



**Diocese of Toronto**  
Anglican Church of Canada

# Sexual Misconduct Policy:

sexual harassment, exploitation and assault

October 2001

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# Section 1: Policy on Sexual Misconduct

## 1.1 Theological Foundation

The Holy Scriptures speak of the Church as the Body of Christ,<sup>1</sup> and call its members to live lives that are rooted in Christ<sup>2</sup> and to grow together in love, thanksgiving and service to God and neighbour.<sup>3</sup> To be a Christian is to be part of a new creation, a new humanity guided and empowered by the Holy Spirit.<sup>4</sup> The Church is to work for – and, as a sign to the world, to exemplify in its own life and relationships -- a community of truth, justice and mercy, compassion and reconciliation, mutual service and steadfast faithfulness.<sup>5</sup> This vocation is identified in the Baptismal Covenant by which we are united with Christ in his death and resurrection and become members of the family of faith, the Church.<sup>6</sup> We confess that we have not always lived up to this high calling.<sup>7</sup>

In company with the Bishops and People of the Anglican Communion, The Incorporated Synod of the Diocese of Toronto (commonly known as the Anglican Diocese of Toronto)

“affirms that every human being is created in the image of God who has made us for loving, covenantal relationships with our Creator, others and the world. We believe that our peace arises out of right relationships. Our personal dignity, freedom and bodily integrity are ensured by faithfulness to just covenants of mutual trust, care and respect. Such covenants undergird the moral framework of our communal life, responsibilities and entitlements.

“[and] further acknowledges that children, adolescents, the infirm and elderly are particularly vulnerable to the tragic consequences of broken covenants and abusive treatment. Special care must be taken to protect their individual rights and personal integrity.

“There is universal agreement that respect, reverence and mutuality are necessary in all human relationships. This agreement about the fundamentals of human relations, including sexual relations, leads to a firm judgement and condemnation of sexual abuse and exploitation...

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<sup>1</sup> Romans 12:5; I Corinthians 12:12-27; Ephesians 1:22-23 [*citations refer to the New Revised Standard Version*]

<sup>2</sup> Ephesians 3:17; Colossians 2:7

<sup>3</sup> Colossians 1:6; John 13: 12-17; John 15:12; Matthew 7:12; Luke 10:25-28

<sup>4</sup> Romans 8:18-27; II Corinthians 5:17; Galatians 6:14-15; John 1:12-14, 16

<sup>5</sup> Matthew 28:18-20; Acts 1:8; II Corinthians 5:18-21; Colossians 1:18-23; I Timothy 5:11-16; Hebrews 13:1-8

<sup>6</sup> Ephesians 4:1-6; Book of Common Prayer, p. 529; Book of Alternative Services, pp. 158-160

<sup>7</sup> I John 1:8-10

“Sexual abuse is self-gratification by exploitation. It makes an impersonal object of the other person, abusing both the person and sexuality itself. Abuse occurs in a wide range of sexual activities: always in rape and child molestation, usually in adultery and prostitution, and sometimes even in marriage. Sexual abuse also occurs in the socially subtle aspects of sexism and in sexual harassment of employees in the workplace. The Church must be clear about these violations of sexual intimacy. It must be explicit in its teaching about these particular aberrations of sexual relations, aggressively proactive about its social policy and action touching on these areas, and forthright in dealing with violations in its own community.”

(Lambeth Conference Report, 1988)

Sexual misconduct cannot be treated by the Church as a private matter even between consenting adults, since others’ attitudes and relationships are bound to be affected. Moreover, the greatest care is expected to be exercised in relationships of trust, power, authority and confidentiality, to avoid taking advantage of trust, or abuse of power and the responsibility of authority.

## **1.2 Principles**

1. The Anglican Diocese of Toronto undertakes to ensure that all activities and work in which it is engaged uphold the values of love, truth and justice proclaimed in the Gospel of Jesus Christ.
2. This policy applies to every bishop, priest, deacon, or lay person under the jurisdiction of the Bishop of the Diocese of Toronto. [See appendix E (Canon 22 s.3)]
3. All employees and volunteers have the right to a work environment that is free of sexual misconduct.
4. Clergy and those responsible for liturgical, pastoral, education or recreational activities in the Diocese of Toronto are expected to maintain the highest ethical standards of mutual respect, responsibility and caring, as well as modelling wholeness and healthy sexuality in all their relationships with those for whom they have responsibility.
5. Sexual misconduct as defined in this policy will not be tolerated and all reasonable complaints will be investigated.
6. Professional counsellor/client relationships are to be respected and maintained by all clergy and other professionals in the service of the diocese or parish in every pastoral or counselling situation. Exploitation of this trust through sexual activity, touching for sexual purposes, or the suggestion or depiction of any such activity, is not to be tolerated.
7. An accused person is presumed innocent until proven guilty. The fact that either formal or informal procedures have been initiated does not create an inference of guilt.
8. Preserving the safety and well being of a complainant, or others who might be affected, is a priority.
9. Pastoral care is available to any complainants, respondents, their families, or others affected within the diocesan community.
10. Anonymous complaints will generally not be investigated or acted upon. The Bishop, however, may initiate an investigation under the procedures of this policy into any situation where there is reasonable suspicion of sexual misconduct as defined in this policy, whether or not a complaint has been made.
11. The Diocese of Toronto actively tries to prevent sexual misconduct and deal with every accusation promptly, seriously and systematically, in co-operation with the proper authorities, where appropriate. We co-operate with investigations being undertaken under the Criminal Code, Ontario Human Rights Code, or the Child and Family Services Act. Nothing is done to interfere with a criminal investigation.

## **1.3 Definitions**

### **Sexual Misconduct**

Sexual misconduct for the purposes of this Policy is sexual exploitation, sexual harassment, or sexual assault (commonly called sexual abuse).

### **Pastoral Relationship**

A pastoral relationship is a relationship carried out in the name of or on behalf of the Diocese, parish, or place of ministry, as the case may be, between a cleric, employee or volunteer and any person to whom such cleric, employee or volunteer provides pastoral counselling, pastoral care, spiritual direction, spiritual guidance or from whom the cleric, employee or volunteer has received confession or confidential or privileged information. In assuming responsibility for such a relationship, the cleric, employee or volunteer acknowledges responsibility for the well-being of the other person, intends to respect that individual's personal integrity and determines not to abuse the power inherent in the relationship. Any sexual activity or conduct in which a person in a pastoral relationship with another takes advantage of the vulnerability of the person under his/her pastoral care or other guidance or leadership, regardless of who appears to have initiated it, shall be deemed to be sexual misconduct.

### **Sexual Harassment**

Sexual harassment is a specific form of harassment defined in the Human Rights Code of Ontario. It is engaging in a course of vexatious comment or conduct that is known, or ought reasonably to be known, to be unwelcome. Sexual harassment is behaviour that has the effect of undermining, coercing, intimidating, humiliating or demeaning an individual on the basis of sex. It may have the effect of creating a place of ministry or workplace which is hostile or offensive. Such behaviour may consist of a single incident or several incidents over a period of time. The harasser could be of the same or opposite sex as the person harassed and may be a supervisor, co-worker/minister, client, parishioner, volunteer or an external person providing service. Sexual harassment can occur in or outside the office or church building but is not limited to a work-related activity.

Examples:

- w threats or verbal abuse
- w unwelcome sexual remarks, jokes, innuendo or taunting about a person's body or sexual orientation
- w distribution by mail, fax or other electronic means material of a sexual nature which potentially could be offensive
- w displaying sexist, pornographic or derogatory pictures
- w unwelcome invitations or requests or sexually suggestive remarks
- w leering or other sexual gestures
- w unnecessary physical contact, such as patting or pinching

## Sexual Exploitation

Sexual exploitation is any form of sexual contact or invitation to sexual contact, with an adult by a professional person, cleric or anyone in a position of authority, trust or power over that adult whether or not there is consent from the individual (please see Consent). Sexual exploitation refers to the act of taking advantage of the vulnerability of an adult, with whom there is a fiduciary and/or pastoral relationship (please see Pastoral Relationship), for one's own pleasure/gain.

## Sexual Assault

Sexual assault, commonly known as sexual abuse, is any intentional use of force or threat of use of force and involving some form of sexual activity, including, but not limited to, the examples listed below, against another person without his/her consent. Sexual assault is an activity that may be criminal in nature as defined either as child abuse under the Ontario Child and Family Services Act or as criminal under the Criminal Code of Canada.

Examples:

- kissing, sexual contact, fondling or sexual intercourse
- bodily harm or threats to harm, assault with a weapon
- incest, bestiality and gross indecency
- sexual offences against children such as sexual interference, invitation to touching, sexual exploitation of a young person, parent or guardian procuring sexual activity of a child, exposing genitals to a child, juvenile prostitution, corrupting children, indecent acts

## Consent

Consent is understood as non-coercive. Consent has not been given if an individual agrees to any sexual activity under threat, or if consent is obtained by fraud or through the influence of a person in authority over that person. Children under the age of 12 cannot give consent. Under specific circumstances between peers, for children age 12-14, and with young persons age 14 - 18, consent is not valid if the accused was in a position of authority over them. There are further provisions for mentally or otherwise incapacitated or vulnerable children, adolescents and adults. (Criminal Code of Canada, Bill C - 127, 1983 and Bill C - 15, 1988) Meaningful consent for sexual activity is not possible in a fiduciary relationship.

