

The Anglican Church in Aotearoa, New Zealand and Polynesia
Te Hahi Mihinare ki Aotearoa ki Niu Tīreni, ki Ngā Moutere o te Moana Nui a Kiwa

GUIDE TO TITLE D

MAINTENANCE OF STANDARDS OF MINISTRY FOR BISHOP/PIHOPA, MINISTERS AND OFFICE BEARERS.

Title D is found in the handbook containing Manual of
Canons and the Constitution / te Pouhere
of the Anglican Church in Aotearoa, New Zealand and
Polynesia

ANGLICAN CHURCH IN AOTEAROA, NEW ZEALAND AND POLYNESIA

TITLE D

In 1998 the General Synod / te Hinota Whamui enacted legislation which set out procedures which enable and provide mechanisms for the Maintenance of Standards of Ministry in the Anglican Church in Aotearoa, New Zealand and Polynesia.

In the knowledge that this Church is to deal with issues within the context of Gospel principles of restoration and reconciliation, the Commission which wrote the legislation worked on the proposals that Title D should cover and provide guidance on: -

- performance of allocated duties
- adherence of Faith as the Church understands it
- style of life and conduct
- maintenance of both ethical and proper conduct in situations of vulnerability in which ministers often serve, and the provision of methods to respond to breaches of standard or failure to conform to doctrine

Title D is by necessity an exacting and complex piece of legislation. This guide has been prepared in an endeavour to assist users by listing frequently asked questions.

A GUIDE TO TITLE D “FREQUENTLY ASKED QUESTIONS”

Complaints Against the Church's Ministers

There are two distinct processes - the “INFORMAL” process and dealing with an actual “COMPLAINT”.

Informal Processes:

[Title D
Reference]

Where a person has a matter of concern:

1. A person may wish to seek help and support from a parish friend or a Diocesan Contact Person in relation to an alleged incident involving them and a minister or office holder.
2. Contact Persons provide information as well as supporting and encouraging the person where appropriate to undertake effective and appropriate self-help measures.
3. Contact Persons do not deal with the “complaint” but simply encourage the person who is experiencing the problem to deal with it themselves. Contact persons may assist the person to resolve issues for themselves, or may advise the appropriate way of advancing an alleged incident into a formal complaint to the Bishop/Pihopa.
4. The Bishop/Pihopa does not get involved in any informal procedure; and if approached refers the person to a Diocesan/Hui Amorangi Contact Person to assist with the issue.

Title D Applies to Whom:

5. Who is subject to the Title D ‘of Standards of Ministry’?
[A 1 & 2]
[Canon III]
Ordained ministers (deacons, priests and Bishops/Pihopa); lay persons who hold an office such as vestry members, lay officiants, those who have assented to the authority of General Synod / te Hinota Whanui, members of Church trust boards and Church trustees.
6. How do you know if a layperson holds an office?
[Interpretations]
These people have to hold a Bishop/Pihopa’s licence or have assented in writing to the authority of General Synod / te Hinota Whanui (eg wardens & vestry members) in order to hold an ‘office’.
7. What is a complaint?
[Part A]
An allegation of a failure of a Standard of Ministry listed in Part A of Title D.

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| 8. | What may be complained about? | [C 2] | Ministers Retired Natural Justice Notes of Outcomes to Church Office holder Ordained Other course of action Outcomes Reconcile Recommendations Record Response Restoration Rights of parties Support Suspension Tikunga Pakeha Tribunal constitution Panel Process Types Tribunal costs Trustee Vestry Vexatious Witnesses | 5 22 35 64 5 5 26 64 23 59 48, 52 60 62 37 1, 55 34, 62, 63 18, 31 42 45, 46 24 41 66 5 5 27 56 |
| 9. | Who may make a complaint? | [C3 4.1] | | |
| 10. | Can a Bishop/Pihopa institute a complaint? | [C3 4.1.1] | | |
| 11. | How is the Bishop/Pihopa made aware of a complaint? | | | |
| 12. | Will every matter that is referred to the Bishop/Pihopa lead to a Title D inquiry by a Tribunal? | | | |

