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**SEXUAL MISCONDUCT**  
**DIOCESE OF NOVA SCOTIA AND PRINCE EDWARD ISLAND**  
Adopted by Diocesan Council, 24 April 2003

## 1. GENERAL STATEMENT

- (1) All persons under ecclesiastical jurisdiction are subject to discipline for immoral conduct.
- (2) Immoral conduct is conduct that is improper or wrong, which includes, but is not limited to, demeaning behaviour, coercion in any form, and sexual misconduct.
- (3) Clergy and laity are expected to maintain the highest ethical standards in all their relationships with others.
- (4) Sexual misconduct is immoral. Sexual misconduct includes sexual exploitation, sexual harassment and sexual assault (commonly called sexual abuse) and is unacceptable.
- (5) Sexual misconduct by persons holding office, employment or appointment within the Church will not be tolerated.
- (6) All complaints of sexual misconduct shall be investigated.

## 2. CLERGY SEXUAL MISCONDUCT

- (1) Clergy sexual misconduct is an inappropriate and immoral act between a clergy person and another person and occurs whenever a member of the clergy uses his or her position of authority as a clergy person for the purpose of securing sexual or self-gratification.
- (2) Clergy sexual misconduct can arise out of either consensual or non-consensual conduct.
- (3) With or without consent, romantic or sexual relationships, when one or both parties are married, will always involve misconduct, as will romantic or sexual relationships with a person the clergy person is counseling.
- (4) Romantic relationships between single clergy persons and other single persons with whom the clergy person may be in a form of pastoral relationship should be approached with caution and openness. If there is any doubt about the appropriateness of a relationship, it would be wise for a clergy person and the person with whom a consensual romantic relationship is developing to discuss the relationship and its implications with the territorial Archdeacon, and if necessary, the Bishop. Even romantic relationships that appear to be undertaken with the mutual consent of a clergy person and another person may involve subtle forms of coercion, misuse of a position and, therefore could be interpreted as clergy misconduct.
- (5) Non-consensual clergy sexual misconduct includes unsolicited, unwelcome, non-reciprocal sexual overtures or conduct, either physical or verbal, by a clergy person towards a person with whom the clergy person has a professional relationship, including members of her or his staff or parish. It includes, but is not limited to, acts that constitute a crime. It may include sexually oriented humour or language, questions or comments about sexual behaviour or preference, unwelcome or undesired physical contact, inappropriate comments about clothing or body, or repeated requests for dates or social engagements.
- (6) Sexual or other conduct by a clergy person outside of a professional relationship, if immoral, may also be the subject of discipline in accordance with Canon law.

### **3. LAY SEXUAL MISCONDUCT**

(1) Lay sexual misconduct is an inappropriate or an immoral act between a lay employee or volunteer and another person.

(2) Sexual misconduct occurs if the lay employee or volunteer uses a position of authority for the purpose of securing sexual or self-gratification.

(3) Unsolicited, unwelcome, non-reciprocal sexual overtures or conduct, either physical or verbal, by a lay employee or volunteer constitute sexual misconduct. It may include sexually oriented humour or language, questions or comments about sexual behaviour or preference, unwelcome or undesired physical contact, inappropriate comments about clothing or body, or repeated requests for dates or social engagements.

### **4. PROCEDURES**

(1) Abuse involving children and adults in need of protection

(a) The laws of Nova Scotia and Prince Edward Island require that anyone who has information indicating that a child is or may be suffering or may have suffered abuse to immediately report the information. In Nova Scotia the law requires, and in Prince Edward Island the law permits, anyone who has information indicating that an adult in need of protection is suffering or may have suffered abuse to report that information.

(b) If the person reporting is a clergy person or a lay employee or volunteer of the Church or if the alleged abuse is in any way said to be connected with any of the Church's activities or been perpetrated by a clergy person, lay employee or volunteer, the information shall immediately be reported to the Bishop and dealt with by the Bishop as though a verbal report of sexual misconduct had been received.

(2) General Response

(a) Upon receiving a complaint of an inappropriate or immoral act by a person under ecclesiastical jurisdiction, the Bishop, subject to the provisions of Canon 30, shall appoint a member or members of the laity and/or clergy to be a committee of inquiry or response team.

(b) A committee of inquiry or response team shall investigate all complaints of sexual misconduct referred to it by the Bishop.

(c) All committee of inquiry or response team members shall receive training in crisis intervention and in interviewing complainants, respondents, and witnesses.

(d) Committee of inquiry or response team members shall not be assigned to investigate any complaint where their judgment or objectivity may be impaired due to a relationship

with or knowledge of any of the parties or witnesses to a complaint.

### **5. COMPLAINTS**

(1) All complaints of sexual misconduct shall be in writing and signed by the complainant. A complaint shall include the name, address and telephone number of the complainant. A complaint shall include the date, location and time of the alleged sexual misconduct and a statement detailing the specifics of the misconduct. It shall also include the name and title of the respondent and names, addresses or telephone numbers of witnesses, if these are known.

