

# WHAT WE NEED TO KNOW...

## Parish Personnel: Hiring, having and firing a parish employee

Revised: April 29, 2019

### 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
- Take into account the employers costs for pension and benefits, where applicable

Define the job clearly, including reporting relationships and risk assessment grid.

Determine if the job could/should be that of an employee or a (self-employed) contractor

To determine if you are dealing with a (self-employed) contractor consider

- Control: A contractor is instructed what to do; an employee is also told how to do it.
- Tool ownership: A contractor usually has ownership of their tools
- Chance of profit/loss: A contractor presents an invoice; has the chance to make a profit, and risks a loss
- Integration: Is the service being provided essential to the nature of the business?
- Self-employed contractors with whom we enter into contracts need to: have a Canada Revenue Agency [CRA] business number, have their own liability insurance, have other clients, and be able to pay for their own Workplace Safety Insurance Board [WSIB] premiums.
- For more details see: <https://www.canada.ca/en/revenue-agency/services/forms-publications/publications/rc4110.html>

If employee, decide if this will be a permanent employee or limited-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.

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 comprehensive 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*. Great care is needed concerning the wording of these documents. It has a profound impact on the Corporation's obligations under the law. If you are at all uncertain, contact the Director of Human Resources and consult with legal counsel. A template for offers of employment is available from the Director of Human Resources. Check that you have the most up to date version of this template.

While it is technically not the case that parishes "hire" clergy (they are appointed by the bishop), the rules of the Canada Revenue Agency [CRA] require that deductions be made at source for income tax, CPP contributions (except where it is possible, due to age, for the employee to waive this) and EI premiums for anyone who receives more than \$500 from the same employer during the calendar year. WSIB premiums must be paid by the employer as well. Please be attentive to this requirement when making clergy supply arrangements (for vacations or other occasional purposes). It is desirable to regularize employment relationships through the making of a special offer of appointment from the bishop so as to be able to enroll such clergy-persons on the diocesan payroll. If the clergy-person you are calling upon for clergy supply purposes is already receiving pay from another Diocese of Niagara employer source (diocese or parish), the payment of honoraria should be coordinated through the centralized payroll, whether or not their compensation from your parish exceeds the CRA threshold of \$500.. This may trigger an obligation for the honoraria to be subject to a proportional set of employer costs for pension and benefits. Vacation is deemed to be included in honoraria rates for clergy supply.

### **Benefits**

All non-contract employee on the diocesan payroll who are receiving benefits are registered for the Employee (and Family) Assistance Plan (EFAP). Premiums for the EFAP 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 diocesan lay staff) or Great West Life Lay Pension Plan will apply.

Those already receiving their pension cannot make (employer or employee) contributions to the pension plan.

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), employees working less than 20 hours per week (or ½ time where full-time is less than 40 hours per week) 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, unless the limited term contract is contiguous with an appointment in which the employee is already receiving those benefits);

- life insurance, including Self-Insured Death Benefit (obligatory for all eligible employees);

- Continuing Education Plan (clergy on less than 12 month contracts are ineligible, otherwise it is obligatory for all clergy, licensed lay-workers; and eligible (ongoing) diocesan staff);

- Accidental Death & Dismemberment (obligatory for all eligible employees); and estate benefit (obligatory for clergy and optional for diocesan staff).

Benefits as applicable, described above, must be offered to all eligible employees. For parishes with employees who have not been covered in the past, they must be offered to all non-licensed, lay employees once any lay-person working for the parish receives benefits.

When an employee is also employed either by the Synod Office or other parishes, the obligation to cover that employee with pension and non-statutory benefits depends upon the aggregate total of hours worked or other variables which determine their eligibility for pension and benefits. The employer costs of pension and benefits for such employees are shared amongst all Diocese of Niagara employers, paying on a pro-rated basis, usually based on the gross compensation earned at each employer location. Consult with the Director of Human Resources about these special circumstances.

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

A schedule of costs of group benefits is available on the diocesan website. Also be aware of the employer share of statutory benefits: CPP (Canada Pension Plan), EI (Employment Insurance), and WSIB (Workplace Safety Insurance Board).

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 résumés received
- Decide on a list of candidates for interviewing
- Use same interview format for each candidate
- Make provision for the candidates to interview you as well
- Conduct legal communications with candidates prior to, during and after 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 the termination provisions, and, if a contract position, the length of term and stipulate any options for renewal. The wording of termination clauses is important and depends on current legal precedents. Be certain to rely upon resources provided by the Director of Human Resources.
- 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 signed and validly dated, written acceptance of the offer
- Notify other interviewed candidates
- Be available for a debriefing consultation with unsuccessful candidates
- While there is no legal requirement to do so, it is a suggested good business practice to keep résumés 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 résumés.