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|-----|---|----------------------|--|--|
| 13. | Bishop/Pihopa's Role: | [C 1 1] | Interpretations A 1 A 2 B 1 B 6 B 9 B 9.6 9.7 B 10 C 11 11.1 11.1.1 11.1.2 C 2 C 3.4.1 4.1.1 C 4.3.1 4.3.2 4.4 4.4.1 4.5 4.6 4.7 5.1 D 1 | 6 7 5 5 35 23, 24 26 36, 38, 40 21 21 40 13 15 14 15, 16, 17, 18, 23, 30, 31, 32 8 9 10 20 19, 22 25, 29 25, 28 25, 27, 28 23 33 34 23 |
| 14. | What if the Bishop/Pihopa has a conflict of interest or is absent? | [C 1 1.1.1] | | |
| 15. | Delegation: | [C 1 1.1 & 1.1.2] | | |
| 16. | For this reason, and the burden placed on Bishops/Pihopa in the Title D process, Canon 1 Part C1 Clause 1.1.2 provides for possible delegation of the responsibility of the Bishop/Pihopa for dealing with complaints, and making process determinations in various stages of the procedure. This delegation can cover all determinations except those that have the effect of terminating any further process and determinations of final Outcomes under Part D4. | [C 1 1.1.2] [D 4] | | |

Formal Complaint Process:

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17. Delegated Persons may be appointed by the Bishop/Pihopa and approved by the Standing Committee Te Runanga Whatiri [C1 1.1.2]
18. The understanding in Tikanga Maori and Tikanga Pasefika is that the Bishop/Pihopa exercises the determination adjudication (or decision making) on the complaint. [C1 1.1.2]

The expectation in Tikanga Pakeha is that the Bishop/Pihopa will usually exercise the discretion under Part C1 Clauses 1.1.1 and appoint a Delegated Person to deal with the process of a complaint under Title D. The Bishop/Pihopa always retains the determination adjudication (or decision making) on the complaint.