(2) Within one week of receiving a written complaint of sexual misconduct, the Bishop or the Bishop's designate shall

assign the complaint to a committee of inquiry appointed under Canon 30 or a response team for investigation.<sup>1</sup>

(3) The Bishop, or the Bishop's designate

(a) shall immediately notify the complainant and the respondent that the complaint has been assigned to a response team for investigation,

(b) unless there is a good reason not to, shall immediately provide the respondent with a copy of the complaint and advise her or him that it has been assigned to a response team for investigation.

(4) Upon receipt of a verbal complaint of sexual misconduct, the Bishop shall

(a) inform the complainant of the information required per paragraph 5.(1) and immediately forward to the complainant a written report for signature, or

(b) appoint a response team and request them to meet and obtain a written report from the complainant, and upon receipt of the signed complaint, the Bishop or the Bishop's office shall comply with procedures in paragraphs 5.(2) and 5.(3), or

(c) refer the complaint to a response team to investigate the complaint and recommend whether or not the evidence warrants further proceedings.

(5) The response team shall commence investigating the complaint within one week of receiving it, unless good cause exists for delaying the commencement of the investigation.

(6) The response team shall interview the complainant and all other witnesses. Prior to interviewing the respondent, the respondent shall be cautioned concerning the possibility of anything said being used against her or him in ecclesiastical, criminal or civil proceedings. The respondent shall be advised of the right to obtain counsel. The respondent may decline to be interviewed.

(7) Any party or witness to an act of alleged sexual misconduct, other than the respondent, shall be encouraged to submit a statement in writing.

(8) The response team shall assemble all pertinent information and submit a written report and recommendation to the Bishop. The report shall include the original complaint and all written statements submitted.

(9) The response team may report that based on their investigation

(a) the complaint has not been able to be substantiated and recommend that a process of individual or corporate healing take place;

(b) there is evidence to substantiate the complaint, that the conduct complained of, while improper, has caused no serious harm, and there is no risk to others from the respondent, and recommend that the respondent be requested to submit to episcopal jurisdiction and be admonished and/or with the consent of the complainant, a process of mediation take place between the respondent and complainant and/or a course of counseling or education be undertaken by the respondent;

(c) there is evidence to substantiate the complaint, that the conduct complained of was of a type which has or could have caused serious harm and/or the respondent may pose a risk to others, and recommend that, if the accused is a lay employee or volunteer, his or her employment or volunteer appointment should be terminated immediately and if a clergy person, that formal disciplinary proceedings should be taken.

(10) If the response team reports that the complaint has not been able to be substantiated and the Bishop accepts their finding and adopts their recommendation, the Bishop, if he or she deems it appropriate, may institute a process of individual or corporate healing.

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<sup>1</sup> Hereafter in this document, 'response team' is to be understood to mean 'committee of inquiry or response team'.

- (11) If the response team reports that there is evidence to substantiate the complaint, and the Bishop accepts this finding without further investigation, the Bishop may take such steps as the Bishop considers appropriate.
- (12) Once the investigation is over, a report has been provided, and the Bishop has reviewed the report, the Bishop or the Bishop's designate shall advise the complainant of the completion of the Bishop's review and of the action that has been taken.
- (13) All complaints and the recommendations of the response team shall be kept and maintained in the Bishop's Office in a confidential complaints file, along with any statement submitted by the respondent about the complaint.
- (14) Where the complaint is substantiated, the complaint and the disciplinary action taken should be kept and maintained in the clergy person's or lay employee's personnel file in the Bishop's office.
- (15) The response team members shall not disclose to anyone except the Bishop, the Bishop's advisors, or other persons designated by the Bishop, or in the event of a proceeding under the Discipline Canon, the prosecution, the respondent, and the adjudicator, or pursuant to court process, any investigation or recommendation.
- (16) Complaints against a bishop: If the complaint is in respect of a bishop of the Diocese, the complaint shall immediately be communicated to the Metropolitan of the Province for his or her disposition.

## **6. PASTORAL CARE OF COMPLAINANT, RESPONDENT AND CONGREGATIONS: INTRODUCTION**

The complainant, respondent and congregation require support throughout the process. Sexual

misconduct is a violation of trust, an inappropriate use of power, and a breach of professional ethics. When it is found to have taken place, the complainant, the family and the congregation involved may be alienated from the very resources for healing and reconciliation that the Church can offer. The respondent may require support to enable acknowledgment and healing; a respondent's family requires care. The Church's institutional task is to communicate God's transforming grace and to create an environment in which new relationships of trust can develop. A restoration of individual and corporate health requires careful preparation and the utilization of all the resources God makes available.

## **7. GENERAL GUIDELINES FOR INSTITUTIONAL RESPONSE**

(1) The complainant

(a) The complainant may be or feel isolated, alienated or under attack.

(b) If the clergy person against whom the complaint has been made is the complainant's spiritual advisor, the complainant is encouraged to request an independent spiritual advisor appointed by the Bishop.

(b) Within one week of a complaint being made, the Bishop shall appoint a clergy person or lay person with appropriate training or experience to act as a support person and advocate for the complainant.

(c) The support person/advocate shall seek to meet with the complainant within five (5) days of her or his appointment. The support person/advocate shall explain the nature of the procedures to be followed to the complainant.