## Complainant and Respondent

"Complainant" and "respondent" are terms which describe the person bringing the complaint and the person who is accused of sexual misconduct.

## **1.4 Prevention**

The Diocese of Toronto is committed to the prevention of sexual misconduct through a continuing programme of education of clergy and laity.

1. The Bishop of Toronto and the Diocesan Council take responsibility both for education about sexual exploitation, harassment and assault, and for the general implementation of this policy.
2. The bishops and diocesan directors strive to make their places of work for diocesan volunteers and employees free from sexual exploitation, harassment and assault.
3. The incumbents and churchwardens of each parish strive to ensure that their congregations are free from sexual exploitation, harassment and assault.
4. This sexual misconduct policy is explained to existing clergy, staff and diocesan volunteers and their written agreement to comply with this policy is required.
5. When new clergy are appointed or diocesan and parish staff are hired, agreement to comply with all personnel policies of the church including this sexual misconduct policy is required in writing as a condition of employment or appointment.
6. When volunteers for diocesan boards or committees or other councils are chosen, agreement to comply with this sexual misconduct policy is required as a condition of volunteering.
7. Part of the orientation for all new clergy, staff or for volunteers of diocesan boards or committees, as well as other key volunteers, includes a review of this policy and the procedure for making complaints.
8. Training for clergy, diocesan and parish employees and volunteers normally takes place at the beginning of their term in office or at least within the first six months of their appointment, and every three years thereafter.
9. The Human Resources Director oversees the orientation and ongoing training of clergy and diocesan employees concerning the workplace issues of harassment, discrimination, sexual misconduct and ethical behaviour. The directors of each department are responsible for ensuring that members of the boards and committees with which they work have received such orientation and ongoing training. Churchwardens and incumbents of parishes and those in charge of other diocesan ministries are responsible for ensuring that employees and key volunteers are oriented and consent to adhere to this policy.

## *Section 2: Procedures*

### 1. Purpose

This Sexual Misconduct Policy is intended to fulfil at least the following purposes:

- a) to help prevent sexual misconduct from occurring;
- b) to provide workable and fair procedures for responding to complaints of sexual misconduct;
- c) to provide a basis and framework for ongoing training and education on issues of sexual misconduct and the implementation of the policy.

### 2. Application

This policy is subject to the canons of the Diocese of Toronto and the General Synod of the Anglican Church of Canada.

All clergy, employees and volunteers are expected to be familiar with this policy, consent to it and adhere to it. Other organisations functioning in the name of the Church or on its property are required to adhere to this policy or an equivalent one.

### 3. Initiation of Complaint

A person wishing to take action under this policy notifies the canon pastor or human resources director, who may assist the complainant in determining which of the procedures under this policy (that is, sexual harassment or exploitation or sexual assault) most fittingly applies. As facts emerge, a complaint may be reclassified as harassment or exploitation or assault and the canon pastor has the right to redirect the management of the response accordingly.

Persons trained in dealing with sexual misconduct assist in dealing with complaints under this policy.

All employees, clergy, and volunteers are encouraged to come forward with a valid complaint, or seek advice without fear of retaliation or reprisals.

The Bishop may initiate an investigation under the relevant procedures of this policy where there is reasonable suspicion of sexual misconduct as defined in this policy, whether or not a complaint has been made.

### 4. Timely Procedures

Complainants and respondents are expected to proceed in a timely way to address issues of sexual misconduct under this policy. Fairness to the complainant and the respondent requires that the complaint be initiated and processed expeditiously. The timelines are generally followed but extensions for significant cause are allowed. The canon pastor, after consultation with the appropriate resource people, may decline to deal with a complaint at any stage if, in his or her opinion, the initiation or processing of the complaint has been unreasonably delayed and substantial prejudice will result to the complainant or respondent.

#### 5. Confidentiality

All complaints under this policy are dealt with confidentially, within the stated guidelines [outlined in Appendix D.] However, confidentiality may be limited as necessary for the administration of this policy, or as required by law, or where anyone is at risk, or if confidentiality is waived by the parties.

#### 6. Legal Counsel and Civil Proceedings

This policy is not intended to preclude a complainant from seeking legal counsel or seeking a civil remedy. However, if there is notice that civil proceedings have commenced or may be commenced, any procedures under this policy will normally be suspended, except for the provision of emotional support and pastoral care as outlined in the policy.

#### 7. Complaints against the Bishop

In the event that a complaint is made against the diocesan bishop, the provincial metropolitan (or the primate as the case may be) performs all functions under this policy that would otherwise be undertaken by the diocesan bishop.

#### 8. Vexatious Complaints

No person or persons is to knowingly make a false or vexatious complaint. If it is determined that there was no sexual misconduct and that the complaint was initiated maliciously, then appropriate disciplinary action is to be taken against the person making the malicious complaint. The canon pastor, after consultation with the appropriate resource people, may decline to deal with a complaint at any stage if, in his or her opinion, the complaint is trivial, frivolous, vexatious or made in bad faith.

#### 9. Policy Revisions

A committee appointed by the bishop reviews and proposes revisions to this policy as necessary every three years. (The policy may be revised sooner to bring it into conformity with new legislation.)

## **2.1 Sexual Harassment: Procedures**

### **A. Introduction**

1. When a person believes that he/she is experiencing sexual harassment, they may choose to proceed by an informal process rather than a formal process. Failing resolution or if a person is reluctant to confront the respondent, the person may proceed by a formal process and/or professional mediation. A decision by a complainant to choose not to attempt an informal process is not to be construed adversely in a formal process under this policy.
2. All complaints related to children under the age of sixteen are treated as child abuse and reported to the Children's Aid Society.
3. If an individual feels he/she has been sexually harassed, the person may attempt, where possible, to clearly advise the person who is the source of the unacceptable behaviour, either verbally or in writing, that the conduct is unwelcome, that it is understood as sexual misconduct and that it must stop.
4. The complainant may find it helpful to keep detailed written notes recording the unwelcome behaviour, with date(s), time(s), location(s) and witness(es).

### **B. Informal process**

1. A person complaining of harassment or the respondent may request the canon pastor or the director of human resources to assist with communications between the parties in an effort to reach a mutually satisfactory resolution. The canon pastor or the director of human resources determines whether an informal process is appropriate in the circumstances and may in their discretion appoint a person to facilitate this.
2. The informal process may include:
  - a) separate meetings with each of the parties;
  - b) a confidential meeting between the two parties for the purpose of discussion;
  - c) an educational session on harassment for the individual or work group, if appropriate;
  - d) referral to other resources as appropriate.
3. The informal process ends with a resolution agreement signed by both parties and ratified by the canon pastor or the director of human resources, and with a copy given to each party. A memo summarizing the process will be placed on the file of the canon pastor. No record is placed in the individual's personnel files.
4. In the event that an informal process is unsuccessful, the canon pastor or the director of human resources may commence an investigation into the complaint, normally within thirty (30) days.

*Note: Statements made by either the complainant or the respondent in the course of an informal process are considered to be without prejudice under this policy and are not to be produced in an investigation under this policy if a formal process occurs. However, anyone may be required by law to give statements or produce documents.*

## C. Formal Process

### General Information

1. If a formal process is initiated, it may be diverted to mediation at any point upon mutual agreement of the complainant and respondent.
2. A written complaint can be made to either the canon pastor or the director of human resources who informs the other of the complaint and determines which takes the lead role in the process. The person taking the lead role continues to inform the other of the progress of the complaint.
3. The diocesan resource persons appointed in the formal process to provide support and pastoral care, or to investigate, can not have acted in the informal process.
4. The diocesan human resources director or canon pastor may refer the complaint, at any time, to a professional mediator if both the complainant and respondent agree to do so. The fee of the mediator is paid by the diocese. The parties are responsible for their own legal expenses, if incurred.
5. Upon mutual agreement of the parties a resolution may be agreed upon at any point in the process.

### The Complaint

6. The complainant notifies the canon pastor or the human resources director in writing that he/she wishes to make a formal complaint under this policy.
7. The complainant is provided with a copy of this policy and is required to put the complaint in writing. The written complaint includes an account of the incident(s), date(s), time(s), name of the respondent(s), name of witness(es), if any, and is signed and dated by the complainant. The complainant is asked to sign a consent to release of information. This is normally accomplished within two (2) weeks of notification of formalising the complaint. The complainant is offered the support of a diocesan resource person. (The complaint can normally not proceed further if the consent to release of information form is not signed.)
8. The canon pastor or human resources director advises the senior person responsible for the place where the harassment allegedly occurred as to whether there are to be changes in location, reporting responsibilities, etc., of the complainant or the respondent, during the investigation. The final decision regarding such changes is to be that of the senior person responsible (unless he/she is the respondent.)
9. The canon pastor or director of human resources notifies the secretary of synod of the complaint. The secretary notifies the diocesan insurers of a potential claim.
10. All public communications, including parish and media contacts, are made only by the diocesan bishop or his or her designate. All public statements are to have due regard to confidentiality of the affected parties and the principle of innocence until guilt is proven.
11. If the misconduct allegedly occurred in a place of ministry of the diocese, the area bishop, having regard for the pastoral needs of that place of ministry during and following the investigation, may request the canon pastor to appoint a crisis response team to provide appropriate short term support.