I. Making a Complaint

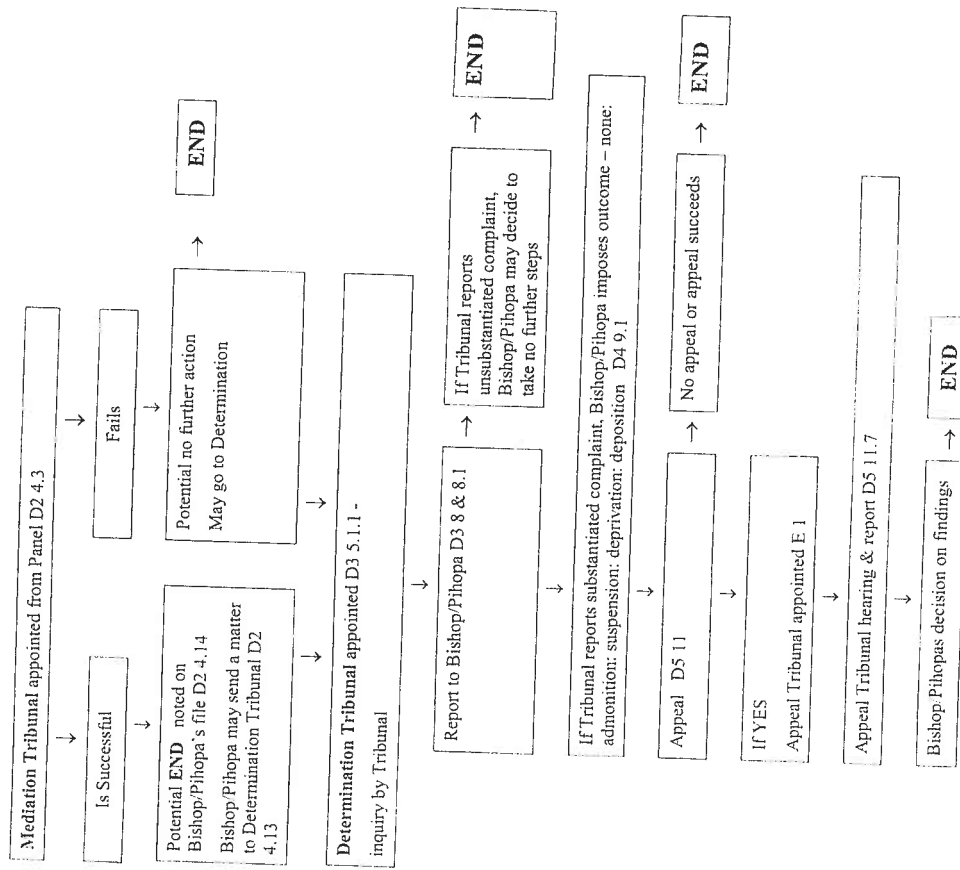
19. To whom is the complaint made?
 A complaint may be made to any Bishop/Pihopa who will forward it to the appropriate Bishop/Pihopa who issued the licence of the person against whom the misconduct is alleged. [C3 4.3.2]
20. If the complaint involves other Episcopal units how is it dealt with?
 The Bishop/Pihopa shall keep informed of the complainant/s and at every step of the process under Title D the Bishop/s/Pihopa of other Episcopal units involved in the complaint/s. [C3 4.3.1 & D2 4.3.1]
21. How is the complaint made?
 It can be made by a letter or phone call. The complaint does not have to be set out in legal or technical terms, and may be written by the complainant or anyone the complainant may ask to do so. However for a complaint to be dealt with (that is proceed to inquiry and mediation or determination) it must eventually be made in writing. [B 9.7]
22. Where does the complaint get dealt with?
 Whichever Bishop/Pihopa receives the complaint refers that complaint to the Bishop/Pihopa who licensed the Minister or office bearer, or in the case of retired ordained Ministers, the Bishop/Pihopa of the Episcopal Unit within which they were last licensed or granted permission to officiate. The Bishop/Pihopa to whom the complaint is referred must then exercise the duty in Paragraph 21 (below) before commencing investigations. [C 3 4.3.2]

II. What Does the Bishop/Pihopa Do About the Complaint?

The steps following receipt of a complaint:

23. Bishop/Pihopa's Initial duty:
 When a complaint is received by a Bishop/Pihopa that Bishop/Pihopa has a first duty under Part C3 Clause 4.6 to "endeavour to reconcile the several parties" in the complaint (where such is appropriate) and to achieve an outcome acceptable by all parties before using any other process. [C3 4.6] [D 1]
- This is not the same as an 'informal' step with a Contact Person. Any Delegation under Part C1 Clause 1.1.1 takes place after the Bishop/Pihopa has discharged this duty. [C1 1.1.2]

