

GENERAL SYNOD 2023

RESOLUTION

Resolution Number C007

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

Moved By: Jeffrey Metcalfe

Seconded By: Andrew Stephens-Rennie

Be it resolved that this General Synod:

Direct the Chancellor of General Synod and all legal counsel hired by General Synod not to deliver or execute any future contract that has a non-disclosure or non-disparagement agreement with the purpose or effect of concealing the details relating to a complaint of sexual abuse, assault, exploitation, or harassment *unless*:

- a. Such an agreement is the expressed wish and preference of the person who experienced or made allegations of sexual abuse, assault, exploitation, or harassment (hereafter, the affected person); and
- b. There have been no undue attempts to influence the affected person and they have had a reasonable opportunity to receive independent legal advice; and
- c. Such an agreement is of a set and limited duration and includes a process for the affected person to waive their own confidentiality in the future; and
- d. Such an agreement does not apply to communication between the affected person and their support team (such as 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).

Source:

Submitted By: Andrew Stephens-Rennie and Jeffrey Metcalfe

Does this motion contain within it any financial implications? Yes **No**

If yes, has the General Synod Expenditures Committee considered the implications? Yes
No

EXPLANATORY NOTE/BACKGROUND

On May 17, 2022 Prince Edward Island became the first Canadian province to ban the misuse of non-disclosure agreements (NDAs) to silence victims of harassment and sexual misconduct. Similar bills have been introduced in the legislatures of British Columbia, Manitoba, and Nova Scotia, and the “Can’t Buy Silence Act” in the Canadian Senate proposes to ban organizations that receive federal funding from using such NDAs. And on February 9, 2023 the Canadian Bar Association voted to lobby all levels of government to ban the use of NDAs to silence victims and whistleblowers.

Canadian society is turning against the use of NDAs to silence victims, and with good reason. Giving victims the choice to speak about their experience not only helps them heal, but also serves the public interest, protecting others from repeat offenders. The wider Church is also recognizing the problems with non-disclosure agreements. In April 2021 the Archbishop of Canterbury spoke out against NDAs and instructed senior members of the Church of England not to use such confidentiality agreements.

In the coming years, more and more jurisdictions will enact restrictions on NDAs, but right now General Synod has an opportunity to lead by example. This resolution enacts leadership for Canadian Anglicans by providing freedom for victims and protection for wider society.

This helps us to more fully embody the fourth Mark of Mission: “To seek to transform unjust structures of society, to challenge violence of every kind and to pursue peace and reconciliation.”

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.