#### 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 80 parishes, Canterbury Hills, Camp staff and diocesan staff (approximately 310 employees – up to 365 or so in the summer)
- Request New Employee Form from the diocesan Payroll Administrator.
- Provide Payroll Administrator with employee email address in order to 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 the parish. The parish should keep a copy of these reports in the employee's personnel file held in the parish.
- The original of this report of hours-worked must be submitted by an authorized person at the parish who will approve and then forward the information to the Payroll Administrator. These submissions can be made via fax or e-mail.
- Payroll changes should be faxed or e-mailed into the Payroll Administrator no later than the first week of the month.
- Employees on diocesan payroll receive funds on the 15<sup>th</sup> 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 hours worked in the previous month; for salaried employees it is for the entire current month.

### Welcome

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

### Employee and Family Assistance Programme

Employee and Family Assistance Programme offers confidential counselling and information services. For example: stress, depression, managing relationships, legal advice, dealing with workplace challenges. Anyone contacting the EFAP 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.

### 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 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 WSIB offices 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 (up to the three months allowed by the Employment Standards Act) 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 the conclusion of a 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
- Obtain the employee's initials on oral notes or written feedback, confirming that they have read and understood situation and consequences if some specific problematic behaviour is repeated
- 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
- Space should be made on the form for the date of the review and the signatures of the employee and the person conducting the review (acknowledging receipt of the review)
- 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.
  - Lay employees are eligible for a minimum 2 weeks' vacation per year [4% vacation pay] and, after five years of employment, for a minimum of 3 weeks' vacation per year [6% vacation pay] as per ESA. More vacation 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 1<sup>st</sup>, the clergy-person is eligible for 2 weeks' vacation
    - In the year of ordination, if ordination occurs on or after September 1<sup>st</sup>, 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.
    - It is the responsibility of the parish to ensure that all vacation is taken each year and that records are kept of when that vacation is claimed.
- For many hourly employees (those working few or widely variable hours per week or those working in very short-term contracts), it doesn't make much sense for them to take their vacation eligibility in the form of paid time off. For others (those working many hours per week and in longer term or ongoing employment situations), it is recommended that they be encouraged to take their vacation in the form of time off. It is important that parishes keep records of when vacation is being taken and that they notify the payroll administrator. In circumstances where an hourly employee has not been able to take their full earned vacation time in a given calendar year, any outstanding monies due to them will be paid out on the December payroll (unless alternative, written arrangements are made). [It is recommended that the contracts for those serving in short-term contracts (i.e. summer students), their [4%] vacation pay can be added to each monthly pay deposit, but only if this is detailed in their signed employment contract.]
- Should a employee not take the time off for which they are eligible, the manner and scheduling of their vacation and/or vacation pay-out will be arranged in compliance with the Employment Standards Act [ESA] and our practices and policies.
- Corporations are urged to keep track of vacation taken by all office holders (clergy and licensed lay-workers, including interim clergy) and lay employees and place those records in confidential personnel files. Failure to do so can result in costly pay outs when it is noticed that vacation has not been taken over extended periods of time or when appointments or employment relationships conclude.
- Forgoing vacation time: An employee can give up some or all of their earned vacation time with the employer's electronic or written agreement, and the approval of the Director of Employment Standards. This approval does not affect an employer's obligation to pay the employee vacation pay; employees may give up vacation time, but not the right to vacation pay.
- When to pay vacation pay:

In most cases, the vacation pay earned during a completed vacation entitlement year or stub period must be paid to an employee in a lump sum sometime before they take the vacation time earned. There are four exceptions:

  1. When the vacation time is being taken in periods of less than one week.

2. When the employee has agreed electronically or in writing that their vacation pay will be paid on each pay cheque as it accrues (accumulates). In this case, the employee must be paid vacation pay on or before the pay day for the period in which the vacation falls.
3. If the employee agrees electronically or in writing, the employer can pay the vacation pay at any time agreed to by the employee.
4. If the employer pays the employee their wages by direct deposit into an account at a financial institution. In this case, the employee must be paid vacation pay on or before the pay day for the period in which the vacation falls.

### **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. The parish may opt to provide the August Civic Holiday as a paid (subject to the same rules and practices for payment as statutory holidays) holiday as well. [The clergy and diocesan staff are granted this day as a holiday.]

