried out in accordance with the principles of the relevant Tikanga;
 - (b) a full investigation into the complaint, following inquiry principles, after which the Licensing Bishop or, in the case of a Bishop, the Archbishop may admonish the respondent; and/or
 - (c) requiring the respondent to undertake further training or counselling.
34. In deciding which step to undertake under clause 33 the Licensing Bishop or, in the case of a Bishop, the Archbishop shall have regard to the principle of reconciliation and forgiveness.

PART E – FURTHER HANDLING OF COMPLAINTS OF MISCONDUCT

35. Where the Registrar considers the complaint to be one of misconduct and recommends disciplinary proceedings be instituted then the provisions of this Part shall apply.

Institution of proceedings

36. On the Licensing Bishop or, in the case of a Bishop, the Archbishop confirming to the Registrar that disciplinary proceedings are to be instituted:
- (a) the Registrar will appoint a Church Advocate responsible for conducting the case on behalf of this Church from the list maintained by the Ministry Standards Commission;
 - (b) the Licensing Bishop or, in the case of a Bishop, the Archbishop will appoint a tribunal to hear the complaint from the list of tribunal members maintained by the Ministry Standards Commission;
 - (c) the Church Advocate will then prepare, in accordance with any regulations prescribed by the Ministry Standards Commission, a formal document (Complaint) setting out the conduct alleged, the date and place of the conduct where that is possible, and the particular breaches of canonical obligations alleged;

- (d) the respondent is then to file, in accordance with any regulations prescribed by the Ministry Standards Commission, a formal document (Response) setting out the response to the Points of Complaint which may include the admission of all or part of it.
37. The costs of the Church Advocate, if any, will be met by the Ministry Standards Commission.
38. The Church Advocate may engage such other persons as he or she thinks fit to ensure the proper and efficient conduct of the complaint on behalf of this Church and the complainant.
39. As the complainant is not a party the Church Advocate must regularly communicate with the complainant as to the progress of the tribunal proceeding.
- Immediate Suspension on recommendation of the Registrar*
40. If, on receipt of a complaint the Registrar considers, on reasonable grounds, that a complaint is one that, if proven, would constitute misconduct and the continuation in office of the respondent could expose others to a risk of harm then:
- (a) the Registrar may, having first provided twenty four hours' notice to the respondent and invited submissions, but without having provided a written report under clause 22, recommend to the Licensing Bishop or, in the case of a Bishop, the Archbishop the suspension of the respondent from office and/or ministry which recommendation must be followed by the Licensing Bishop or, in the case of a Bishop, the Archbishop with immediate effect;
 - (b) the Registrar must then proceed to prepare the written report required under clause 22; and
 - (c) the Registrar shall appoint a Church Advocate for the proceeding.
41. If a respondent is suspended from office and/or ministry under clause 40 then the respondent may immediately apply for the institution of disciplinary proceedings in which case:
- (a) the provisions of this canon relating to the establishment of a tribunal shall be immediately followed; and
 - (b) the respondent may make an application to the tribunal for the suspension to be lifted;
 - (c) notice of any such application shall be given to the Church Advocate; and
 - (d) the Tribunal shall not recommend to the Licensing Bishop or, in the case of a Bishop, the Archbishop that the suspension should be lifted unless the tribunal is satisfied that:
 - (i) there is no case to be answered by the respondent; and

- (ii) there is no appreciable risk that continuation in office and/or ministry could expose others to the risk of harm or could adversely affect the public reputation of this Church;
- (e) the Licensing Bishop or, in the case of a Bishop, the Archbishop shall follow the recommendation of the Tribunal relating to the lifting of suspension.

