

Diocese of Ottawa
Sexual Misconduct Policy

June, 2003

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Diocese of Ottawa

Sexual Misconduct Policy

1. INTRODUCTION

Sexual misconduct will not be tolerated in the Diocese of Ottawa.

Sexuality is a most precious gift entrusted to humanity by God. Misuse of the gift of sexuality is wrong. It is contrary to Christian principles. Sexual misconduct is an offence against the person who has been victimized, the faith community and God. People who have been exploited suffer severe spiritual, emotional, psychological, and relational damage. When sexual misconduct is committed by a person who has a leadership role and/or a position of trust in the faith community, the effects take on added dimensions. The victim may experience loss of faith. He or she may feel estranged from the faith community, abandoned by God, unable to participate in worship, guilty and sinful for acts beyond their control, and torn between calling attention to the misconduct and feeling disloyal to their community. He or she may experience difficulty in forgiving or in seeking reconciliation. These effects may also be experienced by members of the victim's faith community and by other persons involved.

Sexual misconduct is a serious matter for the whole faith community. All allegations of sexual misconduct will be fully investigated, appropriate legal and disciplinary measures will be taken, and the healing and protection of persons and the community will be promoted.

This Sexual Misconduct Policy is redemptive; it names our intolerance of sexual misconduct within the church and clearly describes our process for responding to all allegations. The Diocese of Ottawa will take all possible steps to ensure that everyone serving in the Diocese is aware of this Policy and understands it.

Sexual abuse of children is of critical concern. The Diocese includes parts of Ontario and Quebec and so must comply with the child protection laws of both provinces. Any suspected child abuse is to be reported to a Children's Aid Society in Ontario or to the Director of Youth Protection in Quebec, as required by law.

The Policy also provides for a structured response to complaints of sexual harassment of adults or sexual exploitation of a ministerial relationship with an adult.

Persons in the Diocese of Ottawa who have concerns about sexual misconduct should contact the Diocese's Misconduct Policy Administrator.

2. GOALS OF THE SEXUAL MISCONDUCT POLICY

2.1

Prevent misconduct.

2.2

Comply with civil law requirements, especially child abuse reporting laws.

2.3

Establish a credible fact-finding and decision-making mechanism that is prompt, thorough, and free from bias.

2.4

Demonstrate compassion for persons bringing a complaint as well as for persons about whom an allegation is made.

2.5

Demonstrate care for the faith community.

2.6

Assert the Church's commitment to addressing sexual misconduct in a spirit of openness, transparency and accountability.

3. DEFINITIONS

3.1

Sexual misconduct - offensive conduct of a sexual nature that may affect the integrity or security of the person. It is an overarching term that encompasses **sexual abuse, sexual exploitation of a ministerial or professional relationship, and sexual harassment.**

3.2

Sexual abuse - sexual activity that may be criminal in nature.

This may be any kind of sexual activity that is defined either as “child abuse” under the Child and Family Services Act of each Canadian province or as sexual offence under the Criminal Code of Canada. Sexual abuse includes sexual involvement or contact with a minor, with an adult without his or her consent, with an adult who is forced to engage in sexual behaviours, or with an adult who is legally incompetent.

3.3

Sexual exploitation of a ministerial relationship - a betrayal of trust by a person in ministry who engages in inappropriate sexual conduct with a person with whom she or he has a ministerial relationship of trust (that is, a fiduciary relationship).

Sexual exploitation includes, but is not limited to, such activity as intercourse, kissing, touching of breasts or genitals, dating during the course of a counseling relationship, dating a parishioner, verbal suggestions of sexual involvement, or demeaning sexual comments. The apparent consent of a possible victim does not determine whether there has been sexual exploitation, because the imbalance of power between the minister and the person in a ministerial relationship undermines the validity of apparent consent.

3.4

Sexual harassment - unwelcome sexual conduct that interferes with an individual’s performance of duties or creates an intimidating, hostile or offensive environment.

Sexual harassment includes, but is not limited to, sexually-oriented humour or language, questions or comments or gestures about sexual behaviour or preference, unwelcome or undesired physical contact, inappropriate comments about clothing or physical appearance, or repeated requests for social engagements in a situation where there is an employment relationship or a collegial relationship.