### Mediation

12. If both parties and the canon pastor or human resources director agree to mediation, the canon pastor or the director of human resources makes the arrangements for the mediation. If any of the parties do not agree to participate in mediation, the complaint proceeds directly to investigation.

13. If mediation is initiated during the formal investigation, the mediation process shall take no longer than thirty (30) days from the time the investigating team interviewed the complainant and respondent.
14. The results of the mediation are reported by the mediator to the canon pastor or human resources director who informs the diocesan bishop. The bishop considers the mediation agreement in making his or her final decision.
15. If mediation fails, the investigation continues and the diocesan bishop makes a final decision.

### The Investigation

The canon pastor appoints an investigating team. In certain circumstances, the director of human resources may fulfil any or all of the roles assigned to the canon pastor.

16. Canon pastor informs the complainant of the names of the investigating team.
17. Investigating team meets with the complainant within one week of receipt of the signed complaint and interviews the complainant. The investigating team documents the complaint in writing ("complaint report").
18. Investigating team reviews the complaint report with the complainant who signs it to indicate agreement with its accuracy. Investigating team gives this to the canon pastor.
19. After receipt of the complaint report, canon pastor contacts the respondent and informs him or her that he or she is the subject of a formal investigation under the Sexual Misconduct Policy. (In some circumstances the canon pastor may notify the respondent of the complaint prior to receipt of the complaint report. For example, such situations might include an awareness that rumours are spreading about the complaint; the canon pastor may be aware that the respondent is already informally aware of the complaint; or some interim action in light of the allegations needs to be taken.)
20. The canon pastor gives the respondent a copy of this policy and the complaint report. The canon pastor describes the complaint process, explains limitations on confidentiality and advises the respondent of his/her right to seek independent legal counsel.
21. The canon pastor advises the respondent of the names of the investigating team who will be requesting a meeting and that the respondent has two weeks in which to respond to the allegations.
22. Canon pastor offers assistance of a support person. (Support person cannot be the same person as a member of the investigating team on this case.)
23. Investigating team meets with the respondent within two weeks after the respondent has received the written documentation of the complaint. Investigating team interviews the respondent and/or receives the respondent's written reply to the complaint.
24. If the respondent declines to reply to the complaint, the investigating team completes the investigation without the respondent's response.
25. The investigating team interviews any other person or reviews any other documentation that may be relevant to the complaint.
26. Canon pastor monitors work of the investigating team and support persons, ensuring required deadlines and other procedural requirements are met.
27. Canon pastor receives the report of the findings of the investigating team. Canon pastor may obtain outside professional consultation. Canon pastor may direct the investigating team to conduct further enquiries such as interviewing of witnesses or reviewing corroborating or exculpatory information.
28. The Canon Pastor and two members of the Diocesan Resources Team (not the investigators in this case) review the investigation and prepare findings for the Diocesan Bishop and make recommendations as to the disposition of the case. This panel may also make recommendations regarding suitable sanctions at the Diocesan Bishop's request.

29. The diocesan bishop seeks consultation with whomever he or she deems appropriate, including the investigating team.
30. The complainant and respondent each have the right to request a separate meeting with the diocesan bishop during the period of investigation prior to the bishop's decision.

#### Decision-Making Process

31. The diocesan bishop meets with the respondent, within three (3) weeks of receiving the report, to inform him/her of the final decision. The decision is in writing. The complainant is also informed of the decision by the diocesan bishop in writing, and where possible, in person.
32. Where a complaint is sustained, a copy of the diocesan bishop's decision is maintained in the canon pastor's file and the respondent's personnel file. When a complaint is not sustained, there is no record of it in the individual's personnel file. However, summary documentation of the case is maintained in the confidential file of the canon pastor.

#### Discipline

33. The nature and type of discipline is determined by the diocesan bishop if a complaint is sustained and depends on the severity and frequency of the incident(s). Disciplinary measures may include counselling sessions, sensitivity training, a written warning or reprimand, an assigned on-site supervisor, transfer or limitations placed on function, suspension without pay, termination or relinquishment of exercise of ministry, or other discipline provided for in Canon 22.
34. If it is determined there was no sexual harassment and that the complaint was initiated maliciously, appropriate disciplinary action is taken by the diocesan bishop.

#### Appeal

35. An appeal of the diocesan bishop's decision may be made to the metropolitan bishop within thirty (30) days of the receipt of the diocesan bishop's decision by filing a written request with the reasons for the appeal.

#### Committee of Review

36. Where an employee, volunteer or cleric is suspended or relinquishes his/her licence or has limitations placed on his/her functioning for longer than one year as a result of sexual harassment, his/her status may be reviewed and changed after a period of one year. The review is conducted by a committee of review appointed by the diocesan bishop which reports its recommendations to the diocesan bishop.

#### Civil Proceedings

37. This policy is not intended to preclude a complainant from seeking legal counsel or seeking a civil remedy either through the courts or under the Ontario Human Rights Code. However, if there is notice that civil proceedings have been commenced or may be commenced, or that a complaint has been filed with the Ontario Human Rights Commission, any procedures under this policy are normally to be suspended, except for the provision of pastoral care as outlined in the policy.

## Flow Chart of Response to Complaint of Harassment

<b>Informal Process (optional)</b>	
Complainant tells respondent to stop the unwelcome behaviour	
Complainant documents details	
Complainant may request the assistance of a diocesan resource person	
Case resolved with a resolution agreement	<b>Formal Process</b>
	Case unresolved or complainant makes formal written complaint
	Complainant offered the assistance of a diocesan resource person
	Investigating team appointed
	Investigating team meets with complainant and prepares complaint report
	Respondent given the written complaint, given policy and offered the assistance of a diocesan resource person
	Area bishop and secretary of synod informed of the complaint
	Mediation ( <i>may be initiated at any point in the process</i> )
Investigating team interviews respondent and others deemed necessary	If mediation is rejected or fails, the investigation is resumed
Investigating team submits written report to canon pastor. Canon pastor reports with recommendations to the bishop.	Mediation report presented to bishop:
	The diocesan bishop makes a final decision and determines appropriate discipline; conveys decision to both parties
	An appeal may be made

## **2.2 Sexual Exploitation: Procedures**

### The Complaint

1. The complainant notifies either the canon pastor or the human resources director in writing that he/she wishes to make a formal complaint under this policy.
2. The complainant is provided with a copy of this policy and is required to put the complaint in writing. The written complaint includes an account of the incident(s), date(s), time(s), name of the respondent(s), name of witness(es), if any, and is signed and dated by the complainant. The complainant is asked to sign a consent to release of information. This is normally accomplished within two (2) weeks of notification of formalising the complaint. The complainant is offered the support of a diocesan resource person. (The complaint can normally not proceed further if the consent to release of information form is not signed.)
3. The canon pastor or human resources director advises the senior person responsible for the place where the misconduct allegedly occurred as to whether there are to be changes in location, reporting responsibilities, etc., of the complainant or the respondent, during the investigation. The final decision regarding such changes is to be that of the senior person responsible (unless he/she is the respondent.)
4. The canon pastor or director of human resources notifies the secretary of synod of the complaint. The secretary notifies the diocesan insurers of a potential claim.
5. All public communications, including parish and media contacts, are made only by the diocesan bishop or his or her designate. All public statements are to have due regard to confidentiality of the affected parties and the principle of innocence until guilt is proven.
6. If the misconduct allegedly occurred in a place of ministry of the diocese, the area bishop, having regard for the pastoral needs of that place of ministry during and following the investigation, may request the canon pastor to appoint a crisis response team to provide appropriate short term support. (See appendix A.)

### The Investigation

The canon pastor appoints an investigating team. In certain circumstances, the director of human resources may fulfil any or all of the roles assigned to the canon pastor.

7. Canon pastor informs the complainant of the names of the investigating team.
8. Investigating team meets with the complainant within one week of receipt of the signed complaint and interviews the complainant. The investigating team documents the complaint in writing ("complaint report").
9. Investigating team reviews the complaint report with the complainant who signs it to indicate agreement with its accuracy. Investigating team gives this to the canon pastor.
10. After receipt of the complaint report, canon pastor contacts the respondent and informs him or her that he or she is the subject of a formal investigation under the Sexual Misconduct Policy. (In some circumstances the canon pastor may notify the respondent of the complaint prior to receipt of the complaint report. For example, such situations might include an awareness that rumours are spreading about the complaint; the canon pastor may be aware that the respondent is already informally aware of the complaint; or some interim action in light of the allegations needs to be taken.)
11. The canon pastor gives the respondent a copy of this policy and the complaint report. The canon pastor describes the complaint process, explains limitations on confidentiality and advises the respondent of his/her right to seek independent legal counsel.
12. The canon pastor advises the respondent of the names of the investigating team who will be requesting a meeting and that the respondent has two weeks in which to respond to the allegations.
13. Canon pastor offers assistance of a support person. (Support person cannot be the same person as a member of the investigating team on this case.)
14. Investigating team meets with the respondent two weeks after the respondent has received the written documentation of the complaint. Investigating team interviews the respondent and/or receives the respondent's written reply to the complaint.