Application for suspension

- 42. On the institution of a disciplinary proceeding the Church Advocate may apply to the tribunal for the respondent to be suspended from office and/or ministry pending a final determination.
- 43. Notice of any such application must be given to the respondent.
- 44. The tribunal must recommend suspension to the Licensing Bishop or, in the case of a Bishop, the Archbishop if satisfied that:
 - (a) there is a case to be answered by the respondent; and
 - (b) there is an appreciable risk that continuation in office and/or ministry would expose others to the risk of harm or would adversely affect the Ministry of this Church.
- 45. The tribunal may recommend any conditions to be attached to the suspension from office and/or ministry of the respondent and may also recommend the continuation of the respondent in office and/or ministry on certain conditions.
- 46. The Licensing Bishop or, in the case of a Bishop, the Archbishop must follow the recommendation of the tribunal relating to suspension.
- 47. During such suspension the Minister will not be deprived of any stipend or emoluments associated with the Minister's office.
- 48. Any determination and recommendation of the tribunal to suspend a Minister or Office Bearer may be appealed under Part F of this canon.

The tribunal

- 49. Any tribunal constituted under this Part shall be of three people including:
 - (a) one Ordained Minister;
 - (b) one lay member of this Church; and
 - (c) one person, who shall be the chair of the tribunal, who is a member of this Church who has been enrolled as a barrister or solicitor of the High Court of New Zealand of not less than seven years standing or who holds similar qualifications and experience in any of the legal jurisdictions in the Diocese of Polynesia.

50. At least one of the members of any tribunal constituted under this Part shall reside in the Episcopal Unit of the Licensing Bishop but no one shall be a member of a tribunal who might reasonably be apprehended to be biased.
51. In any proceeding before any tribunal constituted under this Part:
- (a) the tribunal may receive any evidence it thinks fit whether it would otherwise be admissible in a court or not;
 - (b) the standard of proof to be applied by the tribunal shall be that of proof on the balance of probabilities;
 - (c) the determination of any matter before the tribunal must be according to the opinion of the majority of the members of the tribunal and include reasons for the determination;
 - (d) any hearing shall be in private, except that the tribunal, if satisfied that it is in the interests of justice so to do may direct that the hearing shall be in public in which case the tribunal may, during any part of the proceeding, exclude such person or persons as it may determine; and
 - (e) the tribunal may, in considering or determining any question of law before it (including any issues as to the meaning of Canons and regulations of this Church) have regard to prior decisions of any tribunal and shall follow any decision of an Appeal Tribunal on that question of law;
 - (f) the tribunal may have regard to prior decisions of any tribunal and shall follow any decision of an Appeal Tribunal on the question of what outcome is appropriate in light of the misconduct as found.
52. The costs of any tribunal constituted under this Part will be met by the Ministry Standards Commission subject to any regulations relating to filing fees and cost orders made by the Ministry Standards Commission.

Outcomes where misconduct is found

53. Where a tribunal determines there has been misconduct then the tribunal may not proceed to recommending an outcome without having first sought submissions from the Licensing Bishop or, in the case of a Bishop, the Archbishop on an outcome, having provided the opportunity for any party to make submissions as to the outcome and having provided the opportunity to the complainant to provide information on the effect of the misconduct on him or her.

54. Where the tribunal determines there has been misconduct then the tribunal may recommend to the Licensing Bishop or, in the case of a Bishop, the Archbishop one of the following outcomes having considered prior authorities and also tikanga considerations:
- (a) admonition – which will be delivered by the Licensing Bishop or, in the case of a Bishop, the Archbishop and may be in the form of a formal written order or injunction which for an Ordained Minister must be entered in the record of that Ordained Minister and may be delivered in public or in private as the Licensing Bishop or, in the case of a Bishop, the Archbishop may determine;
 - (b) suspension from the exercise of Ministry or office for the extent and duration considered appropriate by the tribunal which may include suspension of the whole or part of any stipend;
 - (c) deprivation of office or ministry making the respondent incapable of holding any office or Ministry or performing any function in any Episcopal Unit of this Church for the extent and duration considered appropriate by the tribunal at the end of which period restoration may occur;
 - (d) deposition from the exercise of ordained ministry including all the consequences of deprivation and meaning the permanent taking away of the right to perform the duties of every office for which Holy Orders are required, and ineligibility for re-election or re-appointment to that office, or any other office in this Church.
55. Any of the outcomes set out at 54(a) to (c) may include a process of reconciliation carried out in accordance with the principles of the relevant Tikanga.
56. Any of the outcomes under 54(a) to (c) may include a requirement that the respondent undertake further training or counselling or other steps, including such training counselling or other steps as a precondition of continuation or restoration of license.
57. Any of the outcomes under 54(a) to (c) may include limitations on the sorts of ministry to be permitted in the future.
58. The Licensing Bishop or, in the case of a Bishop, the Archbishop shall impose the outcome recommended by the tribunal.
59. Where suspension is imposed the Licensing Bishop must give written notice to ministry units in that Episcopal Unit and advise all Licensing Bishops in this Church.
60. Where deprivation or deposition of office or Ministry is imposed the Bishop shall give written notice to ministry units in that Episcopal Unit and advise all Licensing Bishops in this Church and all Primates of the Anglican Communion.