3.5

Diocese - The Bishop and the Incorporated Synod of the Diocese of Ottawa, including its staff, employees and volunteers

3.6

Minister- Any person who is serving in ordained or lay ministry.

3.7

Chancellor- includes Vice Chancellor

4. GOVERNANCE

4.1

This Policy applies to all persons under the ecclesiastical jurisdiction of the Bishop of Ottawa.

4.2

All matters related to sexual misconduct under this policy are dealt with by the Misconduct Policy Administrator (MPA).

4.3

The Bishop acts as the final adjudicator of complaints under this Policy. To maintain as much objectivity and impartiality as possible, the Bishop will not initiate or encourage any form of communication with complainants, accused persons, or their advocates until the Bishop has received a report and recommendations from the MPA following on procedures as set out in this Policy.

4.4

Complainants and accused persons will have an opportunity for a formal meeting with the Bishop prior to any final adjudication.

4.5

Where there is a conflict of interest, the Bishop may request to be replaced by an appropriate individual.

5. APPOINTING PERSONS TO ADMINISTER THIS POLICY

5.1 Misconduct Policy Administrator

The Bishop will appoint an MPA and a Deputy MPA to oversee the administration of the Policy. The Deputy may act as a consultant to the MPA, may act on the MPA's behalf, or may be appointed by the Bishop to replace the MPA if there is a perception of conflict of interest. It is the role of the MPA in all situations to notify the diocesan insurer of the incident that is being investigated.

5.2 Misconduct Advisory Team

The Bishop will appoint a team of at least five people who are qualified by training and experience to act as advisors to the MPA in administering the Policy. The members of the team may also be appointed by the MPA to act as:

- investigators or support persons in investigations of a complaint of sexual misconduct,
- facilitators in informal processes dealing with complaints of harassment,
- intervenors in providing crisis intervention in a parish or place of ministry affected by a complaint of misconduct.

5.3 Communications Coordinator

The Bishop may appoint a person of sufficient authority and seniority that he or she may act credibly as a public spokesperson for the Diocese in matters related to sexual misconduct. The Communications Coordinator will work in consultation with the Bishop, the MPA and police and child protection officials in cases of alleged child abuse. The Communications Coordinator is responsible for ensuring that, to the extent appropriate, information about allegations of sexual misconduct is provided to parishioners, members of clergy, staff and volunteers, anyone else affected by allegations of sexual misconduct, the people of the Diocese and the general public.

6. HOW THE DIOCESE RESPONDS TO COMPLAINTS OF ALLEGED CHILD ABUSE

6.1

In Ontario, anyone who suspects, on reasonable grounds, that a child may be in need of protection must immediately report this to a Children's Aid Society. In Ontario a "child" is a person up to the age of 16 years, unless the child is in the care of a Children's Aid Society, in which case the age rises to 18 years.

In Quebec, any person who has reason to believe that the security or development of a child is considered to be in danger must report this to a Director of Youth Protection. In Quebec, a "child" is a person up to the age of 18 years.

Both Ontario and Quebec place a special obligation on professionals to report suspected child abuse. The obligation to report a child in need of protection overrides the obligation to confidentiality. The term "professionals" specifically includes members of the clergy.

Appendix A lists telephone numbers for Children's Aid Societies and the Director of Youth Protection in areas under the jurisdiction of the Bishop of Ottawa. Anyone who is unsure about whether a situation should be reported is encouraged to seek advice from a Children's Aid Society, or a Director of Youth Protection, or the MPA.

6.2

Any diocesan clergy, staff or volunteer who has actual knowledge or reasonable cause to believe that a child may have been sexually abused or is in danger of sexual abuse must report this to a Children's Aid Society (if the alleged abuse occurred in Ontario) or to the Director of Youth Protection in Quebec (if the alleged abuse occurred in Quebec).

6.3

Where the complaint involves alleged past sexual abuse of a child, adult complainants will be encouraged to make a report to appropriate civil authorities for investigation. If information related to past sexual abuse of a child indicates that other children may currently be at risk, the MPA must report this to child protection authorities.

