

SOME THINGS TO KEEP IN MIND...

Parish Personnel: Hiring, having and firing a parish employee

When hiring a parish employee...

Preliminary matters

Seek Human Resources professional advice

Notify the diocesan offices to determine what resources are available for best practices

Be familiar with the diocesan employment manual & policies in effect and relevance to parishes

Have in place and abide by a parish policy with respect to Accessibility Standards for Human Resources Practices (as per the Accessibility for Ontarians with Disabilities Act 2005 [AODA]) Cf. the template for parish policies in the appendix below or on the diocesan website.

Secure resources for remuneration

- Not less than minimum wage
- Paying at least a living wage for your community is encouraged

Define the job clearly, including reporting relationships.

Determine if the job could/should be that of an employee or a contractor

If employee, decide if this will be a permanent employee or term contract employee. Be advised, where term contracts have been renewed several times, the courts may deem the employment to be of an ongoing nature.

To determine if you are dealing with a contractor consider

- Control: A contractor is instructed what to do; an employee is also told how to do it.
- Ownership of tools
- Chance of profit, risk of loss
- Integration: Is the service being provided essential to the nature of the business?

Attend to the distinction between a volunteer and an employee

“The best description we found of how to distinguish the services of volunteers from those of employees was contained in the *Consumer Liability Discharge* decision of Employment Standards Referee David, dated July 24, 1981....

‘One of the key factors, in my view, in determining whether there has been a true volunteering of services other than in the context of an employment relationship is the extent to which the person performing the services views the arrangement as being pursuant to his [*sic*] pursuit of a livelihood on the one hand, and the extent to which the person receiving the services is conferred a benefit on the other hand. Another factor will be the circumstances how the arrangement was initiated: and again, whether an economic imbalance between the two parties was a factor in structuring the arrangement.’

The Task Force firmly believes that church organizations should not use their economic status, or “moral” authority to justify the classification of what are really services rendered in the course of employment as voluntary or as partially voluntary in nature.”
Final Report of the Task Force on Compensation of Clergy and Lay Employees, Anglican Church of Canada, Diocese of Niagara, 2006, p. 22

Decide whether a letter offering employment or a more formal contract of employment is required. Both might typically include provisions with respect to: job responsibilities, compensation, benefits, confidentiality, policy compliance, termination of the contract, sick days, vacation, policies concerning *in lieu* time or overtime, *et cetera*.

Benefits

All non-contract employees on the diocesan payroll are registered for the Employee Assistance Plan (EAP). Premiums for the EAP are not billed to parishes directly, but are paid through the diocesan operating budget.

All employees are required to be covered by WSIB and must make EI and CPP contributions (except for those who may waive CPP contributions based on age).

Eligibility for pension plan and benefits plan participation is subject to terms and conditions set by the General Synod Pension Office Corporation and the providers of those plans. These may be subject to change under the sole and absolute discretion of the Pension Office. At time of writing, the following terms and conditions are in effect:

If the employee will be working at least 700 hours per year (i.e. 13.5 hours per week):

- long-term disability [LTD] is obligatory for all ongoing office holders and employees who are under 65 years of age (while those working on limited term contracts are ineligible for LTD coverage);
- either the General Synod Pension Plan (if clergy or lay) or Great West Life Lay Pension Plan will apply.

Aside from the Employment Insurance Supplemental Unemployment Benefit [SUB] plan (an adjunct for EI Sick Leave, which is subject to an agreement being in place between the Diocese of Niagara and Service Canada - EI), such employees are not eligible for other benefit plans.

If the employee will be working 20 hours per week or more (or ½ time where full-time hours is less than 40 hours per week), the following benefits apply to ongoing employees:

- medical-dental plan (must be offered by employer; employee may decline, if other coverage is in place or if they acknowledge that coverage may not be added in the future without proof of insurability; ineligible if on a limited term contract of less than 12 months duration);
- life insurance, including Self-Insured Death Benefit (obligatory for all employees);
- Continuing Education Plan (clergy on less than 12 month contracts are ineligible, otherwise it is obligatory for all clergy; optional for diocesan staff);
- Accidental Death & Dismemberment (obligatory for all employees); and
- estate benefit (obligatory for clergy and optional for diocesan staff).

Benefits as applicable, described above, must be offered to all eligible employees.

The General Synod Pension Plan is a form of defined benefit plan; the Great West Life Pension Plan is a defined contribution plan.

A schedule of costs of benefits is available from the diocesan Payroll Administrator. Be aware of the employer share of statutory benefits: CPP (Canada Pension Plan), EI (Employment Insurance), and WSIB (Workplace Safety Insurance Board). The diocesan Payroll Administrator can advise as to the base and rates for calculating these costs.