15. If the respondent declines to reply to the complaint, the investigating team completes the investigation without the respondent's response.
16. The investigating team interviews any other person or reviews any other documentation that may be relevant to the complaint.
17. Canon pastor monitors work of the investigating team and support persons, ensuring required deadlines and other procedural requirements are met.
18. Canon pastor receives the report of the investigating team. Canon pastor may obtain outside professional consultation. Canon pastor may direct the investigating team to conduct further enquiries such as interviewing of witnesses or reviewing corroborating or exculpatory information.
19. The Canon Pastor and two members of the Diocesan Resources Team (not the investigators in this case) review the investigation and prepare findings for the Diocesan Bishop and make recommendations as to the disposition of the case. This panel may also make recommendations regarding suitable sanctions at the Diocesan Bishop's request.
20. The diocesan bishop seeks consultation with whomever he or she deems appropriate, including the investigating team.
21. The complainant and respondent each have the right to request a separate meeting with the diocesan bishop during the period of investigation prior to the bishop's decision.

#### Decision-Making Process

22. The diocesan bishop meets with the respondent, within three (3) weeks of receiving the report, to inform him/her of the final decision. The decision is in writing. The complainant is also informed of the decision by the diocesan bishop in writing, and where possible, in person.
23. Where a complaint is sustained, a copy of the diocesan bishop's decision is maintained in the canon pastor's file and the respondent's personnel file. When a complaint is not sustained, there is no record of it in the individual's personnel file. However, summary documentation of the case is maintained in the confidential file of the canon pastor.

#### Discipline

24. The nature and type of discipline is determined by the diocesan bishop if the complaint is sustained and depends on the severity and frequency of the incident(s). Disciplinary measures may include counselling sessions, sensitivity training, a written warning or reprimand, an assigned on-site supervisor, transfer or limitations placed on function, suspension without pay, termination or relinquishment of exercise of ministry, or other discipline provided for in Canon 22.
25. If it is determined there was no sexual exploitation and that the complaint was initiated maliciously, appropriate disciplinary action is taken by the diocesan bishop.

#### Appeal

26. An appeal of the diocesan bishop's decision may be made to the metropolitan bishop within thirty (30) days of the receipt of the diocesan bishop's decision by filing a written request with the reasons for the appeal.

#### Committee of Review

27. Where an employee, volunteer or cleric is suspended or relinquishes his/her licence or has limitations placed on his/her functioning for longer than one year as a result of sexual exploitation, his/her status may be reviewed and changed after a period of one year. The review is conducted by a committee of review appointed by the diocesan bishop which reports its recommendations to the diocesan bishop.

#### Civil Proceedings

28. This policy is not intended to preclude a complainant from seeking legal counsel or seeking a civil remedy either through the courts or under the Ontario Human Rights Code. However, if there is notice that civil proceedings have been commenced or may be commenced, or that a complaint has been filed with the Ontario Human Rights Commission, any procedures under this policy are normally to be suspended, except for the provision of pastoral care as outlined in the policy.

## Flow Chart of Response to Complaint of Sexual Exploitation

Complainant notifies canon pastor in writing of wish to make a formal complaint
â
Complainant offered the assistance of a diocesan resource person; given copy of policy
â
Investigating team appointed
â
Investigating team meets with complainant and prepares complaint report
â
Respondent given the written complaint, given policy and offered the assistance of a diocesan resource person
â
Area bishop and secretary of synod informed of the complaint
â
Investigating team interviews respondent and others deemed necessary
â
Investigating team submits written report to canon pastor. Canon pastor reports with recommendations to the bishop.
â
The diocesan bishop makes a final decision and determines appropriate discipline; conveys decision to both parties
â
An appeal may be made

## 2.3 Sexual Assault: Procedures

- Sexual assault is sexual activity which may be criminal in nature, and is dealt with seriously.
- There are different procedures outlined in this policy depending on whether the complaint involves a child (or a vulnerable adult) or an adult.

### 2.3 A. The Process when the Complaint Involves a Child (or Vulnerable Adult)

#### 1. Obligation and Reasonable Grounds for Reporting

Where a person suspects on reasonable grounds that a child is or may be in need of protection, this suspicion must be reported to child protection authorities. (In Ontario, a report must be made to a Children's Aid Society). This provision specifically includes an obligation on members of clergy. For professionals and clergy, failure to report is a provincial offence.

For the purposes of this policy, a suspicion is defined as:

- w a complaint from the child
- w circumstantial evidence, such as cries for help, unexplained physical injury, etc.
- w a statement of a credible eye witness to a recent complaint
- w a statement of another that is buttressed with detail from the surrounding circumstances
- w a credible witness who corroborates the statement of another (gossip and unsubstantiated conclusion are excluded.)

Anyone who is unsure as to whether she or he should report that abuse might have occurred is encouraged to seek the advice of colleagues, superiors, or child protection professionals. If there is doubt, it is preferable to err on the side of protecting the child.

Under the provisions of the Child and Family Services Act, a special obligation to report child abuse is placed on any person who in the course of their professional duties believes on reasonable grounds that a child is being abused or has been abused. This provision specifically includes an obligation on members of clergy. For professionals and clergy, failure to report is a provincial offence.

It is noted that in Ontario the duty to report suspected child abuse overrides the privilege of confidentiality (including that of doctors and clergy). This law indicates that the positive requirements of the obligation to report supersede the confessional seal.

2. The person who suspects abuse is obligated in law to report personally the suspicion to child protection authorities. No action is taken by the diocese against a person who institutes his or her own report.
3. Any member of staff or of the clergy of the diocese who is aware of a report indicating that a child is being or may have been abused by a member of the staff or the clergy, or by a volunteer of the diocese, informs the canon pastor who notifies the diocesan bishop, who in turn informs the appropriate area bishop.
4. The canon pastor immediately confirms with the child protection authorities that a report of the suspicion of abuse has been made.
5. The canon pastor documents the report on the form, "Record of Report of Child Abuse."
6. The diocese co-operates fully to child protection and/or police authorities who are investigating reports of child abuse.

7. The area bishop contacts the child's family following consultation with the Children's Aid Society (and/or investigating police department). The canon pastor, in consultation with the area bishop, offers the support of a diocesan resource person to the child and the child's family. In order not to interfere with the progress of the investigation, such contact to offer support is made only after the investigating authorities have indicated it is acceptable.
8. The respondent is notified of the report by the canon pastor, in consultation with the area bishop responsible for the respondent, unless there are concerns that such notification will impede the progress of the investigation.
9. The canon pastor, in consultation with the area bishop, offers the support of a diocesan resource person to the respondent (and his/her family as appropriate.)
10. Financial support and considerations related to the housing of families of respondents who are clergy are dealt with in accordance with diocesan canons, policies and guidelines (Canon 22s.20(2) and Information for the Clergy (Green) Book, pp. 235a, 236 if appropriate.)
11. The canon pastor notifies the secretary of synod of the complaint. The secretary notifies the diocesan insurers of a potential claim.
12. Where a member of staff or clergy, or a volunteer is accused of child abuse, that person is normally removed from church related duties until all investigations and legal proceedings are completed and the diocesan bishop is satisfied that the person poses no risk to children. This removal implies no inference of guilt and may be reviewed periodically. The diocesan bishop may at his or her discretion inhibit the accused person [Canon 22 s. 20.]
13. All public communications, including parish and media contacts, are made only by the diocesan bishop or his or her designate. All public statements have due regard to confidentiality of the affected parties and the principle of innocence until guilt is proven.
14. If the assault allegedly occurred in a place of ministry of the diocese, the area bishop, having regard for the pastoral needs of that place of ministry during and following the investigation, may request the canon pastor to appoint a crisis response team to provide appropriate short term support. (See appendix A.)
15. Following the completion of all criminal and/or civil proceedings, the diocese has the right and obligation to conduct an internal investigation to determine whether the accused person poses a hazard to children or vulnerable persons. The diocesan bishop appoints a committee of review to conduct an internal enquiry and advise the diocesan bishop as to whether the respondent is to be reinstated in any duties having to do with children or vulnerable persons. The status of the respondent is determined according to the canons of the diocese. Persons who have been found in a criminal proceeding to have committed sexual assault of a child shall under no circumstances be given duties where they may be in contact with children. In the case of acquittal of a person charged with sexual assault of a child (or where charges have not been proceeded with), the Diocese reserves the right to make an independent determination of the facts and the potential risks posed by the respondent based on a standard of the balance of probabilities, and erring on the side of protection of children and vulnerable persons.
16. Where a respondent is fully exonerated of the accusation, this determination is announced publicly.
17. Where a complaint is sustained, a copy of the diocesan bishop's decision is maintained in the canon pastor's file and the respondent's personnel file. When a complaint is not sustained, there is no record of it in the individual's personnel file. However, summary documentation of the case is maintained in the confidential file of the canon pastor.