6.4

Where a report has been made to a Children's Aid Society in Ontario or a Director of Youth Protection in Quebec regarding staff members, clergy or volunteers, the person reporting must notify the MPA as soon as possible.

6.5

The Diocese will cooperate fully in any child protection investigation.

6.6

Any diocesan clergy, staff or volunteer who is the subject of a criminal or child protection investigation related to sexual abuse will be placed on administrative leave.

7. HOW THE DIOCESE RESPONDS TO ALLEGATIONS OF CONDUCT THAT MAY CONSTITUTE A SEXUAL OFFENCE UNDER THE CRIMINAL CODE OF CANADA

7.1

Where an adult alleges conduct that may constitute a sexual offence under the Criminal Code of Canada, the complainant will be informed of his or her right to make a report to the police.

7.2

The Diocese will cooperate fully with any police investigation.

7.3

If a complainant declines to report to the police, any action deemed necessary will be taken to ensure the safety of the Diocese's ministries. This may include reporting to the police or instituting an internal investigation, and placing accused persons on administrative leave pending the outcome of the investigation.

8. HOW THE DIOCESE RESPONDS TO COMPLAINTS OF ALLEGED SEXUAL EXPLOITATION WITHIN A MINISTERIAL RELATIONSHIP

8.1

Because of the inherent imbalance of power in a ministerial relationship, it is not appropriate to attempt an informal resolution or a mediation when there is an allegation or apparent allegation of sexual exploitation. All complaints of sexual exploitation of a ministerial relationship must be responded to with an investigation.

8.2

The MPA must be notified of all complaints of alleged sexual exploitation of a ministerial relationship. If the MPA, having consulted whomever she or he wishes, determines that there is sufficient cause to initiate an investigation, he or she will appoint an investigator. The investigator will interview the complainant, further document the complaint in writing, and provide the accused person with opportunity for reply. The investigator will interview any witnesses and review any written documentation that may have bearing on the allegations. The investigator will prepare a written report for the MPA.

8.3

The MPA may consult with the Misconduct Advisory Team and take any recommendations to the Bishop.

8.4

Both the complainant and the accused person will have the right to a meeting with the Bishop following the Bishop's receipt of the investigation report and prior to the Bishop's final decision. The MPA will be present at the meeting.

8.5

Following this meeting the Bishop will consult, as deemed appropriate and will render a decision. (See **11.**) The Bishop will give the decision in writing to the complainant and to the person who is the subject of the complaint.

9. HOW THE DIOCESE RESPONDS TO COMPLAINTS OF ALLEGED SEXUAL HARASSMENT

9.1

The MPA must be notified of all harassment complaints. Where the complainant is an adult alleging harassment, the complainant may elect to attempt an **informal process** to resolve the complaint. An informal process may be facilitated by a person appointed by the MPA. With the agreement of both the complainant and the accused person, the facilitator may assist in discussions between the parties to attempt resolution. If a resolution is achieved, a resolution agreement will be drawn up, signed by both parties, and ratified by the MPA. A copy of the agreement will be kept in the confidential file of the MPA.

9.2

If there is no informal process, or if an informal process fails, the MPA will appoint an investigator. The investigator will interview the complainant, further document the complaint in writing, and provide the accused person with opportunity for reply. The investigator will interview any witnesses and review any written documentation that may have bearing on the allegations. The investigator will prepare a written report for the MPA.

9.3

The MPA may consult with the Misconduct Advisory Team and take the investigation report and any recommendations to the Bishop.

9.4

The complainant and the accused person will each have the right to a meeting with the Bishop following the Bishop's receipt of the investigation report and prior to the Bishop's final decision. The MPA will be present at the meeting.

9.5

Following this meeting, the Bishop will consult, as deemed appropriate, and will render a decision. The Bishop will give the decision in writing to the complainant and to the person who is the subject of the complaint.