Tribunal findings and publication

61. The tribunal shall report its determination and the reasons for it in writing to:
- (a) the Chair of the Ministry Standards Commission;
 - (b) the Registrar;
 - (c) the Licensing Bishop or, in the case of a Bishop, the Archbishop;
 - (d) the complainant; and
 - (e) the respondent.
62. The determination of the tribunal and reasons for it shall be made public by the Commission after the expiry of the appeal period at clause 68 unless the tribunal is satisfied that such publication would:
- (a) cause extreme hardship to the respondent; or
 - (b) cause undue hardship to the complainant, or any person connected with him or her or them or with the respondent; or
 - (c) create a real risk of prejudice to any other civil or criminal proceeding then underway; or
 - (d) endanger the safety of any person; or
 - (e) lead to the identification of a person whose name is suppressed by order or by law; or
 - (f) prejudice the maintenance of the law of New Zealand or any of legal jurisdictions in the Diocese of Polynesia or internal Church discipline, including the prevention, investigation, and detection of offences in which case the tribunal may order the suppression of the names of the complainant or the respondent or any evidence or submissions put before it.
63. Neither the name of the complainant nor any information which may reasonably lead to the identification of the complainant shall be made public in the absence of a request from the complainant.
64. If there is an appeal the findings and recommendations arising therefrom must not be made public before the appeal is determined.
65. Subject to any suppression orders made pursuant to clause 62, and in addition to any other requirements for notification;
- (a) the findings and recommendations of any tribunal shall be published by the Ministry Standards Commission; and
 - (b) the Registrar will maintain a database containing the written record of the findings and recommendations of any tribunal which shall:

- (i) be accessible to the public including on the website of this Church or other digital platform;
 - (ii) be available for access by any Church tribunal under this Title D for the purposes of considering any question of law or what outcome it is appropriate to recommend in light of the misconduct found.
- 66. The findings and outcome of any tribunal shall be recorded on the respondent's file.

PART F - APPEALS

- 67. Subject to the provisions of this part where a tribunal has provided a determination and a recommended outcome in writing then:
 - (a) the respondent may appeal on a question of law or fact; and
 - (b) the Church Advocate may appeal only on a question of law.

There shall be no appeal from any interlocutory decision of a tribunal, which is final.

- 68. Any appeal must be filed with the Appeal Tribunal within 20 working days of the determination of the Tribunal appealed from.
- 69. Any person may make an application to the Appeal Tribunal at any time for a Special Appeal either to re-open a disciplinary proceeding which has already been determined, or to commence a fresh proceeding, or to introduce new evidence in a complaint proceeding which is before a Tribunal or an Appeal Tribunal. Notwithstanding clauses 14 and 15, the Appeal Tribunal may admit further evidence or give such directions as it thinks fit to admit further evidence which is fresh, credible and cogent. Evidence is fresh only where it could not, with reasonable diligence, have been produced at the time a complaint procedure was or could have been heard. The power given to the Appeal Tribunal by this clause is available only in circumstances which the Appeal Tribunal finds are exceptional and compelling. The Appeal Tribunal shall make such further directions for the proceeding to be remitted to a Tribunal, or otherwise, and for the hearing of the proceeding, as it thinks fit.
- 70. Any such appeal will be heard by the Appeal Tribunal.
- 71. The Appeal Tribunal for appeals consists of three members including:
 - (a) the Provincial Chancellor (or his or her nominee) who shall be the Chair of the Appeal Tribunal;
 - (b) the Primate / te Pīhopa Mātāmua of this Church (or where there is more than one then one of them chosen by themselves); and