Determine if there is to be a probationary period.

Searching and selecting

Identify skills sought

- Minimum standards required
- Risk and screening levels

Look for someone able to do the defined job

- Avoid other motivations for hiring
- Plan for orientation and training needs

Design an advertisement/search process

- Abide by Human Rights Code's prohibited grounds for discrimination
- Abide by the parish's mandatory policy with respect to Accessibility for Ontarians with Disabilities Act 2005 [AODA]
- Target your search in likely "pools"

Design a fair and consistent selection process

- Sort/score all resumés received
- Decide on a list of candidates for interviewing
- Use same interview format for all candidates
- Make provision for the candidates to interview you as well
- Conduct legal interviews; do not use non-permissible questions which solicit information about prohibited grounds for discrimination:
 - o Race, colour, ancestry, place of origin, ethnic origin;
 - o Creed (except where this is an allowable job requirement);
 - o Citizenship;
 - o Sex;
 - o Sexual orientation;
 - o Record of criminal offences;
 - o Disability;
 - o Age;
 - o Marital status;
 - o Family status.
- Decide if a test activity will be part of the interview process
- Check references for a short list of interviewed candidates
- Decide on the successful candidate

- Offer the position in writing conditional upon receipt of screening requirements:
 - o Police Record Check
 - o Signed acknowledgement of obligatory diocesan policies: Sexual Harassment, Abuse and Assault Policy
 - o Signed acceptance of parish Code of Conduct (where one exists), confidentiality pledge and other job-specific or parish-specific requirements.
- Specify in the offer any termination provisions, and, if a contract position, the length of term and stipulate any options for renewal
- At time of the offer being made, provide the successful candidate with information about employment policies in force with respect to vacation, sick days, short- and long-term disability, maternity/parenting leaves, *et cetera*; and inquire about disability-related accommodations required.
- Receive a written acceptance of the offer
- Notify other interviewed candidates
- Be available for debriefing consultation with unsuccessful candidates
- While there is no legal requirement to do so, it is a suggested good business practice to keep resumes for all applicants for a period of up to 6 months, in case the successful applicant doesn't work out or leaves or another similar position arises and you can refer to recent resumes.

Announce and begin appointment

Once you have hired a parish employee

Payroll

Arrange for employee to be paid via diocesan payroll

- Diocesan payroll serves more than 90 parishes, Canterbury Hills, Camp staff and diocesan staff (approximately 320 employees – up to 365 or so in the summer)
- Request Payroll Input Form spreadsheet from the diocesan Payroll Administrator.
- Payroll Administrator will communicate with new employee to ensure other required information is secured (TD1, VOID cheque, etc.).
- Forward a copy of the signed contract or letter of appointment to the Payroll Administrator. Keep a copy in the employee's confidential personnel file held in the parish.
- Hourly employees need to submit monthly hours-worked reports to both the parish and diocesan Payroll Administrator. The parish should keep these reports in the employee's personnel file held in the parish.
- Payroll changes should be called, faxed or e-mailed into the Payroll Administrator no later than the first working day of the month. These are detailed in the Payroll Calendar sent out with the employee's November pay stub.
- Employees on diocesan payroll receive funds on the 15th of the month unless that falls on a weekend or holiday, in which case pay is deposited on the Friday before.
- Pay for hourly employees is for the entire previous month; for monthly employees is for the entire current month.

Welcome

Plan for an appropriate welcoming process, liturgical commissioning (where fitting) and orientation.

Employee Assistance Programme

Employee Assistance Programme offers confidential counselling and information services. For example: stress, depression, managing relationships, legal advice, dealing with workplace challenges. Anyone contacting the EAP service provider will be held in confidence. The diocesan offices are only informed of how many calls have been received. This information is stripped of any references to the names of employees or dependents who use the service and of any reference to the employee's parish. Pamphlets and other information about EAP are sent to new employees by the diocesan offices.

Work-place injury

When you are in doubt as to whether an "injury" occurred please contact the Payroll Administrator who can assist with your determination.

In the event of a work-place injury, the following four rules are mandated by law:

1. Apply first aid.
2. Employer is responsible to get the employee to the doctor's office or hospital (either drive, take a taxi or ambulance, as appropriate).
3. The employer must pay a full-day's wages to the employee for the day of the injury.
4. A WSIB [Workplace Safety and Insurance Board] Form 7 must be completed and submitted to the diocesan Payroll Administrator within 3 days of the injury. This form requires answers to the following: who was involved, in what, when, where and why? Assistance in completing Form 7 may be obtained from the diocesan offices. Failure to submit within the 3 day period is a serious matter. It will result in WSIB assessing a fine of \$500. This will be billed to a parish should it be incurred. It may result in prosecution and fines of up to \$500,000.