### Discipline

18. Individuals found guilty of sexual assault are disciplined (Canon 22 (5).) The nature and type of discipline is determined by the diocesan bishop and depends on the severity and frequency of the incident(s). Disciplinary measures are in accordance with the provisions of Canon 22.
19. If it is determined there was no sexual assault and that the complaint was initiated maliciously, appropriate disciplinary action is taken by the diocesan bishop.

### Appeal

20. An appeal of the diocesan bishop's decision may be made to the metropolitan bishop within thirty (30) days of the diocesan bishop's decision by filing a written request with the reasons for the appeal.

### Committee of Review

21. Where an employee or cleric is suspended or relinquishes his/her licence or has limitations placed on his/her functioning for longer than a year as a result of sexual assault, his/her status may be reviewed and changed after a suitable period of time, not less than one year. The review is conducted by a committee of review appointed by the diocesan bishop which reports its recommendations to the diocesan bishop.

Flow Chart of Response to Complaint of Sexual Assault against a Child
A person who suspects abuse of a child on reasonable grounds contacts the Children's Aid Society â
The canon pastor is informed of the allegation, informs the bishop, confirms and documents that a report to CAS has been made â
Diocese co-operates with the investigating child protection and/or police authorities â
Area bishop (after consultation with investigating authorities) contacts the child's family. Child and family offered the assistance of a diocesan resource person by canon pastor â
Respondent advised of the report (on advice of investigating authorities) by canon pastor and offered the assistance of a diocesan resource person â
Secretary of synod informed of the complaint â
The respondent is normally removed from duties pending outcome of investigation â
A crisis response team may be appointed to assist in the parish â
The bishop may appoint a committee of review to conduct an internal investigation on completion of criminal or civil proceedings â
The diocesan bishop determines appropriate discipline

## 2.3 B. The Process when the Complainant Is an Adult

### The Complaint

1. When a person notifies the canon pastor that he/she wishes to make a formal complaint of sexual misconduct, the canon pastor assists the complainant in determining which of the procedures under this policy (that is, sexual harassment or exploitation or sexual assault) most fittingly apply. If the sexual activity forming the basis of the complaint may be defined as criminal under the Criminal Code of Canada, the canon pastor (or other person hearing the complaint) encourages the complainant to report this matter to the police. The canon pastor may assist the complainant to do so. No report is to be made to the police without the consent of the adult complainant unless there is a grave concern that others may be at similar risk of assault. If the complainant chooses not to report the matter to the police, the complaint may be investigated according to "Sexual Exploitation Procedures" in this policy.

### If the Complainant was a Minor at the Time

2. Where the complaint involves abuse that allegedly occurred when the adult complainant was a child, no report will be made without the consent of the complainant *unless* either there is suspicion that other children are currently being abused *or* the person receiving the report has grave concerns for the safety of other persons. If it appears that other children may currently be abused, the person hearing the complaint will follow the procedures in section 2.3 A above, "The Process when the Complaint Involves a Child."

### Reporting and Co-operation with Authorities:

3. Where a member of staff or clergy becomes aware that a complaint of sexual assault may be made or has been made to the police against a diocesan employee, clergy or volunteer, the person who is aware of the complaint reports this immediately to the canon pastor who informs the appropriate area bishop.
4. The diocese offers to co-operate fully with authorities who are investigating reports of sexual assault.
5. The respondent is notified of the report by the canon pastor, in consultation with the area bishop responsible for the respondent, unless there are concerns that such notification will impede the progress of the investigation.
6. The canon pastor, in consultation with the area bishop, contacts the complainant and the respondent (and their families if appropriate), to offer the support of diocesan resource persons, but only after investigating authorities indicate that it is acceptable to do so, in order not to interfere with the progress of the investigation.
7. Financial support and considerations related to the housing of families of respondents who are clergy are dealt with in accordance with diocesan canons, policies and guidelines (Canon 22s. 20(2) or Information for the Clergy (Green) Book, pp. 235a, 236 as appropriate.)
8. The canon pastor notifies the secretary of synod of the complaint. The secretary notifies the diocesan insurers of a potential claim.
9. Where a member of staff or clergy, or a volunteer is accused of sexual assault that person is normally removed from church related duties until all investigations and legal proceedings are completed and the diocesan bishop is satisfied that the respondent poses no risk to vulnerable persons. This removal implies no inference of guilt and may be reviewed periodically. The diocesan bishop may at his or her discretion inhibit the accused person [Canon 22 s. 20].

10. All public communications, including parish and media contacts, are made only by the diocesan bishop or his or her designate. All public statements are to have due regard to confidentiality of the affected parties and the principle of innocence until guilt is proven.
11. If the assault allegedly occurred in a place of ministry of the diocese, the area bishop, having regard for the pastoral needs of that place of ministry during and following the investigation, may request the canon pastor to appoint a crisis response team to provide appropriate short term support. (See appendix A.)
12. Following the completion of all criminal and/or civil proceedings, the diocese has the right and obligation to conduct an internal investigation to determine whether the accused person poses a hazard to vulnerable persons. The diocesan bishop appoints a committee of review to conduct an internal enquiry and advise the diocesan bishop as to whether the respondent is to be reinstated in any duties having to do with children or vulnerable persons. The status of the respondent is determined according to the canons of the diocese. Persons who have been found in a criminal proceeding to have committed a sexual offence against a child under no circumstances are to be given duties where they may be in contact with children or vulnerable persons. In the case of acquittal of a person charged with criminal sexual activity (or where charges have not been proceeded with), the Diocese reserves the right to make an independent determination of the facts and the potential risks posed by the respondent based on a standard of the balance of probabilities, and erring on the side of protection of children and vulnerable persons.
13. Where a respondent is fully exonerated of the accusation, this determination is announced publicly.
14. Where a complaint is sustained, a copy of the diocesan bishop's decision is maintained in the canon pastor's file and the respondent's personnel file. When a complaint is not sustained, there is no record of it in the personnel file. However, summary documentation of the case is maintained in the confidential file of the canon pastor.

### Discipline

15. Individuals found guilty of sexual assault are disciplined (Canon 22 s.5.) The nature and type of discipline is determined by the diocesan bishop and depend on the severity and frequency of the incident(s). Disciplinary measures will be in accordance with the provisions of Canon 22.
16. If it is determined there was no sexual assault and that the complaint was initiated maliciously, appropriate disciplinary action will be taken by the diocesan bishop.

### Appeal

17. An appeal of the diocesan bishop's decision may be made to the metropolitan bishop within thirty (30) days of the diocesan bishop's decision by filing a written request with the reasons for the appeal.

### Committee of Review

18. Where an employee or cleric is suspended or relinquishes his/her licence or has limitations placed on his/her functioning for longer than a year as a result of sexual exploitation, his/her status may be reviewed and changed after a suitable period of time, not less than one year. The review is conducted by a committee of review appointed by the diocesan bishop which reports its recommendations to the diocesan bishop.

# Flow Chart of Response to Complaint of Sexual Assault against an Adult

Complainant contacts the canon pastor  
â

Canon pastor encourages complainant to report the matter to the police â	If complainant chooses not to report to police, follow "Sexual Exploitation" procedure	If complainant was a minor at the time of the alleged abuse, proceed according to "Process when the Complaint Involves a Child" ( <i>previous process</i> )
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Canon pastor informs the bishop of complaint â
Diocese co-operates with investigating authorities â
The complainant offered support of a diocesan resource person â
Respondent advised of the complaint by canon pastor (after consultation with the authorities), and offered support of a diocesan resource person â
The Secretary of synod informed of the complaint â
The respondent is normally removed from duties pending the outcome of the investigation â
A crisis response team may be appointed to assist in the parish â
The bishop may appoint a committee of review to conduct an internal investigation on completion of criminal or civil proceedings â
The bishop determines appropriate discipline

## Section 3. Appendices

### Appendix A: CRISIS RESPONSE

Whenever an allegation of sexual misconduct made against a member of the clergy, a member of staff or a volunteer threatens the integrity of the parish or place of ministry, the canon pastor may, at the request of the area bishop, send a crisis response team (CRT) made up of diocesan resource persons to the parish or place of ministry.

When in the parish or place of ministry, the CRT will contact the key person as appropriate, consult with the church warden or board of directors and employees, maintain clear communication with the area bishop, the canon pastor, the incumbent or interim priest, and make recommendations to the area bishop about what is needed in the parish or place of ministry to reduce the risk of trauma. The CRT in consultation with the area bishop may hold a public meeting or meetings within the parish or place of ministry. The work of the CRT shall be short-term.

### Appendix B: AREA BISHOP

The area bishop has primary responsibility for the pastoral needs of the parish or place of ministry. The area bishop maintains regular contact with appropriate church leadership to monitor the situation. The area bishop shall be regularly briefed by the canon pastor regarding the processing of the complaint and will be consulted and make the decisions regarding the pastoral, educational and communication needs of the parish. The area bishop, in consultation with the canon pastor, may contact the complainant, respondent, and/or their families as appropriate, to assure them of the Church's care but not to provide primary pastoral care. When the alleged offence occurs in the diocesan bishop's episcopal area, the diocesan bishop shall assign another bishop to fulfil the roles assigned to the area bishop in this policy.