- (c) a member of the Judicial Committee who is not of the same house as the Chair of the Appeal Tribunal who is appointed by the Chair of the Appeal Tribunal for the particular appeal.
- 72. No one shall be a member of the Appeal Tribunal who might reasonably be apprehended to be biased.
- 73. Every notice of appeal must specify the findings or determination or part of the findings or determination appealed from and the grounds of the appeal which grounds shall be specified with such reasonable particularity as to give full advice both to the Appeal Tribunal and the other parties of the issues involved.
- 74. The Ministry Standards Commission will prescribe regulations for the rules of giving notice of appeal and every appeal must conform to those rules.
- 75. On any appeal to the Appeal Tribunal against findings of a tribunal under this Canon the Appeal Tribunal has all the powers of the Tribunal of first instance and may confirm, modify or reverse the findings appealed against.
- 76. The Appeal Tribunal may only consider issues explanations and facts other than those placed before the Tribunal if it is satisfied that they may be relevant to the determination made by the Tribunal and is satisfied by the party seeking to introduce them that party could not by exercise of reasonable diligence have placed them before the tribunal, and that because of exceptional circumstances it is fair to consider them.
- 77. The Appeal Tribunal may, in considering or determining any question of law before it or what outcome should be recommended in light of the misconduct found, have regard to prior decisions of any Tribunal or Appeal Tribunal on that question of law.
- 78. The Appeal Tribunal in hearing any appeal may regulate its own procedures consistent with this Title D and any regulations prescribed by the Ministry Standards Commission.
- 79. The Appeal Tribunal must report its determination and the reasons for it in writing to:
 - (a) the Chair of the Ministry Standards Commission;
 - (b) the Registrar;
 - (c) the Licensing Bishop or, in the case of a Bishop, the Archbishop;
 - (d) the complainant; and
 - (e) the respondent.
- 80. The determinations of the Appeal Tribunal must be made public in accordance with clause 82 unless the Appeal Tribunal is satisfied that such publication would:
 - (a) cause extreme hardship to the respondent; or

- (b) cause undue hardship to the complainant, or any person connected with them or with the respondent; or
- (c) create a real risk of prejudice to any other civil or criminal proceeding then underway; or
- (d) endanger the safety of any person; or
- (e) lead to the identification of a person whose name is suppressed by order or by law; or
- (f) prejudice the maintenance of the law of New Zealand or any of the legal jurisdictions in the Diocese of Polynesia or internal Church discipline, including the prevention, investigation, and detection of offences

in which case the Appeal Tribunal may order the suppression of the names of the complainant or respondent or any evidence or submissions put before it.

81. Neither the name of the complainant nor any information which may reasonably lead to the identification of the complainant shall be made public in the absence of a request from the complainant.
82. Subject to any suppression orders made pursuant to clause 80, and in addition to any other requirements for notification:
- (a) the findings and recommendations of the Appeal Tribunal shall be published by the Ministry Standards Commission; and
 - (b) the Registrar will maintain a database containing the written record of the findings and recommendations of any tribunal which shall:
 - (i) be accessible to the public including on the website of this Church or other digital platform;
 - (ii) be available for access by any Church tribunal under this Title D for the purposes of considering any question of law or what outcome it is appropriate to recommend in light of the misconduct found.
83. The costs of the Church Advocate for any appeal will be met by the Ministry Standards Commission subject to any regulations issued by the Ministry Standards Commission.
84. The Church Advocate may engage such other persons as he or she thinks fit to ensure the proper and efficient conduct of the appeal on behalf of this Church and the complainant.
85. The costs of the Appeal Tribunal will be met by the Ministry Standards Commission.