In the event of a critical work-place injury, the provincial Ministry of Labour and the diocesan offices must both be notified. A critical injury is one involving broken bone(s), massive bleeding, loss of consciousness, etc.

Probation

If problems arise during a probationary period be sure they are addressed before the end of the probationary period. It is more difficult to address performance concerns afterwards. If necessary you may need to extend a probationary period on agreement with the employee or terminate the employment of a candidate who is not working out. Be fair and do not be influenced by attributes of the employee which are protected by the *Human Rights Code*. Mark conclusion of probationary period in writing.

Ongoing responsibilities

Ensure regular support and supervision

Provide workplace information in compliance with AODA policy requirements and consult with employees/office holders about any accommodation required in an emergency.

Maintain a confidential employment file

- Include job description, signed accepted offer of employment or contract, hours-worked reports for hourly employees, annual performance and development reviews, records of additional feedback and any course of corrective/progressive discipline, records of vacation and sick days taken, etc.
- The confidentiality of any medical data must be strictly maintained.

Give clear and constructive feedback

- Record the giving of oral and written feedback
- Detail the nature of the feedback
- If a concern goes unaddressed after oral feedback, share the concern in writing
- Identify how the employer will work with or assist the employee to improve in response to negative feedback
- Be clear about the degree of seriousness and implications for future non-compliance
- Implement a course of corrective/progressive discipline for performance and conduct issues

Performance and development reviews

Conduct at least annual performance and development reviews in writing

- Consult with diocesan offices as to appropriate models for mutual reviews
- Minimize surprises by giving feedback in an ongoing manner
- Review performance with reference to job description
- Accommodate disability-related needs
- Plan for and assist with pursuit of employee's development goals

Leaves

Employees are eligible for a number of kinds of leave, including vacation, statutory holidays, sick, short- and long-term disability, maternity & parental, family medical/compassionate care, bereavement, continuing education and sabbatical.

Vacation

- All employees are eligible for paid vacation leave.
 - Hourly employees can elect to receive vacation pay at the rate of 4% per annum paid at negotiated intervals.
 - Lay employees are eligible for a minimum 2 weeks' vacation per year. More can be provided by the terms of the employment agreement after specified terms of service.
 - Clergy employees
 - In the year of ordination, if ordination occurs before September 1st, the clergy-person is eligible for 2 weeks' vacation
 - In the year of ordination, if ordination occurs on or after September 1st, the period of vacation for which the clergy-person is eligible is subject to negotiation. It is advisable that the minimum be equivalent to 4% or 1.2 days per month of employment.
 - Thereafter, basic entitlement shall be one full calendar month. If taken in weeks, then it is four weeks.
 - After 5 years from ordination, one extra week of vacation leave is added.
 - After 10 years from ordination, one further week of vacation leave is added.

- In all cases, it is the responsibility of the parish involved to arrange and pay for clergy supply, when required, during the absence of a clergy-person.

Statutory holidays

- According to Employment Standards the following are paid statutory holidays: New Years Day, Family Day, Good Friday, Victoria Day, Canada Day, Labour Day, Thanksgiving Day, Christmas Day and Boxing Day.

Sick leave

- Employment Standards has no legislation for sick leave. However in our diocesan personnel manual it says, an employee will be allowed paid time off from work which will be subject to an annual limit of seven days per year.

Short-term disability

- The Diocese of Niagara does not have a short term disability plan, but instead we have a Supplemental Unemployment Benefit [SUB] Plan with Employment Insurance (EI). It is activated if an employee is eligible for and is receiving EI benefits for any of the following reasons: illness/injury, maternity/parental leave or compassionate care. [Cf. paragraphs below] Under this SUB-plan, the employer will top up what an employee receives from EI up to the limit of 95% of salary (net pay, inclusive of stipend and housing) for up to 17 weeks. Where a parish is the church employer, the parish will be responsible for the top up. The employer is responsible for continuing to pay the employer share of premiums for employment benefits during the period of short term disability. The employee is responsible for the employee share of premiums.