### **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 (119 days). 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, as of 2019 is calculated as 66 2/3% of monthly salary for the first 18 months of a disability. [After 18 months, the benefit is paid at 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 12 weeks before the expected birth of the child. Any employee who intends to take maternity leave or parental leave should , whenever possible, provide a minimum of two weeks of 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 interpretation and change frequently, 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, after a 1 week waiting period, receive benefits of up to 15 weeks (Maternity); 35 weeks (Standard Parental, whose benefits are 55% of deemed monthly income) or 61 weeks (Extended Parental, whose benefits are 33% of deemed monthly income). The Diocese has a SUB plan with EI for office holders and employees that can be added to the EI benefit to provide a top up of 40% (for a standard parental leave period) of monthly income during maternity and parenting leaves taken by the employee.
- The Government of Canada offers the option of standard parental benefits up to a maximum of 35 weeks and extended parental benefits up to a maximum of 61 weeks. The actual dollar value of benefits received (through EI SUB Plan “top-up”) will not be greater in the case of an extended parental leave than would have been paid through the standard parental leave period.

#### **Caregiver leaves: Family caregiver benefit for children; Family caregiver benefit for adults; Compassionate care benefits**

- Employees may be eligible for a range of unpaid leaves. While on such leaves, 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.
- Some of those leaves (at the time of writing these include: family caregiver benefits for a critically ill or injured child or adult and compassionate care benefits for a person who requires end-of-life care) are eligible for EI benefits.

#### **Bereavement leave**

- Employment Standards has no legislation for bereavement leave. However in our personnel manual it says, “Bereavement leave is offered to staff-persons at the death of family members and close friends.” Paid bereavement leaves for Synod Office staff may be authorized for up to three days. If a longer leave is needed, it needs to be authorized by the Bishop or Executive Administrator. This example may be invoked by parishes, allowing employees to have paid time off from work, in consultation with their supervisor, in order 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. The duration of paid bereavement leaves will need to be determined by local policy.

#### **Continuing Education**

- By the policies of the General Synod of the Anglican Church of Canada, clergy and licensed lay workers are expected to engage in life-long professional/vocational learning and development.
- In light of the growing costs of continuing education, the annual contributions from parishes and other church employers towards the Continuing Education Plan are being increased from \$600/year in 2019; to \$750/year in 2020 and \$900/year in 2021. The increases in 2019 and following represent the first increases in these contributions for a couple of decades or more.
- It is the bishop’s expectation that we support, through providing the necessary time and financial resources, through the national Continuing Education Plan [CEP] and diocesan Leadership Grants, amongst others, to undertake such continuing education programmes.
- A period in excess of one week’s continuing education leave per year (in addition to the annual diocesan Clergy & Licensed Lay-Workers’ Conference) should be negotiated with the Bishop and Wardens. See below and refer to the diocesan website about the process for applying for

Sabbatical Leaves [<https://niagaraanglican.ca/uploads/documents/2015/04/hr-personnel-sabbatical-leave-policy-2014.pdf> as of time of writing].

- Applications for Reimbursement and for Sabbatical Grants are available on-line at <http://www.anglicanpension.ca/forms/>. CEP applications should be completed, accompanied by itemized proof of payment for expenses already incurred in Canadian funds. Expenses which have not yet been incurred will not be reimbursed. Completed applications should be sent to the diocesan Payroll, Pension and Benefits Administrator for review and processing. The Administrator will forward the application to the Pension Office's Continuing Education Plan desk.
- Claims for reimbursement will not be considered for expenses incurred within three months in advance of retirement or other termination of employment in active ministry in the Anglican Church of Canada.

### **Sabbatical leaves**

- 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 two years in duration. Applications for sabbatical grants may be made to the General Synod's Continuing Education Plan by contributing members of the Plan.
- 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. As a diocese we support one another by offering Sabbatical Replacement Coverage grants to parishes of up to \$2,000.00. Requests for those funds should be made accompanied by a written, costed description of the replacement coverage arrangements submitted not less than three [3] months prior to the sabbatical leave.
- See <https://niagaraanglican.ca/uploads/documents/2015/04/hr-personnel-sabbatical-leave-policy-2014.pdf> for a statement of the policy in effect at time of writing.

### **When a parish employee is being terminated**

Strive to avoid this situation by:

- Recruiting, selecting, training and supporting your employees well;
- Working in good faith with your office holders and employees to address issues when they arise.

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, if valid, in the contract will apply. If not valid, the employer may be held liable to pay the whole term of the contract or the amounts required by ESA and common law.

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 ongoing employee is being dismissed without cause, the employee is eligible for working notice or pay in lieu of notice, continuation of benefits, if any, and severance pay, where applicable. 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.

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 immediately. As long as the notification is made within the first week of the month of resignation, pay for a salaried employee can usually be revised for that month's payroll deposit.

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## APPENDICES

For more information consult the pages of the:

-Service Canada web-site: [www.servicecanada.gc.ca](http://www.servicecanada.gc.ca)

-Ministry of Labour web-site for a Guide to the Employment Standards Act: [www.labour.gov.on.ca](http://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 made to Synod Council by the Human Resources for Ministry 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 hand-delivered at Synod in 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 1<sup>st</sup> 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**

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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 ....”

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## **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.

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## **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.

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## **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.