

## The Tribunal

### Tribunal Panel

- 10.3.14 The General Church Council shall appoint as tribunal panel members
- 10.3.14.1 one [1] or more pastors from each District; and
  - 10.3.14.2 two [2] or more lay-members from each District.
- 10.3.15 A tribunal panel member must be appointed for a term not longer than six [6] years, but shall be eligible for re-appointment on the expiry of the term.
- 10.3.16 A tribunal panel member may resign by signed notice of resignation given to the General Church Council.
- 10.3.17 The General Church Council shall remove a tribunal panel member from office if
- 10.3.17.1 the General Church Council considers the member is incapable of properly discharging the functions of a tribunal member; or
  - 10.3.17.2 the member ceases to be either a pastor or a lay member.

### Tribunal Administrator

- 10.3.18 The General Church Council shall appoint a person to be the Tribunal Administrator and another person to be the deputy tribunal administrator. The appointees may be, but need not be, tribunal panel members. They must be a pastor or a lay member.
- 10.3.19 The appointments must be for a term of not longer than six [6] years, but may be renewed on expiry of the term.
- 10.3.20 The appointments or either of them may be terminated at any time by the General Church Council.
- 10.3.21 The deputy tribunal administrator shall carry out the functions of the Tribunal Administrator when requested to do so by the Tribunal Administrator or by the Bishop of the Church.

### Composition of a Tribunal

- 10.3.22 A Tribunal is to consist of the following tribunal members appointed by the Tribunal Administrator:
- 10.3.22.1 a tribunal panel member as the presiding member;
  - 10.3.22.2 at least two [2] other persons. The appointees may be, but need not be, tribunal panel members. They must be a pastor or a lay member.
- 10.3.23 In appointing tribunal members to a Tribunal, the Tribunal Administrator shall have regard to
- 10.3.23.1 the nature of the Matter;
  - 10.3.23.2 the location of the parties to the Matter;
  - 10.3.23.3 whether or not it is desirable for a pastor to be a member;
  - 10.3.23.3 the avoidance of relevant bias; and
  - 10.3.23.4 such other matters as the Tribunal Administrator considers relevant.
- If the Tribunal is being appointed to hear and determine an Appeal, no person whose decision (whether made alone or with others) is a subject of the Appeal shall be appointed.

- 10.3.24 If a tribunal member becomes unable or unwilling to carry out their functions after appointment, the Tribunal Administrator shall
- 10.3.24.1 appoint another person to be a tribunal member in their place and direct that the hearing of the Matter continue; or
  - 10.3.24.2 direct that the remaining tribunal members comprise the Tribunal and that they continue the hearing of the Matter; or
  - 10.3.24.3 direct that the hearing be discontinued and appoint another Tribunal to hear the Matter anew.
- 10.3.25 If
- 10.3.25.1 the Tribunal Administrator directs in accordance with the preceding Section 10.3.24.1 or 2; and
  - 10.3.25.2 the tribunal member unable or unwilling to carry out their functions was the presiding member,
- the Tribunal Administrator shall appoint another tribunal panel member to be the presiding member in their place.
- 10.3.26 If the Tribunal Administrator directs in accordance with the preceding Section 10.3.24.2, the presiding member shall have a casting vote, notwithstanding the provisions of the following Section 10.3.46.

#### **Function, Jurisdiction and General Powers of Tribunal**

- 10.3.27 A Tribunal's function and jurisdiction is to hear, determine and otherwise deal with ('hear'), in accordance with the Constitution and these By-laws, Matters which are referred to it by the Tribunal Administrator.
- 10.3.28 A Tribunal may do all things necessary or convenient to be done for, or in relation to, the performance of its function.