Long-term disability

- In addition to the EI benefit the Diocese also has a Long Term Disability (LTD) Plan. The employee is eligible to receive LTD benefits if she/he has been continuously sick or disabled and unable to work, for a period of 119 days, and if benefits have been approved by the national church's Pension Office. The monthly LTD benefit payment is taxable and is calculated as 60% of monthly salary. Brochures with information concerning this plan are available from the Payroll, Pension and Benefits Administrator at the diocesan offices.

Maternity & parental

- Maternity leave can start any time during the 17 weeks before the expected birth of the child. Any employee who intends to take maternity leave or parental leave should provide a minimum of two weeks written notice to the employer before the start of both the maternity or parental leave. The written notice shall include details regarding the date on which the maternity leave is to commence and the anticipated date of the employee's return.
- While on maternity or parental leave the employee continues to earn seniority and the Diocese or parish (Employer) shall continue to pay the employer portion of premiums to the employee benefits plan on behalf of the employee and the employee shall pay the employee portion of premiums while on maternity or parental leave. General information is provided here. However, since legislation is subject to change frequently and interpretation, the employee should always consult the website of Human Resources

Canada (<http://www.hrsdc.gc.ca/en/ei/types/special.shtml>) at every stage of your application.

- Employees covered by Employment Insurance (EI) and accepted by EI as a claimant may receive benefits of up to 17 weeks (Maternity); 35 weeks (Parental). The Diocese has a SUB plan with EI for office holders and employees that can be added to the EI benefit to provide 95% of net income for 17 weeks.

Family medical/compassionate care (called “Family Medical Leave” in Ontario)

- Employees may be eligible for unpaid leave (Eligible for EI) to provide care or support to a family member who has a serious medical condition with a significant risk of death occurring within a period of 26 weeks. The period of leave is up to eight weeks. While on this leave, the employee continues to earn seniority and the Diocese or parish (employer) shall continue to pay the employer portion of premiums to the employee benefits plan on behalf of the employee and the employee shall pay the employee portion of premiums while on family medical leave.
- Employees (clergy & Diocesan staff) covered by Employment Insurance (EI) and accepted by EI as a claimant will also be eligible for the Diocesan SUB plan which will provide 95% of net income while on family medical leave up to 17 weeks.

Bereavement

- Employment Standards has no legislation for bereavement leave. However in our personnel manual it says, an employee will be allowed paid time off from work, in consultation with the supervisor, to arrange and attend a funeral of a member of their immediate family. If any such days fall on a scheduled working day, the employee will be paid.

Continuing Education

- By the policies of the General Synod of the Anglican Church of Canada, clergy and licensed lay workers are encouraged to engage in life-long professional/vocational learning and development.
- Clergy and licensed lay workers are eligible, as per regulations set out in canons, to take one week per year for continuing education leave in addition to vacation.

Sabbatical

- Sabbatical leaves, making possible in-depth study, Sabbath rest and reflection, enrich and renew the practice of ministry. The parish realizes the benefit of ministry leadership whose practice of ministry is, as a result, strengthened and refreshed. Paid sabbatical leave for an extended period of two months may be taken by ordained ministers or licensed lay workers every seven years in ministry. Consultation with and the written approval of the Bishop and parish Wardens are required. A notice period of eight months is required. The clergy-person or licensed lay worker receives her/his full pay during a sabbatical leave. Sabbatical leaves are not recommended in cases where a particular appointment has been shorter than 2 years in duration. Both the salary of the person on sabbatical leave and the cost of the supply or coverage required are the responsibility of the concerned parish. Applications for sabbatical grants may be made to the General Synod’s Continuing Education Plan by contributing members of the Plan.

When a parish employee is being terminated

Notify diocesan office to determine what resources are available for best practices.

Obtain legal advice.

With rare exceptions, clergy serve by episcopal appointment, with the Bishop's license and during the diocesan Bishop's pleasure. Consequently, as a general rule, parishes lack the authority to hire or fire clergy.

Compensation due an employee being terminated

In cases where a limited term employment contract is simply not being renewed, no further compensation is due to the employee.

In cases where a limited term employment contract is being terminated early, the early termination clause in the contract will apply.

In cases where an employee is being dismissed with just cause as a result of provable allegations of serious misconduct or a pattern of unsuccessful progressive discipline, the employee is eligible only for the pay earned to the date of termination, including vacation.

In cases where an employee is being dismissed without cause, the employee is eligible for working notice or pay in lieu of notice. The amounts of such pay are normally determined with reference to statutory requirements including the Employment Standards Act and employment contract law. Cf. Attached appendices for rough guidelines only. Expert legal advice is recommended to navigate these issues.

Notify Payroll Administrator of:

- vacation time taken/owed at time of termination
- reason for termination of employment (for Record of Employment – ROE) and
- last day worked.