### Appendix C: CANON PASTOR and DIOCESAN RESOURCE TEAM

The diocesan resource team (DRT) is established to be composed of the canon pastor and a number of diocesan resource persons.

The DRT are trained volunteers appointed by the bishop for a specific term and are available to:

- (a) provide assistance to all the members of the diocesan community in sexual misconduct manners;
- (b) assist in the resolution of complaints as set out in the policy;
- (c) provide education, training and information to the diocese and parishes in all aspects of sexual misconduct and on the policy.

DRT is responsible to and supervised by the canon pastor.

The canon pastor is appointed by the bishop for a term of three (3) years. The canon pastor is responsible for:

- (a) the administration of the sexual misconduct policy;
  - (b) recruitment, selection and training of DRT in consultation with the bishop.;
  - (c) assignment of diocesan resource persons to individual complaints under the policy;
  - (d) providing advice and guidance to DRT and to the diocesan community;
  - (e) submitting an annual report to the bishop on the operation of the policy;
  - (f) advising the secretary of synod of a complaint so that the diocesan insurers may be advised;
  - (g) consulting with the executive assistant to the bishop and the Human Resources Director in the implementation of the policy;
  - (h) consulting with the area bishops in respect to complaints arising in their areas under the policy;
- assignment of a crisis response team under the policy at the request of the area bishop.

## Appendix D: Confidentiality

As a first principle, every effort will be made on the part of all parties concerned to hold in confidence information obtained in the process of a complaint made under the Sexual Misconduct Policy. There will be times when this information is required to be disclosed by law, for the administration of the sexual misconduct policy, where safety issues exist, or where confidentiality is waived by the parties. It may be necessary to indicate that an investigation has been initiated, such as when a person is placed on leave or inhibited during the investigation.

Matters of confidentiality may bear directly not only upon the proper process of investigation, but on the well-being and recovery of victims and individuals involved. When an offence has been alleged and an investigation is in process, immediate colleagues may become privy to confidential information. To promote collegial support, thereby empowering one another with confidence and hope, those aware of allegations are admonished against gossip and rumour, and are required to hold such information as confidential.

## Appendix E: Diocese of Toronto Canon 22 §1-3, 10, 14-20

1. **Jurisdiction of Bishop**  
It is hereby reaffirmed that the Bishop of the Diocese has by virtue of the office of the Bishop of the Diocese of Toronto, ecclesiastical jurisdiction, authority and power of discipline over all clergy and laity, members of the Anglican Church within the Diocese or under the jurisdiction of the Bishop, and has always had jurisdiction in respect of all ecclesiastical causes within the Diocese and all offences against the laws ecclesiastical.
2. Nothing contained herein shall affect the jurisdiction and authority of the Bishop over any cleric holding the licence of such Bishop in respect of any offence alleged to have been committed by such cleric in a Diocese other than such cleric's own Diocese for which act the cleric would be subject to discipline if resident within such cleric's own Diocese, nor in respect of any offence alleged to have been committed in respect to any licence held by such cleric of any other Bishop.
3. **Those Subject to Discipline**  
Every priest, deacon or layperson holding the licence of the Bishop of the Diocese, or any office or appointment or charge under the jurisdiction of the Bishop, or who is in any sense subject to the Bishop's jurisdiction or receiving any allowance from or discharging any duties for the Synod, or any parish of the diocese, shall be liable to be charged with an offence under this canon and upon such charge being admitted or proven shall be subject to the sanctions as set out in this canon.
10. **Admission of Charge and Summary Hearing**  
If any respondent admits the truth of the charges or the complaint and requests the Bishop to deal with the same in a summary way, the Bishop shall thereupon adjudge the party to be guilty, and shall award such punishment under this Canon as in the Bishop's judgement and discretion may be considered adequate to the offence and shall attach the Bishop's sentence and the answer of the respondent against whom the charge or complaint is made to a memorial, and file the same of record with the Registrar of the court, who shall forthwith transmit to the complainant(s) and the party charged a copy of such decision or sentence.
14. **Sentences and Penalties**  
Upon passing sentence the Bishop may:-
  - (1) reprimand or admonish a party in public or in private;
  - (2) order the suspension or removal from office of any party;
  - (3) order the deposition of any party from holy orders;
  - (4) withdraw the licence or appointment of any party, and
  - (5) may accept the resignation of any party in lieu of or in addition to any other penalty.

15. It shall be within the power of the Bishop, in the capacity of the Bishop of the Diocese of Toronto, and not inconsistent with or contrary to this canon, to admonish those offending, for any offence mentioned in this canon, not made a subject for enquiry, and such admonition shall be made in public or in private at the discretion of the Bishop and made in such manner as to the Bishop seems proper.
16.
  - (1) When the penalty of suspension is inflicted the sentence shall specify on what terms or at what time the suspension shall cease.
  - (2) During suspension, a suspended cleric shall not exercise the function of ministry, either in such cleric's own parish or elsewhere in Canada on pain of deprivation.
  - (3) During such suspension the Bishop may deprive such suspended cleric of the whole or part of the stipend, income or emoluments of such suspended cleric's parish or mission and may appoint another cleric in the place of such suspended cleric and may apply the whole or a part of such stipend, income or emoluments to the payment of such substitute.
17.
  - (1) Upon a sentence of deprivation being pronounced, the connection between the offender and the offender's parish, mission or congregation shall be ipso facto severed, and all offices, rents, issues, profits and emoluments which the offender may hold by virtue of such office or ministry, from which the offender has been removed, shall wholly cease and be determined.
  - (2) A copy of the sentence shall be sent to the offender and copies thereof shall be sent to all clergy of the Diocese, and shall be read or given such publicity as the Bishop may deem expedient.
  - (3) Any cleric so sentenced shall be and remain so deprived until restored by the Bishop who deprived such cleric or by such Bishop's successor in the See, and while so deprived and until so restored shall be incapable of holding any office or performing any function in any Diocese in the Anglican Church of Canada.
18. Upon a sentence of deposition being pronounced, such sentence shall include all the consequences of deprivation, and at the same time divest the offender of the office conferred by ordination.
19. Notices
  - (1) The Bishop imposing the penalty of suspension in Section 16 above shall send notice thereof to the other Bishops of the Anglican Church of Canada.
  - (2) The Bishop pronouncing a sentence of deprivation, deposition or degradation in Sections 17 and 18 above shall send notice thereof to the Bishops of the Anglican Church of Canada and to the Metropolitans of the Anglican Communion.
20. Inhibition
  - (1) In every case (whether or not a charge is pending in the Bishop's court) in which from the nature of the circumstances it appears to the Bishop that great scandal is likely to arise from any person continuing to perform the services of the church, while such circumstances are under investigation, or that any persons' ministration will be useless or impaired while such charge is pending, the Bishop may cause a notice to be served on the person inhibiting such person from performing any service of the church either in the Diocese of said Bishop or elsewhere in Canada, pending investigation, or until the Bishop shall withdraw the inhibition, or until sentence has been given in such case.

- (2) No person inhibited under the preceding subsection shall be deprived, during continuance of such inhibition, of any of the emoluments of office, as are payable by or under the control of the Bishop or Synod.
- (3) The Bishop may at any time revoke such inhibition.

22. Appeal

The decision of the court and any sentence imposed in accordance with the provisions of this canon shall be subject to appeal to the Provincial Court of Appeal of the Ecclesiastical Province, or to the Supreme Court of Appeal of the Anglican Church of Canada in accordance with the canons of the Provincial and General Synods constituting the same courts.

## Appendix F: Theological Basis From the first DIOCESAN SEXUAL ABUSE POLICY, ANGLICAN DIOCESE OF TORONTO

(Adopted by the Executive Committee, April 1992)

"Despite its mission to be the body of Christ, the church is no stranger to sexual abuse, even in its own midst. Our thinking about that abuse must be set in the framework of what it means to be a Christian, to be a sexual person of Christian faith, and to be a servant in the church.

"Christians have a high calling. Christ invites and empowers us to live out our lives in the love he shows us. Our identity as Christians is both gift and demand. Promised fullness of life, we are called to the self-giving of the cross, to faithfulness, compassion, and justice. Our faith is framed between acknowledgement of our arrogance, sinfulness, and brokenness, and commitment to the renewal of human life through dying to self. That renewal encompasses "the healing, wholeness, and liberation promised by God's grace to every facet of human life" which is the task of ministry.<sup>1</sup>

"What does it mean to be a sexual person with such a faith? Sexuality is central to our being; we are body-selves. It is basic to our fulfilment, and our vulnerability. It carries our need to reach out to and embrace others, our longing for relatedness. Sexuality is the power to be in communion with another, to be caught up in the wonder of mutuality. Our sexuality, as a dimension of our whole selves, is to be offered to God; in the expression of sexual desires we are called to holiness.