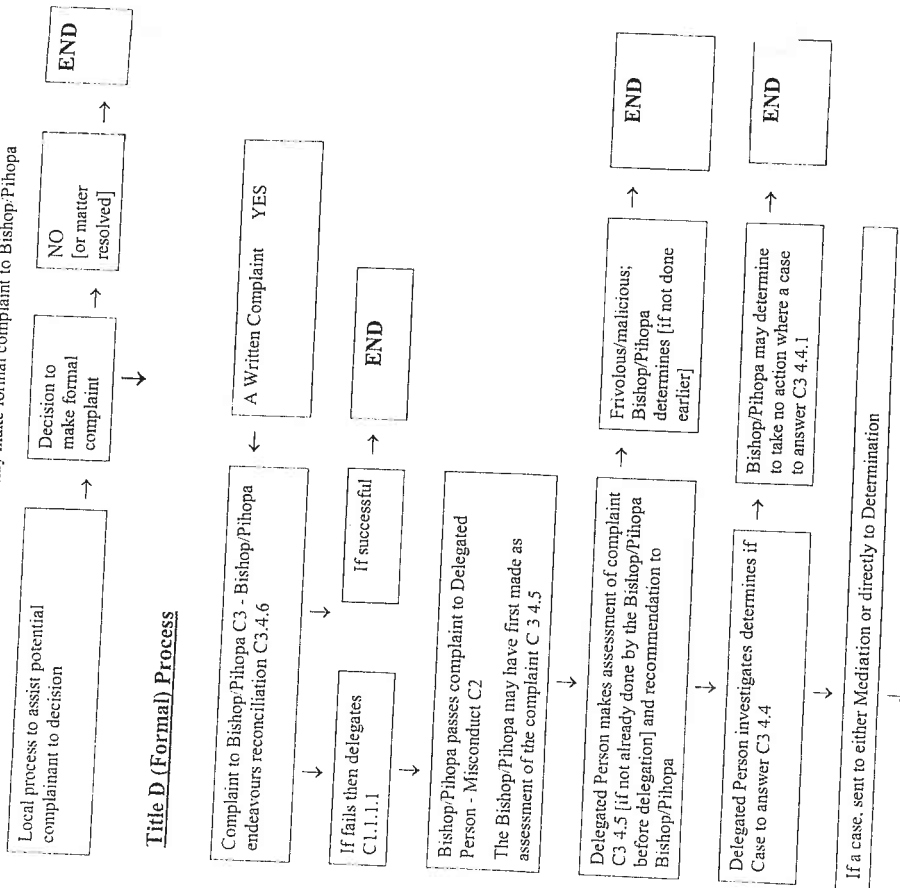
- In every case the Bishop/Pihopa should endeavour to solve the problem (through a marae whanau meeting, discussions or counselling, along with any form of resolution the Bishop/Pihopa sees helpful to use) without recourse to a formal Title D process.
24. **If this reconciliation fails?** [B 1 & D2 4.10] & C3 4.6
 If there is no possibility of reconciliation, or if an attempted reconciliation fails, or is not acceptable by all parties, only then will the process using the Tribunal come into action.
25. **What happens when a complaint is not reconciled by the Bishop/Pihopa?** [C3 4.4] & [C3 4.4.1 & 4.5] & [B 6]
 The Bishop/Pihopa must determine if the complaint is to be inquired into or disallowed.
26. **Does the Church advise the complainant on other steps that can be taken?**
 The complainant must be advised of other appropriate places to take the complaint in addition to the Church, for instance to the police.
27. **Must every complaint lead to a case?** [C3 4.5]
 Not necessarily. If the Bishop/Pihopa concludes the complaint is frivolous or vexatious the process goes no further.
28. **Must the complaint be dealt with by the Church?** [C 3 4.4.1 & 4.5]
 The Bishop/Pihopa may decide to do nothing further.
29. **What decision is made if the complaint is to be inquired into?** [C 3 4.4]
 After receiving a complaint and reconciliation has not proved possible the Bishop/Pihopa then has to decide whether there is any case to inquire into or not and may take advice on that.
30. **Can the Bishop/Pihopa delegate the determinations?** [C1 1.1.2]
 The Bishop/Pihopa may delegate all determinations except for final determinations to a person approved by the Standing Committee/Te Runanga Whaiti.
31. **Practice of Delegation** [C1 1.1.2]
 The practice of delegation is a matter for each Tikanga to decide on. For Tikanga Pakelha all complaints received by a Diocese are likely to be immediately referred by the Bishop to the Delegated Person/s. This delegation and its extent is discretionary, however the usual course is expected to follow Clauses 1.1.2.
32. **Bishop/Pihopa's role after any delegation?** [C1 1.1.2]
 The Delegated Person/s under Part C1 Clause 1.1.2 deal with the processes of the complaint. Where there is delegation the Bishop/Pihopa will take no further part in the process until there is a recommendation from the Delegated Person/s or from a Tribunal for final determination by the Bishop/Pihopa.
33. **What steps will the Episcopal Unit take on a complaint to be inquired into?** [C 3 4.7]
 By a determination as to whether or not to refer the matter to Mediation or a Determination Tribunal.
34. **Can the minister be suspended from ministry?** [C 3 5.1]
 The Bishop/Pihopa may decide to suspend the minister or office bearer from Ministry or Office pending determination.