Be aware that Service Canada may make inquiries as to the termination of an employee. The parish clergy-person will be identified on the ROE as a contact person for such inquiries. Be aware that the final pay-cheque for an employee will be processed by the diocesan Payroll Administrator, not the parish.

When an employee resigns or dies

Notify the diocesan Payroll Administrator.

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APPENDICES

For more information consult the pages of the:

- Service Canada web-site: www.servicecanada.gc.ca
- Ministry of Labour web-site for a Guide to the Employment Standards Act: www.labour.gov.on.ca

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Notice pursuant to a contract of employment

Where an employment contract does not include a termination clause specifying termination payments, a court will assess damages which an employee sustains in the event of a breach of an indefinite hire (e.g. non-term), employment contract with reference to the court's opinion as to what constitutes a reasonable term of notice or pay in lieu of notice. At common law notice or pay in lieu of notice is usually assessed with reference to:

- number of years of service
- type of service
- age of employee, and
- length of time it should take the employee to find replacement employment.

The courts normally cap notice periods at two years. Two to four weeks of notice or pay in lieu of notice per year of service will normally be appropriate depending on the circumstances. Employers are entitled to expect an employee whose employment has been terminated to make reasonable efforts to find replacement employment, thereby mitigating the damages he or she will be able to claim in a court of law. Employment Standards amounts are not subject to mitigation. Settlements on the basis of common law notice cannot be less than what is provided for under the Employment Standards Act.

Employment Standards Act - Notice or pay in lieu of notice of termination of:

For an employee who has served for:

- Less than 3 months – none
- 3 months but less than 1 year – 1 week
- 1 year but less than 3 years – 2 weeks
- 3 years but less than 4 years – 3 weeks
- 4 years but less than 5 years – 4 weeks
- 5 years but less than 6 years – 5 weeks
- 6 years but less than 7 years – 6 weeks
- 7 years but less than 8 years – 7 weeks
- 8 years or more – 8 weeks

Employment Standards Act -Severance Pay

Severance pay is payable to employees with five years of service or more of employers with payroll in excess of \$2.5 million per year. Severance pay, if payable, is paid in a lump sum and in addition to termination pay.

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Annual Minimum Stipend

- Annual Minimum Stipend recommendations are determined by the Compensation Sub-Committee with reference to:
 - o Consumer Price Index – August to August comparables with neighbouring dioceses and other denominations
 - o Ministry of Labour data on collective agreements

- New salary scales and salary return forms are sent to Wardens, Treasurers and Clergy in early November.
- The salary return form needs to be submitted to the diocesan Payroll Administrator by the input date for January payroll. If received after that date, any change will be applied retroactively to January 1st on the next payroll input date.
- Encourage application to housing allowance, when that change is elective.
- Encourage use as a guideline for lay salaries and for clergy salaries not-at-minimum

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Accessibility Standards for Human Resources Practices
As per the Accessibility for Ontarians with Disabilities Act 2005 (AODA)

Scope

This policy applies to all human resources practices pertaining to current and prospective staff employed by the parish of _____.

Hiring

All job postings, both internal and external, will include wording to the effect that: “The parish of _____ welcomes and encourages applications from people with disabilities for all vacancies. Accommodations are available on request for candidates taking part in all aspects of the selection process.”

Such wording will appear in the Employment Opportunities section of the parish website.

All offer letters will include this paragraph at the end of the letter:

“If you require accommodation related to a disability, please speak with the Rector and/or Wardens at”

Workplace information

Staff Bulletin Boards and Staff Manual (if any)

Staff Members with Disability-related Needs:

On request, the parish of _____ will provide any printed documents in a more accessible format, e.g. large print, and will work to assist employees to adapt/interpret job descriptions and facilitate understanding the Staff Manual (if any), if requested. Employees should not hesitate to speak to their supervisor if they have difficulty understanding any communications/directives.

Health and Safety: If any staff members have needs or difficulties and would require specific accommodation in an emergency, they should speak to the Rector and/or Wardens to determine appropriate procedures.

Talent and performance management

For all forms of performance management meetings and career development processes, accommodation will be given to those with disability-related needs. Employees should speak with their supervisor or the Rector and/or Wardens to determine appropriate procedures.

Communication of accessibility policies

In order to notify current staff of this policy it will be communicated through our regular staff communications and training programmes, which will include one or more of:

- the employment manual (if any);
- emails;
- hard copy;
- websites;
- bulletin boards;
- staff meetings, and/or
- one-on-one conversations.

Revised January 13, 2017