(d) The support person/advocate shall advise the complainant that if it is believed the misconduct constitutes a criminal act or the complainant is entitled to seek a remedy in the civil courts, neither of those recourses is in any way precluded by the procedures being undertaken by the Church.

(e) The support person/advocate should neither encourage nor discourage the complainant from pursuing the matter in the criminal or civil courts, but shall seek to ensure the complainant does not feel cut off from pursuing other methods of recourse.

- (f) The support person/advocate shall meet with the complainant regularly throughout the process and shall keep the complainant advised.
- (g) The support person/advocate shall be aware of and make known to the complainant professional counseling services that are available.
- (h) Where appropriate, the support person/advocate may assist the complainant in obtaining counseling.
- (i) The support person/advocate may act as an advocate for the complainant within the parish community and otherwise as required and appropriate.
- (j) The support person/advocate should not give evidence in any proceeding.

## (2) The respondent

- (a) The respondent may be or feel isolated, may be defensive, and may attempt to deal with the problem through denial. The respondent's family may be confused and traumatized by the complaint.
- (b) The Bishop exercises her or his pastoral care for the respondent through the appointment of a support person and advocate. The respondent, if a clergy person, will not have direct access to the pastoral care of the Bishop.
- (c) Within one week of receiving the complaint, the Bishop shall appoint a senior member of the clergy if the respondent is a clergy person, or a lay person or a clergy person if the respondent is a lay person, to act as a support person and advocate for the respondent.
- (d) Except in circumstances where it is determined by the Bishop and/or the Bishop and the response team that for good reason the complaint and investigation cannot be made known, the support person/advocate shall endeavour to meet with the respondent within one week of the complaint having been made known to him or her.
- (e) The support person/advocate shall explain the process to be followed.
- (f) The support person/advocate shall meet with the respondent regularly throughout the process and shall keep the respondent advised of steps in the process.
- (g) The support person/advocate may not be a witness against the respondent in any ecclesiastical hearing.
- (h) The respondent must be made aware that the support person/advocate may be compelled to give evidence in a criminal or civil trial should one or the other occur.

## (3) The congregation

- (a) Where there has been a complaint of sexual misconduct involving a clergy person or lay employee or volunteer of a parish, the lay leadership of the parish shall be made aware of the issues as a first priority and kept advised of all steps taken.
- (b) The process of parish healing is closely linked with the knowledge and leadership of this group and should be arrived at in consultation with this group, and except in extraordinary circumstances, in a manner acceptable to this group.
- (c) An open congregational meeting may be called. The Bishop or the Bishop's designate is to be present to provide the facts that are and can be made known.
- (d) There is a need to balance the privacy of the complainant and the right of a respondent to be presumed innocent against the importance of openness with the congregation. The identity of the complainant must be

carefully guarded.

(e) The congregational meeting may be traumatic. Appropriate personnel trained in crisis ministry and issues of sexual misconduct should be present and available for small groups or one-to-one counseling immediately after any formal presentation.

(f) As new information comes to light after the initial congregational meeting, further meetings may be held. Once any process dealing with a complaint of sexual misconduct has been concluded, a congregational meeting should be held to provide information

concerning the process followed, the conclusions reached, the disposition made, and the reasons for same.

(g) All congregational meetings shall have as their theme "The Church is the Place for Truth".

(h) The Bishop may assign at any stage of the proceeding a senior clergy person or a lay person trained or skilled in crisis ministry and knowledgeable about issues of sexual misconduct to act as a facilitator and support person within the parish.

## **NOTES INCLUDED IN THE SEXUAL MISCONDUCT GUIDELINES**

Children - The *Children and Family Services Act* of Nova Scotia requires that every person who has information, whether or not it is confidential or privileged, indicating that a child is in need of protective services shall report that information to Children's Aid.

It further requires that every person, (including a member of the clergy), who performs professional or official duties with respect to a child who, in the course of performing their duties, has reasonable grounds to suspect the child is or may have suffered abuse shall report the information to Children's Aid.

The *Family and Child Services Act* of Prince Edward Island is substantially to the same effect.

Adults in Need of Protection - Adults in need of protection are adults who, by reason of physical or mental disability or infirmity, are incapable of protecting themselves.

The *Adult Protection Act* of Nova Scotia requires every person who has information, whether or not confidential or privileged, indicating that an adult is in need of protection, to report that information to the Minister of Community Services.

The *Adult Protection Act* of Prince Edward Island makes it permissible, not compulsory, to report instances of adult abuse.

An individual who fails to report as required by the *Children and Family Services Act* of Nova Scotia, or the *Family and Child Services Act* of Prince Edward Island, or the *Adult Protection Act* of Nova Scotia, may be prosecuted and subject to a fine from \$ 1- \$ 5,000 and up to 1 year in jail.

Failure to report may also give rise to a claim for damages for negligence if, by reason of the failure to report, further damage is suffered by the individual.

The civil law does not recognize the seal of the confessional, even though a priest may feel bound by it.

Where a priest is presented with a dilemma between a duty to report under the civil law and a sacred obligation of confidentiality, the Bishop and Chancellor should be consulted.