"God values sexuality as good, blessed, and purposeful. Scripture sees it as a gift to be celebrated in joy and ecstasy, and to be held in the web of love and covenant. Trust and justice, mirroring God's ways with us, are to undergird it. Love is to be its expression. Mutuality is its meaning in a world God destines for a reconciliation we are to create, a harmony alive to the divine presence. Non-coercion, mutual acceptance of needs and rights, caring: these are characteristics of good sexual activity. Our God-given natures invite us to the responsible fulfilment of our sexuality.

"The ethic that must go with such an understanding of sexuality entails equal respect for children, women, and men, as persons made in God's image, and for everyone's right to sexual and bodily integrity.

“Those who undertake as priests or laity to serve the church (whether salaried or volunteer) must, in living out their faith, adhere to Christian ethical principles in their sexual conduct, and also in their exercise of authority and power. In sharing in the gospel mission to bring reconciliation, healing, and wholeness, they will draw close to those they minister to. They need to recognise the dynamics of trust in these relationships and the consequent potential for harm and abuse. The authority conferred by the church on those who work in Christ's name must be rooted in the love of Christ (Eph. 3:17). In their ministry they must model God's trustworthiness.

“For any Christian, to betray trust by the grave ethical transgression of sexually abusing another, whether child or adult, is to deny Christian identity. Such a betrayal cannot be other than a gross injury to the one abused, and a violation of faithfulness to Christ.”

<sup>1</sup> Mary D. Pellauer, Barbara Chester, and Jane Boyajean, editors, *Sexual Assault and Abuse: A Handbook for Clergy and Religious Professionals* (San Francisco: Harper and Row, Publishers, 1987).

## Appendix G: OUT OF DIOCESE COMPLAINTS.

Every effort will be made to meet the complainant at their location. This may, however, be limited because of the rules governing clergy living or functioning outside of their home diocese.

See: Canons of the General Synod, Canon XVIII, s. 26.

Diocese of Toronto Canon 22:

8. In the event of a charge being preferred against a cleric resident in one Diocese, holding the licence of a Bishop of another Diocese of the Church in Canada, proceedings in respect of such charge shall not be instituted until notice of such charge has been given to the Bishop issuing such license, who shall forthwith give or refuse consent for proceedings to be instituted by the Bishop of the Diocese in which the charge was preferred.
9. In the event of a charge being preferred against a cleric resident in any Diocese of the Church in Canada holding the licence of a Bishop of a Church in communion therewith, proceedings in respect of such charge shall not be instituted until notice of such charge has been given to such Bishop and that Bishop's consent and authority obtained by commission from such Bishop either:-
  - (1) To institute proceedings against the said cleric in accordance with the canons, rules and regulations governing discipline in respect of such offence in said Diocese of the Church in Canada; or
  - (2) To take the evidence in Canada in respect of the said alleged offence for transmission to the Bishop for such action as the Bishop or the courts of the Diocese may deem proper or necessary.

## *REINTEGRATION POLICY AFTER CONVICTION INVOLVING SEXUAL ABUSE OF A CHILD*

### 1. ISSUE

This policy concerns the possible reintegration of clergy, staff and volunteers into a parish following a criminal conviction involving child sexual abuse.

### 2. AFFECTED PERSONS

This policy applies to any clergy, staff or parishioners who would have responsibility for children.

### 3. POLICY

As a general rule, persons who have been convicted of criminal offences against children will not knowingly be permitted to maintain or assume positions of responsibility within a parish or other areas of ministry. There may be exceptions to this policy, but the exceptions should be narrowly circumscribed (as described below.)

### 4. RATIONALE

The church has a responsibility for the welfare and safety of children in a parish who are subject to the exercise of power and authority of adults. The relationship between adults and children within a parish must be based on trust. Sexual abuse of children by adults is a gross abuse of that trust. The reintegration of an offender into the community in a position of authority with respect to children is fraught with problems, including potential legal liability by the church in the event of further abuse, and the difficulty in obtaining an unqualified medical opinion that there would be minimal risk involved in reintegration.

This approach does not deny the importance of the acceptance of responsibility by the abuser and of forgiveness. It does, however, recognize the church's over-riding responsibility to those in its midst who are most vulnerable and the difficulties in predicting further behaviour in these circumstances.

### 5. EXCEPTIONS

All applicants must be able to satisfy the following conditions:

- a) An opinion from a qualified medical practitioner who is familiar with the nature of the sexual abuse and the nature of the proposed role of the applicant, that the employment/function within the church poses minimal risk to children in the parish;

- b) In addition to the approval of the bishop in the case of a cleric, the appointment of a cleric, staff member, or volunteer under this policy also requires the prior approval of the parish given at a special meeting of vestry called for the purpose. An applicant who is a cleric must also be able to satisfy the following:
- c) The reintegration of a cleric into a parish or to another area of ministry requires the specific prior approval of the bishop;
- d) If such approval is given, it carries with it a clear understanding that the appointment is reviewed by a committee of trained Diocesan Resource Persons, to be appointed by the bishop, every six months for a period of two (2) years and then annually for a further period of three (3) years, and that the committee makes recommendations to the bishop on the continuation, or not, of the appointment;
- e) If the bishop considers, in his/her discretion, that the continuation of the appointment is not in the best interests of the parish or another area of ministry, the bishop may terminate the appointment at any time;
- f) The cleric will be required to agree to these terms of reintegration and any other conditions which the bishop considers appropriate.

Approved: Executive Committee  
June 1994

## **REINTEGRATION POLICY AFTER SUBSTANTIATED COMPLAINT OF SEXUAL ASSAULT/EXPLOITATION/HARASSMENT OF AN ADULT**

### **1. ISSUE**

This policy concerns the possible reintegration of clergy, staff and volunteers into a parish following a conviction or substantiated complaint of sexual assault, exploitation or sexual harassment of an adult.

### **2. AFFECTED PERSONS**

This policy applies to any clergy, staff or parishioners who have responsibilities within the parish or other areas of ministry.

### **3. POLICY**

Where an adult has been convicted of a criminal offence involving sexual assault or misconduct, or where there has been a substantiated case of sexual harassment or exploitation, his/her continued role in the parish is reviewed by the bishop who determines whether it is appropriate for the person to continue in, or return to, a position of responsibility within the parish or other areas of ministry.

### **4. RATIONALE**

Problems of sexual misconduct against adults in a parish can arise in a number of contexts including those of priest/curate, employer/employee, pastoral counsellor/client, priest/parishioner and parishioner/parishioner.

There are distinctions which are noted where the misconduct involves an adult and not a child. A child is always in a position of dependency in a relationship of trust. All acts of abuse of children are treated as of the utmost seriousness and may involve criminal sanctions. Where sexual misconduct occurs against an adult, the conduct may involve a spectrum of circumstances from sustained sexual assault of an adult in a position of dependency to an isolated act of sexual harassment. Similarly an adult may be in a position of considerable dependency with no responsibility for the actions of the abuser or may be a mature functioning adult who may bear some responsibility for the conduct in issue.

The wide range of possible circumstances suggests that there must similarly be a wide range of possible responses. Some situations will suggest profound dysfunctional conduct. Others may suggest isolated acts of impropriety.

Common to all situations is the need for the abuser to provide, at least an unequivocal acknowledgement of responsibility for the harm done, to demonstrate genuine remorse and repentance and to offer restitution where appropriate.

The bishop has discretion to require the abuser to meet any of the other conditions set down in the *"Reintegration Policy after Conviction Involving a Child Sexual Abuse"* (1994) as may be most appropriate in all the circumstances in determining whether it is appropriate for the abuser to remain in or return to the parish in a position of responsibility.



Diocese of Toronto  
Anglican Church of Canada

# The Diocese of Toronto

## Anglican Church of Canada

### SEXUAL MISCONDUCT POLICY:

### Consent to Enter into an Informal, Facilitated Process to Attempt to Resolve a Complaint of Sexual Harassment.

I, \_\_\_\_\_ (*Name of Complainant*) have brought a complaint of sexual harassment against \_\_\_\_\_ (*Name of Respondent*) under the Sexual Misconduct Policy of the Diocese of Toronto.

1. I have received a copy of the Sexual Misconduct Policy and I have read it and understand it.
2. I agree to enter into an informal, facilitated process to attempt to resolve this complaint.
3. The facilitator appointed by the Diocese of Toronto is \_\_\_\_\_ (*Name*). I agree to this facilitator.
4. If the facilitation arrives at a resolution to the complaint, the resolution will be in writing. The resolution will be signed by the respondent, the facilitator, and myself, and will be referred to the Canon Pastor or the Director of Human Resources for approval and ratification. The Facilitation Resolution Agreement will be final and binding.
5. I understand that any statements or admissions made in the facilitated process are without prejudice and may not be disclosed in an investigation if the facilitated process fails.
6. I understand that if I have any questions about the operation of this Policy and my rights and responsibilities under it, I may speak with the Canon Pastor or the Human Resources Director.
7. I understand that under the Policy I have the right to seek independent legal advice and to seek a remedy through the courts or under the Ontario Human Rights Code.