#### **Submissions to Tribunal**

- 10.3.29 Matters may be submitted to the Tribunal Administrator for referral to a Tribunal only in accordance with
- 10.3.29.1 the preceding Section 10.2.5.
  - 10.3.29.2 the preceding Section 10.3.2.
  - 10.3.29.3 the preceding Section 10.3.4.
  - 10.3.29.4 the preceding Section 10.3.5.
  - 10.3.29.5 the preceding Section 10.3.6.
- 10.3.30 As soon as is practicable after receipt of a submission, the Tribunal Administrator must give a copy of it to
- 10.3.30.1 each party to it other than the party submitting it; and
  - 10.3.30.2 the Bishop of the Church and the Bishop of any relevant District.
- 10.3.31 Within thirty [30] days after the submission is received, the Tribunal Administrator must
- 10.3.31.1 either
    - 10.3.31.1.1 appoint a Tribunal to hear the Matter; and
    - 10.3.31.1.2 give notice to the tribunal members of their appointment to hear the Matter; and
    - 10.3.31.1.3 give notice to the parties to the Matter, the Bishop of the Church and the Bishop of any relevant District of the appointment and composition of the Tribunal to hear the Matter;

- 10.3.31.2 or
- 10.3.31.2.1 notify the person who made the submission that prima facie the submission is not in respect of a Matter and that a tribunal will not be appointed to hear it; and
  - 10.3.31.2.2 give the person the reasons for such decision; and
  - 10.3.31.2.3 give a copy of the notification and reasons to the Bishop of the Church and to the Bishop of any relevant District.

### **Tribunal Hearings**

- 10.3.32 Before a Tribunal hears a Matter, the presiding member may decide to hold a directions hearing either in person or by telephone or other means.
- 10.3.33 If the presiding member decides to hold a directions hearing, the presiding member must give reasonable notice to the parties to the Matter of the time, date, means and, if applicable, place of the directions hearing.
- 10.3.34 The provisions of these By-laws about the conduct of, and procedure at, a Tribunal's hearing of a Matter and the Tribunal's powers at the hearing apply, with the necessary changes, to the directions hearing.
- 10.3.35 At a directions hearing
- 10.3.35.1 the Tribunal is constituted by the presiding member; and
  - 10.3.35.2 the Tribunal may make the decisions and give the directions it considers appropriate.
- 10.3.36 Without limiting the preceding provision, at a directions hearing the Tribunal may make decisions and give directions about
- 10.3.36.1 the Tribunal's jurisdiction;
  - 10.3.36.2 rectification of any lack of compliance with the procedure laid down in Scriptural principles pursuant to the preceding Section 10.1.1;
  - 10.3.36.3 if the Matter is an Appeal, as to whether the hearing will be by way of re-hearing or otherwise.
- 10.3.37 The presiding member of a Tribunal is to preside at the Tribunal's hearing of a Matter.
- 10.3.38 The Tribunal may sit at the times and places the presiding member decides.
- 10.3.39 The Tribunal's hearing of a Matter is not open to the public. However, a person may attend the Tribunal's hearing with the agreement of the Tribunal.
- 10.3.40 The following persons are entitled to appear and be heard at the Tribunal's hearing of a Matter:
- 10.3.40.1 the parties to the Matter; and
  - 10.3.40.2 a person granted leave to appear by the Tribunal.
- 10.3.41 At the Tribunal's hearing of a Matter, a party to the Matter or person granted leave to appear may be represented by or assisted by a pastor or a lay-member.
- 10.3.42 When hearing a Matter, the Tribunal must
- 10.3.42.1 observe natural justice; and
  - 10.3.42.2 act as quickly, and with as little formality and technicality, as is consistent with a fair and proper consideration of the issues before it.

10.3.43 In conducting the hearing, the Tribunal

- 10.3.43.1 is not bound by the rules of evidence; and
- 10.3.43.2 may inform itself of any matter in the way it considers appropriate; and
- 10.3.43.3 may decide the procedures to be followed for the hearing.

10.3.44 The Tribunal may at any stage of the hearing of a Matter amend the particulars of the Matter in the way it considers appropriate

- 10.3.44.1 if asked by the party who initiated the Matter; or
- 10.3.44.2 on its own initiative if the parties agree.