Flow Chart for Process Steps:

The "Informal" Diocesan process

Person with an issue - may consult with a Contact Person - advice on how to deal with issues
 - ENDS
 - may make formal complaint to Bishop/Pihopa



35. How will the complainant get natural justice? [B]
Principles and requirements are set out in Part B.
36. Are there minimum Standards of Procedure? [B 9]
Yes. Proceedings under Title D must always follow the requirements of "Minimum Standards of Procedure" (ie knowledge of allegation, appropriate tikanga sensitivity, time to respond, be heard in defence, to use own language, provide a written complaint, the right of silence).
Where are the rights of the parties to any complaint set out? [D3 6]
The rights of parties in any complaint/matter are set out in Canon I Part D3 Clause 6. (ie may appear personally, with supporter, or lawyer, may produce evidence and cross examine).
38. What standards are required for inquiring into a complaint? [B 9]
Those listed in Part B Clause 9.
(ie Tribunal will adhere & conduct all processes according to minimum standards).
39. What rights does the complainant have? [D3 6]
Those that are set out in Part D3 Clause 6, including - appearing in person, with supporter, lawyer, to produce evidence and to cross examine.
40. What rights do the persons accused have? [B 9 & 10]
Fair treatment as detailed in Part B Clause 9 and 10 including the right to silence, knowledge of complaint, time to respond, be heard in defence, application of Tikanga protocol).
41. What kinds of Tribunal are there? [D2 & D3]
Two - Mediation and Determination Tribunals.
42. Who constitutes a tribunal? [D2 4.2 & D3 5.1.1]
The Bishop/Pihopa or the Delegated Person if the delegation extends to this, appoints from the persons listed on the Panel. It is expected that delegation will be usual.
Please refer to Clause 30 for decisions by a Delegated Person in the name of the Bishop/Pihopa.
43. Episcopal Unit's Panels [D1 1.2]
The governing body of the Episcopal unit or its Standing Committee appoints a standing panel of appropriate persons from which a particular Tribunal may be appointed for a complaint.
44. If the complaint involves more than one Episcopal unit whose Panel? [D1 1.2.1 & D3 5.1.2]
For a complaint involving more than one Episcopal unit or Tikanga a particular Panel of appropriately qualified persons may be appointed by each Episcopal unit's governing body or Standing Committee for the Licensing Bishop to appoint from.
45. Where does a Tribunal panel's members come from? [D1 1.3]
They may be persons drawn from anywhere.