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

Witness: \_\_\_\_\_ Date: \_\_\_\_\_



Diocese of Toronto  
Anglican Church of Canada

# The Diocese of Toronto

## Anglican Church of Canada

### SEXUAL MISCONDUCT POLICY:

#### Consent to Enter into an Informal, Facilitated Process to Attempt to Resolve a Complaint of Sexual Harassment.

I, \_\_\_\_\_ (*Name of Respondent*) am the subject of a complaint of sexual harassment brought against me by \_\_\_\_\_ (*Name of Complainant*) under the Sexual Misconduct Policy of the Diocese of Toronto.

1. I have received a copy of the Sexual Misconduct Policy and I have read it and understand it.
2. I agree to enter into an informal, facilitated process to attempt to resolve this complaint.
3. The facilitator appointed by the Diocese of Toronto is \_\_\_\_\_ (*Name*). I agree to this facilitator.
4. If the facilitation arrives at a resolution to the complaint, the resolution will be in writing. The resolution will be signed by the complainant, the facilitator, and myself, and will be referred to the Canon Pastor or the Director of Human Resources for approval and ratification. The Facilitation Resolution Agreement will be final and binding.
5. I understand that any statements or admissions made in the facilitated process are without prejudice and may not be disclosed in an investigation if the facilitated process fails.
6. I understand that if I have any questions about the operation of this Policy and my rights and responsibilities under it, I may speak with the Canon Pastor or the Human Resources Director.
7. I understand that under the Policy I have the right to seek independent legal advice and to seek a remedy through the courts or under the Ontario Human Rights Code.

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

Witness: \_\_\_\_\_ Date: \_\_\_\_\_



Diocese of Toronto  
Anglican Church of Canada

# The Diocese of Toronto Anglican Church of Canada

## SEXUAL MISCONDUCT POLICY:

### Consent to Enter into a Mediation of Complaint of Sexual Harassment.

I, \_\_\_\_\_ (*Name of Complainant*) have brought a complaint of sexual harassment against \_\_\_\_\_ (*Name of Respondent*) under the Sexual Misconduct Policy of the Diocese of Toronto.

1. I have received a copy of the Sexual Misconduct Policy and I have read it and understand it.
2. I agree to enter into a mediation to resolve this complaint.
3. The mediator appointed by the Diocese of Toronto is \_\_\_\_\_ (*Name*). I agree to this mediator.
4. If the mediation arrives at a resolution to the complaint, the resolution will be in writing. The Resolution Agreement will be signed by the complainant, the mediator, and myself, and will be referred by the Canon Pastor to the Bishop for approval and ratification. The Mediation Resolution Agreement will be final and binding.
5. I understand that any statements of admissions made in the mediation process are without prejudice and may not be disclosed in an investigation under this Policy.
6. I understand that if I have any questions about the operation of this Policy and my rights and responsibilities under it, I may speak with the Canon Pastor or the Human Resources Director.
7. I understand that under the Policy I have the right to seek independent legal advice and to seek a remedy through the courts or under the Ontario Human Rights Code.

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

Witness: \_\_\_\_\_ Date: \_\_\_\_\_



Diocese of Toronto  
Anglican Church of Canada

# The Diocese of Toronto

## Anglican Church of Canada

### SEXUAL MISCONDUCT POLICY:

#### Consent to Enter into a Mediation of Complaint of Sexual Harassment.

I, \_\_\_\_\_ (*Name of Respondent*) have had a complaint of sexual harassment brought against me by \_\_\_\_\_ (*Name of Complainant*) under the Sexual Misconduct Policy of the Diocese of Toronto.

1. I have received a copy of the Sexual Misconduct Policy and I have read it and understand it.
2. I agree to enter into a mediation to resolve this complaint.
3. The mediator appointed by the Diocese of Toronto is \_\_\_\_\_ (*Name*). I agree to this mediator.
4. If the mediation arrives at a resolution to the complaint, the resolution will be in writing. The Resolution Agreement will be signed by the complainant, the mediator, and myself, and will be referred by the Canon Pastor to the Bishop for approval and ratification. The Mediation Resolution Agreement will be final and binding.
5. I understand that any statements or admissions made in the mediation process are without prejudice and may not be disclosed in an investigation if the mediation fails.
6. I understand that if I have any questions about the operation of this Policy and my rights and responsibilities under it, I may speak with the Canon Pastor or the Human Resources Director.
7. I understand that under the Policy I have the right to seek independent legal advice and to seek a remedy through the courts or under the Ontario Human Rights Code.

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

Witness: \_\_\_\_\_ Date: \_\_\_\_\_



Diocese of Toronto  
Anglican Church of Canada

# The Diocese of Toronto

## Anglican Church of Canada

### SEXUAL MISCONDUCT POLICY: Consent to Begin an Investigation into a Complaint of Sexual Misconduct.

I, \_\_\_\_\_ (*Name of Complainant*) have brought a complaint of sexual misconduct against \_\_\_\_\_ (*Name of Respondent*) under the Sexual Misconduct Policy of the Diocese of Toronto.

1. I have received a copy of the Sexual Misconduct Policy and I have read it and understand it.
2. I understand that my complaint as well as any related documents I may provide to the Canon Pastor or Human Resources Director or an investigator appointed by the Diocese under the Sexual Misconduct Policy, will be given to the respondent or any persons necessary for the administration of the policy.
3. I understand that if I have any questions about the operation of this Policy and my rights and responsibilities under it, I may speak with the Canon Pastor or the Human Resources Director.
4. I understand that under the Policy I have the right to seek independent legal advice or to seek a remedy through the courts or under the Ontario Human Rights Code.

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

Witness: \_\_\_\_\_ Date: \_\_\_\_\_



Diocese of Toronto  
Anglican Church of Canada

# The Diocese of Toronto

## Anglican Church of Canada

### SEXUAL MISCONDUCT POLICY: Consent to the Release of Information.

Concerning the Complaint of \_\_\_\_\_ against \_\_\_\_\_

commencing \_\_\_\_\_ (date Diocese notified of complaint).

1. Complainants, respondents and witnesses are advised to read the Diocesan Sexual Misconduct Policy so that they are familiar with the procedures involved. A copy of the Policy is included with this consent.
2. Every effort will be made by those who are responsible for the administration of the Policy to maintain the confidentiality of the process, subject to the exceptions noted below.
3. Complainants are advised that in the event of a formal complaint under the Policy, a copy of the written complaint, as well as related documents originating from the complainant, will be given to the respondent, or any persons necessary for the administration of the Policy.
4. Respondents are advised that a copy of the written response to the complaint, as well as related documents originating from the respondent, will be given to the complainant, or any persons necessary for the administration of the Policy.
5. Witnesses are advised that any information they provide, either verbally or in writing, to a person appointed to conduct an investigation under the Diocesan Sexual Misconduct Policy, may be disclosed to the complainant and respondent as well as to persons necessary for the administration of the policy.
6. If a respondent does not sign this Consent to the release of information, the investigation will proceed in the absence of information originating from the respondent. In such an event, the investigating team may make their report to the Bishop in the absence of such information which may otherwise be of assistance to the respondent.
7. In addition, anyone may be required by law to give evidence and document in the courts and other agencies involved in the administration of justice.
8. If you have any questions about the operation of this Policy and your rights and responsibilities under it, please speak with the Canon Pastor or the Human Resources Director.
9. The Policy is not intended to preclude anyone from seeking legal counsel or seeking a remedy through the courts or under the Ontario Human Rights Code.

I acknowledge receipt of a copy of the Policy. I have read, understand, and agree with the Consent to the Release of Information as provided above.

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

Witness: \_\_\_\_\_ Date: \_\_\_\_\_

Appendix J:



Diocese of Toronto  
Anglican Church of Canada

# The Diocese of Toronto

## Anglican Church of Canada

Name \_\_\_\_\_

Title \_\_\_\_\_  
(clergy/employee/volunteer)

\_\_\_\_\_ I hereby acknowledge receipt of a copy of the Diocese of Toronto Sexual Misconduct Policy, 2001.

\_\_\_\_\_ I understand the contents of the Diocese of Toronto Sexual Misconduct Policy, 2001.

\_\_\_\_\_ I understand that to function as an ordained or lay person in ministry implies that the Church has entrusted me with responsibility to act for the well-being of others.

\_\_\_\_\_ I have attended a Sexual Misconduct workshop.

Date of workshop: \_\_\_\_\_ Place: \_\_\_\_\_

If you cannot check off any of the above statements or if you have questions about this, please contact the diocesan Canon Pastor prior to signing off on this document.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Please type or print name

\_\_\_\_\_  
Date

*Instructions: All ordained and lay staff are expected to comply with the Diocese of Toronto Sexual Misconduct Policy. This signed form will be placed in the named person's personnel file or other suitable confidential file if there is no personnel file. It will remain in the file for an indefinite period of time. Access to clergy personnel files is restricted to the person named on the file, the Diocesan and Area Bishops, the supervisor of the diocesan staff (for staff members), the Executive Assistant to the Bishop, the Human Resources Director and Archivist.*

SCREENING FORM 1 revised October 2001