10.3.45 The Tribunal may at any stage of the hearing of a Matter make orders which bring the hearing to an end if it considers that further hearing is not warranted.

10.3.46 A Matter before the Tribunal must be decided by a majority of the tribunal members, subject to the provisions of the preceding Section 10.3.26.

10.3.47 The Tribunal must keep a record of its proceedings. The record may be kept in the way the Tribunal considers appropriate. The record shall be the property of the Church.

10.3.48 At the hearing of a Matter, the Tribunal may

- 10.3.48.1 proceed in the absence of a party to the Matter;
- 10.3.48.2 by written notice, require a pastor or lay-member to attend the hearing at a specified time, date and place
  - 10.3.48.2.1 to give evidence; or
  - 10.3.48.2.2 to produce a specified document or thing; or
- 10.3.48.3 adjourn the hearing from time to time.

10.3.49 A person must not state anything to the Tribunal that the person knows is false or misleading in a material particular, nor give to the Tribunal a document containing information the person knows is false or misleading without informing the Tribunal, to the best of the person's ability, how it is false or misleading.

10.3.50 Pastors and lay-members shall give reasonable cooperation to the Tribunal to allow it to perform its function.

### **Tribunal Orders**

10.3.51 The Tribunal shall have due regard to the principles referred to in Article 10.1 of the Constitution and the preceding Section 10.1 in making orders.

10.3.52 The Tribunal may make the orders it considers to be just.

10.3.53 The Tribunal shall make recommendations as required by the By-laws. A recommendation is not an order or other decision of the Tribunal and there shall be no right of appeal in respect of it.

- 10.3.54 The presiding member must give
- 10.3.54.1 the parties to the Matter;
  - 10.3.54.2 any other person in respect of whom an order or recommendation is made;
  - 10.3.54.3 the Tribunal Administrator;
  - 10.3.54.4 the Bishop of the Church and the Bishop of any relevant District; and
  - 10.3.54.5 any other party the presiding member considers appropriate
- written notice of the orders or recommendations as soon as practicable after they have been made.
- 10.3.55 The Tribunal must give reasons for its orders to the parties to the Matter and may give reasons to the other persons referred to in the preceding Section 10.3.54.
- 10.3.56 10.3.56.1 The Church,  
10.3.56.2 Districts,  
10.3.56.3 congregations,  
10.3.56.4 parishes,  
10.3.56.5 pastors and  
10.3.56.6 lay members  
must not fail to comply with a Tribunal order without reasonable excuse.
- 10.3.57 A Tribunal order is binding on each party to the Matter whether or not the party has appeared or been represented at the Tribunal's hearing.
- 10.3.58 10.3.58.1 10.3.58.1.1 A Tribunal's hearing of a Matter (other than an Appeal which a court of competent jurisdiction decides to review) and a Tribunal's orders in relation to it; and  
10.3.58.1.2 the respective Bishop's determination as to disciplinary action in relation to a Complaint;  
are final and must not be questioned except on appeal pursuant to these By-laws.
- 10.3.58.2 A Tribunal's hearing of an Appeal and a Tribunal's orders in respect of it are final and must not be questioned, subject only to the supervision of any court of competent jurisdiction.

### **Other Provisions**

- 10.3.59 Each party to a Matter must bear the party's own costs of the Tribunal's hearing of it.
- 10.3.60 Notwithstanding that a Matter has been referred to a Tribunal for hearing
- 10.3.60.1 the parties are exhorted to endeavour to resolve it by other proper means; and
  - 10.3.60.2 relevant persons such as the Bishop of the Church or the Bishop of a relevant District may continue with or initiate steps to resolve it by other proper means.
- 10.3.61 The Tribunal Administrator may, in consultation with the deputy tribunal administrator, from time to time prescribe non-mandatory procedures for the making of submissions to the Tribunal and the hearing of Matters. Such procedures shall not be in derogation of the generality of a Tribunal's powers to determine its own procedures.