

GENERAL SYNOD 2025

RESOLUTION

Resolution Number: C006 R1

Subject: Use of Non-Disclosure and Non-Disparagement Agreements (NDAs)

Moved By: The Rev. Dr. Jeffrey Metcalfe

Seconded By: The Rt. Rev. Sandra Boutilier Fyfe

Be it resolved that this General Synod:

1. Direct the Primate and Officers of General Synod not to execute any future contract that includes a non-disclosure or non-disparagement agreement with the purpose or effect of concealing details relating to sexual misconduct, or an allegation of abuse, assault, exploitation, or harassment unless:
 - a. The complainant, after having had the opportunity to obtain independent legal advice that includes advice on alternative means to protect the confidentiality of their personal information, makes a specific and voluntary written request for a non-disclosure agreement before the agreement is entered into and there have been no undue attempts to influence the affected person; and
 - b. Such an agreement is for a set and limited duration; and
 - c. Such an agreement does not apply to communication between the affected person and their support team, including but not limited to: a priest, a community elder, a spiritual counsellor, a psychologist, a physician, a registered nurse, a social worker, a victim services provider, a lawyer, an ombudsperson, an investigator, or a law enforcement officer.
2. Request that the Primate and Officers of General Synod, contact in a pastoral context and advertise the availability of the kinds of supports described in 1.c. and make available to complainants involved in any previously signed agreements access to the kinds of supports described in 1.c., if such an offer had not already been made at the time the agreement was signed.
3. Request that the Primate and Officers of General Synod, report publicly on the number of NDAs that have been entered into by the General Synod of the Anglican Church of Canada since 2000.
4. Encourage dioceses and other Canadian Anglican institutions, including colleges, schools, and affiliated ministries, to adopt similar policies in order to promote a culture of transparency, accountability, and pastoral care across the Church in Canada.

EXPLANATORY NOTE/BACKGROUND

Drawing on the prophet Isaiah, in the synagogue at Nazareth, Jesus inaugurated his public ministry with a description of his mission: “The Spirit of the Lord is upon me... to bring good news to the poor... to proclaim release to the captives... to let the oppressed go free” (Luke 4:18–19). As the body of Christ, the church is called to stand in continuity with this proclamation through our ministries, to be a community of people whose engagement in the world helps bring liberation to the oppressed and healing for those who have been wounded.

Non-disclosure and non-disparagement agreements (NDAs), when used to conceal experiences of sexual abuse, assault, exploitation, or harassment within our institutions, stand in opposition to this vocation.

While there may be limited, appropriate uses of confidentiality that honour the wishes of those harmed, the misuse of NDAs to silence, suppress, or shield wrongdoing contradicts the Gospel. It binds the oppressed rather than setting them free. As a growing body of scholarship suggests,¹ doing so can lead to continued harm and trauma for those who are the survivors of misconduct, especially as such clauses can restrict survivors' ability to speak about their situation to members of their support network, including therapists and spiritual care providers.

Legal and cultural shifts across Canada reflect a growing recognition that the misuse of NDAs is a pressing moral and social problem. Prince Edward Island has banned the misuse of NDAs in cases of harassment and sexual misconduct. Other provinces and the federal government are considering similar legislation.

The Church, too, is discerning this call. In 2021, the Archbishop of Canterbury condemned the use of NDAs to suppress disclosures of abuse and urged their discontinuation within the Church of England. More recently, the Anglican Diocese of Sydney passed a resolution which affirms that NDAs used to cover up sin, silence victims, or avoid accountability are to be lamented, condemned, and repented of. Closer to home, the Dioceses of Nova Scotia and Prince Edward and Quebec have made similar commitments to limit the misuse of NDAs in situations of misconduct.

At its heart, the misuse of NDAs is not a merely legal problem: it is the reflection of an institution in moral and theological crisis. It reflects a failure to trust in the truth of the Gospel, which assures us that healing and redemption flow not from concealment but from confession, penitence, and amendment of life. We must continue to recognise as an institution that truth and reconciliation must walk together.

This resolution seeks to align the practices of the General Synod with the mission proclaimed in Luke 4. It establishes clear conditions under which NDAs may be used—only when they are the free, informed choice of the affected person, and never as a means of institutional protection. It directs a review of past practices to begin a wide accountability, and it calls the wider Church to adopt similar measures in pursuit of justice and pastoral care.

By taking up these commitments, the Anglican Church of Canada better positions itself to embody the ministry of Christ: proclaiming release to the captives, setting the oppressed free, and declaring that now is the year of the Lord's favour.

¹ See for instance, Michelle R. Clayman Institute for Gender Research and Lift Our Voices, *Assessing the Impact of Non-Disclosure Agreements and Forced Arbitration Clauses on Survivors of Workplace Sexual Harassment and Discrimination* (Stanford, CA: Stanford University, 2023), <https://gender.stanford.edu/media/6696/download?inline>; Victoria Pagan, "21st Century Bridling: Non-Disclosure Agreements in Cases of Organizational Misconduct," *Human Relations* (New York) 76, no. 11 (2023): 1827–51, doi:10.1177/00187267221119129; Victoria Pagan, "The Murder of Knowledge and the Ghosts That Remain: Non-Disclosure Agreements and Their Effects," *Culture and Organization* 27, no. 4 (2021): 302–17, doi:10.1080/14759551.2021.1907389.

PROCEDURE FOR ADOPTION (G)

In the normal course, an ordinary motion must be passed by a majority of the members of General Synod present and voting together.

Six members of General Synod may, prior to the question being put, require a vote by Orders, with a majority of each Order being necessary to pass.

If a question passes on a Vote by Orders, any six members (two from each of three different dioceses) may immediately before the next item of business require a vote to be taken by dioceses. A motion passes if a majority (or a tie) of dioceses vote in favour.

Source: Sections 4 and 5 of the Declaration of Principles and sections 18, 19 and 20 of the Rules of Order and Procedure.