9.6

At any point prior to or during an informal process or an investigation, the complainant, the accused person, or the MPA may request a referral to **mediation**. If both parties and the MPA agree to mediation, the MPA will retain a professional mediator to mediate between the complainant and the accused person. If an investigation is in progress at the time of the agreement to mediate, it will be suspended until the mediation is completed or until it is declared by the mediator to have failed. If mediation fails, the MPA will direct that an investigation be resumed or begun. Any mediation agreement between the parties must be provided in writing and ratified by the MPA. A copy of the agreement will be kept in the confidential file of the MPA.

9.7

Statements made by the complainant and the accused person in the course of an attempted informal resolution or a mediation are considered to be without prejudice in this Policy and are not to be produced in an investigation if a formal process occurs. **However, in a judicial process anyone may be required to give evidence and produce documents.**

10. INVESTIGATIONS INITIATED BY THE DIOCESE

10.1

There may be occasions when information comes to the attention of the Bishop or the MPA that appears to suggest to him or to her that misconduct may be occurring but there is no “victim” who wishes to make a complaint. An investigation is undertaken to ensure that the Diocese is fully aware of the matter and to ensure, so far as possible, the safety of those for whom the Diocese may have a fiduciary responsibility.

In this case, the MPA of the Diocese would commence the investigation which would proceed like other investigations: an investigator is appointed; persons who are subject of the investigation are advised of this and of their rights; support persons are offered; the investigator conducts interviews and other enquiries and produces a report for the MPA.

Following receipt of the investigator’s report, the MPA may consult with the Misconduct Advisory Team and then brings the report and any recommendations to the Bishop.

The Bishop consults the diocesan legal counsel and anyone else he or she deems appropriate. The Bishop then makes a finding with respect to the conduct that has occurred and directs any measures to be taken to ensure, so far as is possible, the safety of all people in the diocese, especially those for whom it has fiduciary responsibility.

However, **in all cases** where a person under the Policy has been the subject of a child protection and/or criminal investigation, the MPA of the diocese will order that an internal investigation be conducted to determine whether the accused person poses a hazard to others. The person may not return to active ministry until the internal investigation is completed.

10.2

Following the completion of any criminal or child protection proceedings, the Diocese has the right and obligation to conduct an internal investigation to determine whether accused clergy, staff or volunteers pose a hazard to others. The findings of this internal investigation will be used to determine any future ministerial assignments of the accused person. The determination will be made by the Bishop in consultation with legal counsel and will be made on the basis of the balance of probabilities with primary consideration given to the safety of others, particularly children and vulnerable adults.

11. DECISION MAKING BY THE BISHOP AND DISCIPLINE

11.1

Any person under this Policy who is the subject of a criminal or child protection investigation will be placed without prejudice on administrative leave by the Bishop, pending the completion of all legal proceedings.

11.2

Any person who is the subject of a complaint of sexual harassment or sexual exploitation of the ministerial relationship may be placed on administrative leave at the discretion of the Bishop.

11.3

Where the Bishop makes a finding that no sexual misconduct has occurred, there will be no notation made in the personnel file of the accused person, but a complete copy of the investigation report and the Bishop's written findings will be kept in the confidential file of the MPA.

11.4

Where the Bishop makes a finding that sexual misconduct **has** occurred, the decision will be placed on the file of the person who has committed the misconduct and the report will be placed in the confidential file of the MPA.

11.5

Where a complaint has been found to be frivolous or malicious the finding will be placed on the file of the complainant and the report will be placed in the confidential file of the MPA.

11.6

Where a person is exonerated of an allegation of sexual misconduct, the Bishop may announce the exoneration, as he or she deems appropriate.

11.7

Where there has been a finding that sexual misconduct has occurred, the MPA will consult with the Misconduct Advisory Team as to appropriate assessment, treatment and rehabilitation program for the accused person. The MPA will bring any recommendations to the Bishop. The Bishop will consider these recommendations as part of any discipline to be administered. (See 11.10 below.)

11.8

Any person convicted of sexual abuse of a child shall not be placed in any ministry or any position in the Diocese where there may be access to children or other vulnerable persons.

11.9

Members of the Misconduct Advisory Team may be designated by the MPA to monitor any post-treatment rehabilitation program for persons found to have committed sexual harassment or sexual exploitation of a ministerial relationship.