46. **Who may be on a panel?**
Persons who must have appropriate qualifications for mediation and for determination. [D1 1.2 - 1.4]
47. **How many members sit in a Mediation Tribunal?**
One member. [D2 4.2]
48. **By what rules does a mediation process proceed?**
Mediation is required to seek reconciliation (of the parties) between the person laying the complaint and the person being complained about. [D2 4.4]
49. **What happens to a successful mediation?**
The Tribunal may resolve matters by mediation. The terms of settlement are signed by all parties. [D2 4.15]
50. **What happens if the mediation fails?**
The Bishop/Pihopa determines if the matter is to go to a Determination Tribunal or if no further action is to be taken. [D2 4.10]
51. **Who determines a mediation has failed?**
The Bishop/Pihopa. [D2 4.10]
52. **What records are kept of mediated complaints?**
A note is placed on the Bishop/Pihopa's records of the minister. [D2 4.14]
53. **When is a Determination Tribunal hearing appropriate?**
When the Bishop/Pihopa determines it. [D2 4.11, D3 5]
54. **How many members sit in a Determination Tribunal?**
A minimum of three appropriately qualified persons of whom one must be clerical, one lay [D3 5.1] and where possible one a lawyer [D3 5.2]. [D3 5.1] [D3 5.2]
55. **Can any of the parties before a Tribunal have lawyers and/or supporters?**
Parties may have and/or lawyer or may be accompanied by a supporter at a hearing. [D3 6.1.2 - 6.1.4 & 6.1.5]
56. **Where do Tribunals sit and who do they hear?**
The time and place is where the Tribunal determines. [D3 6.5]
The Tribunal determines its own rules and procedures. [D3 6.1.1] & 6.1.5
The Tribunal hears the parties and any witnesses, and their lawyers; determines its own rules. [D3 6.1.4 & D1 3.5]
57. **What does the Tribunal determine?**
The facts of the allegations which uphold or refute the complaint, and whether there has been any established breach of the standards of ministry. [D1 1.1.1] [D1 1.3]
58. **What does the Tribunal recommend?**
As well as establishing facts, the Determination Tribunal may make recommendations to the Bishop/Pihopa about what should happen. [D3 8.1]
59. **Is the Bishop/Pihopa bound by the Tribunal recommendations?**
The recommendations are not binding upon the Bishop/Pihopa. [D3 8.1]
60. **How does the Bishop/Pihopa respond to the Tribunal recommendations?**
The Bishop/Pihopa rejoins the process when there is a recommendation from the Determination Tribunal and makes a determination on the outcomes in terms of D4 9.1. [D4 9.1]
61. **What principle should the Bishop/Pihopa apply to an outcome?**
The opportunity for restoration after repentance, as a Gospel principle. [D4 9]
62. **Bishop/Pihopa's power to suspend a licence?**
Following a settlement by mediation the Bishop/Pihopa may suspend a licence on the Bishop/Pihopa's determination. [D2 4.13]
63. **What outcomes are possible?**
Where a Tribunal reports to a Bishop/Pihopa that there has been misconduct the Bishop/Pihopa may decide to take no further action or to admonish, or suspend, or deprive of office, or depose from the exercise of ordained ministry. [D2 4.13 & D4 9.1]
64. **What notice is given of the determination on an outcome within the Church?**
The Bishop/Pihopa has a duty to advise the Church in terms of D4 10. [D4 10]
65. **Can a party appeal?**
Any party may appeal the Tribunal's findings and the Bishop's/Pihopa's determination. [Part D5]
66. **Can an Episcopal unit recover the costs of the Tribunal?**
A Tribunal may make recommendations on the payment of costs of establishing and running the hearing of the Tribunal. [D3 8.1.1]

III. Complaints about Bishop/Pihopa

67. **Can a complaint be made against a Bishop/Pihopa?**
Yes; Bishops/Pihopa also have standards of ministry and a breach of duty may be basis of a complaint. [Canon II 3]
68. **Who would lay a complaint?**
Unless for sexual misconduct or harassment, a complaint must be from six baptised members of this Church two of whom must be licensed priests. [Canon II 3.1]
69. **Where is the complaint lodged?**
A complaint against a Bishop/Pihopa goes to the Primate or a Co-Presiding Bishop/Pihopa of the Tikanga of the Bishop/Pihopa against whom the complaint is made. [Canon II 3.1.1]
70. **What may be complained about?**
Misconduct as listed in Canon II Clause 4. [Canon II 4]

IV. Complaints against Church Trustees

71. **Can a complaint be made against a trustee?**
Yes to the Bishop/Pihopa of the Episcopal Unit beneficiary of the trust. [Canon III 4]
72. **What may be complained about?**
A breach of trust, failure of lawful instructions, failed obligations of office, breach of duty required of Trustees or ethical standards. [Canon III 3, 6, 6.1, 6.2 & 6.3]