11.10

If an allegation is substantiated following an investigation, or if the complaint is found to be frivolous or malicious, the Bishop may invoke any of several sanctions, separately or in combination, as the Bishop deems appropriate. For example:

Caution: the Bishop gives an oral caution to the person and notes it on the person's file.

Warning: the Bishop gives a warning in writing with a copy of the warning going to the person's file.

Reprimand: the person appears before the Bishop and is given a reprimand in writing with a copy of the reprimand going to the person's file.

Censure: the person appears before the Bishop, is given a reprimand in writing, with a copy of the reprimand going to the person's file, opportunities for rehabilitation are provided as needed, and ongoing reports are given to the Bishop for at least one year.

Suspension: the person is suspended from the exercise of ministry, employment or volunteer work until there is clear evidence to the Bishop of rehabilitation and restoration.

Termination: the person's appointment, employment, or volunteer work is terminated.

General Synod Canons: in addition to the disciplinary procedures, clergy are also subject to the canons of the General Synod of the Anglican Church of Canada.

12. CARE FOR COMPLAINANTS AND ACCUSED PERSONS

12.1

Persons bringing a complaint of alleged sexual misconduct will be offered the assistance of a support person. This assistance is provided for pastoral reasons and does not constitute an admission of responsibility by the Diocese or an admission that the facts as alleged have occurred.

12.2

Persons who are the subject of a complaint of alleged sexual misconduct will be offered the assistance of a support person. This assistance is provided for pastoral reasons and does not constitute an admission of responsibility by the Diocese or an admission that the facts as alleged have occurred.

12.3

Where there has been a finding that misconduct has occurred, the Bishop may direct that the Diocese assist with therapy fees for the complainant. The MPA and the Misconduct Advisory Team may advise on matters such as the appropriate professional fee level and the therapist's projected time for the length of therapy. The Bishop may set a cap on the fee. Requests for extensions may be reviewed by the Misconduct Advisory Team at the request of the MPA. This assistance by the Diocese is provided for pastoral reasons and does not constitute an admission of responsibility on the part of the Diocese.

13. CARE FOR PARISHES AND NON-PAROCHIAL MINISTRIES WHERE THERE IS AN ALLEGATION OF SEXUAL MISCONDUCT

13.1

The Bishop will give attention to any diocesan parish or non-parochial ministry where sexual misconduct is alleged to have occurred.

13.2

The Bishop will direct the MPA to ascertain whether there is a need for crisis intervention or other pastoral response if an allegation of sexual misconduct appears to the Bishop to threaten the integrity of the parish or non-parochial ministry. The diocesan response may include a pastoral visit to the parish by the Bishop, and/or crisis intervention provided by the members of the Misconduct Advisory Team.

13.3

Where an allegation of sexual misconduct becomes public, the Bishop or the Communications Coordinator will prepare a public statement that, while protecting the privacy of the parties involved, and without prejudicing the case, explains the diocesan policy on sexual misconduct and describes the steps the Diocese has taken to address the complaint.

Appendix A

Phone numbers for Children's Aid Societies (Ontario) and Youth Protection Offices (Quebec)

OTTAWA-CARLETON

Children's Aid Society of Ottawa-Carleton 613-747-7800
1602 Telesat Court
Ottawa, ON K1B 1B1

EAST

Prescott-Russell Services to Children & Adults 613-673-5148
173 Main Street
Plantagenet, ON K0B 1L0

SOUTH/EAST

Children's Aid Society of Stormont/Dundas & Glengarry 613-933-2292
27 York Street
Cornwall, ON K6J 3Y7

SOUTH/WEST

Brockville/Leeds/Grenville Family & Children Services 613-498-2100
438 Laurier Blvd
Brockville, ON K6V 6C5

WEST

Children's Aid Society of the County of Lanark & Township of Smiths Falls 613-264-1500
P.O. Box 37
Sunset Blvd.
Perth, ON K7H 3E2

Family & Children Services of Renfrew County 613-735-6866
77 Mary Street, Suite 100
Pembroke, ON K8A 5V4

QUEBEC

Les Centres Jeunesse de L'Outaouais 819-771-6631
105 Blvd Sacre-Coeur
Hull, QC J8X 1C5

