

REGULATION 17

Sexual Abuse and Sexual Harassment

1. Beliefs:

1. We believe all human beings have been made by God and in the image of God. Anyone who professes to love God is obliged, therefore, to respect the dignity of every human being.
2. Not only are we obliged, as followers of Jesus, to look for the image of God in all people, but we also like him, are called to defend, protect and provide for those who are weaker or more vulnerable. Loving our neighbors as ourselves obviously entails maintaining a proper relationship with our peers.
3. When someone is abused or harassed by a Christian believer, not only is that person harmed, but the Church is also harmed. Each time this happens, there will be people who find the Church less attractive, and the Christian gospel more difficult to believe. Their trust in God and in Christian community may be seriously jeopardized.
4. When anyone is abused or is sexually harassed by an employee or a volunteer of the Church, the implications are usually even more hurtful and affect a wider circle of people. Those in leadership positions are always called to a higher standard of behavior. That is why the forms of ordination in both the Book of Common Prayer and the Book of Alternative Services require members of the clergy to promise to do their best to be "wholesome examples" to all people.
5. The burden of responsibility for appropriate and helpful behavior in a pastoral relationship rests with the ordained person. Those who come to a pastor for help are particularly vulnerable. The authority of the pastor's position can be used to put people in an even more vulnerable state. Sexual abuse of an employee, parishioner or volunteer, and sexual harassment of another priest or co-worker are never acceptable. When this does happen it must be named as sin.
6. When cases of sexual abuse and sexual harassment occur, the Church must respond with a concern for healing and justice. The policy and procedures, which follow, are meant to ensure that the abused or harassed and the perpetrators are treated fairly and that justice and healing can be found by all those involved.
7. This policy applies to ordained and non-ordained employees and volunteers in the Church.

2. Definitions:

1. Sexual abuse is defined as sexual activity or contact (not limited to sexual intercourse) in which a person in authority takes advantage of the vulnerability of the parishioner, client, or employee by causing or allowing such a person to engage in sexual behavior within the professional relationship.

Such behavior constitutes abuse because the pastoral role is based on trust. Sexualization of the role violates boundaries inherent in a relationship, which is based on trust. Given the presence of such authority in the relationship, the determining of full, free consent of the parishioner or client is always problematic.

2. Sexual harassment is defined as the sexualization of a relationship with another pastor or co-worker.

The sexualization of the relationship may occur through the introduction or imposition of sexist or sexual remarks, requests or requirements, either where a power differential exists or where no such differential is present but where the behavior is unwanted or offensive to the recipient.

3. Behavior which may constitute either sexual abuse or sexual harassment is not limited to, but includes the following: generalized remarks and conduct conveying insulting or degrading attitudes about a gender; inappropriate and offensive sexual advances; coercion of sexual activity through threats; sexual imposition such as attempts to fondle, kiss or grab, and sexual assault.

3. Principles

1. The principles of natural justice shall be followed in carrying out this policy. Without limiting the general intent of this policy, all persons who are accused, investigated or disciplined pursuant to this policy are entitled to be
 - (a) given written notice of the charge against them and the particulars of the charge,
 - (b) presumed innocent until the commission of the offense by them is proved on a balance of probability,
 - (c) heard in their own defense,
 - (d) represented in their defense by legal counsel or other representative of their own choice,
 - (e) present, with legal counsel or other representative, when a hearing is held under the authority of this policy to inquire into the charges,
 - (f) given opportunity to cross - examine witnesses who have given testimony against them at a hearing convened pursuant to this policy, and to present evidence and witnesses on their own behalf,

- (g) tried by persons who are not biased against them, and
- (h) tried within a reasonable time.

4. Procedures

1. There will be a Diocesan Response Team (DRT) appointed by the bishop in consultation with the Executive Committee, which shall consist of three persons, at least one of whom shall be lay and on which both genders shall be represented. The DRT shall be made up of a senior priest of the diocese, a Christian person who is knowledgeable in the area of sexual abuse and sexual harassment and, a person who is knowledgeable in the area of human relationships including sexual abuse and sexual harassment.
2. The Diocesan Response Team shall operate at the call of the bishop and shall carry out the following duties:
 - (a) investigate complaints of inappropriate sexual behavior, pursuant to the purposes and procedures of this policy;
 - (b) show appropriate pastoral sensitivity during the investigation and advise the bishop of pastoral needs in the circumstance;
 - (c) advise the bishop in writing of its findings.
3. The expenses of the DRT shall be borne by the diocese upon authorization of the bishop.
4. Members of the DRT will be appointed for a three-year term. Although members may be eligible for re-appointment, service will ordinarily be limited to two terms.
5. The steps in the procedure are as follows:
 - (a) Complaint A complaint of unethical or inappropriate sexual behavior by an employee or volunteer acting on behalf of the Church, shall be made by the complainant to the bishop. Alternatively, the complaint may be made to the bishop's designate of the other gender who shall be named by the bishop pursuant to this policy. If the complaint is against the bishop, it shall be made to the metropolitan. Although the complaint may be made verbally initially, it must be in writing before further action will be taken. The complainant may request that an informal resolution of the matter be attempted before the full procedures pursuant to this policy are invoked. The bishop, in consultation with the DRT will give such requests appropriate consideration. The bishop will give written notice of the complaint to the accused person. A criminal charge related to unethical or inappropriate sexual behavior against an

employee or volunteer acting on behalf of the Church shall be treated as a complaint under this policy.

- (b) Investigation The bishop shall consult with the DRT within 48 hours of receipt of a written complaint regarding an appropriate course of action. An assessment will be made by the bishop in consultation with the DRT as to whether the situation must be reported to civil authorities under law. Apparent criminal behavior will be reported to appropriate police authorities. If a criminal action proceeds, the bishop shall defer further action pursuant to this policy until it is completed. Notwithstanding the foregoing, nothing in this policy shall be construed as limiting the authority of the bishop in the disciplining of clergy pursuant to the Canons of General Synod on licensing and discipline.

A "no investigation" decision by the bishop may only be taken after consultation with the Executive Committee. If the complainant is not prepared to accept the no investigation decision, the complainant may appear before the Executive Committee for the purpose of requesting the Executive Committee to order an investigation. The Executive Committee shall hold a meeting within 14 days of receipt of the request to meet to hear the request for an investigation. The decision of the Executive Committee in this matter shall be final. The Executive Committee shall observe a strict code of confidentiality in these matters. The bishop shall inform the accused and the complainant of the decisions taken at this step in the procedure.

- (c) DRT Preparation When an investigation has been ordered, the DRT will meet with the bishop and any resource persons needed to provide appropriate training and to assist in the development of a plan for the investigation. The DRT will meet with the accused, the complainant and others as necessary during the course of the investigation. When pursuing the pastoral aspects of its responsibilities, the DRT will consider the alleged victim, the alleged offender, their families and those close to them, the congregation immediately involved and the members of the clergy of the diocese.

- (d) DRT Report The DRT shall present a written report of its findings to the bishop no later than 45 days after the investigation was ordered. The report shall contain the names and dates of all those interviewed during the investigation, who did the interviewing and the findings as a result of the interviews. Recommendations shall not form a part of the report of the DRT.

(e) Decision about Formal Hearing The bishop shall decide within 7 days of receipt of the DRT report whether to order a formal hearing to inquire into the complaint to determine guilt or innocence. The bishop shall also decide whether a temporary suspension of the accused person, with salary and benefits, should occur at this point. If a formal hearing is ordered by the bishop, legal counsel will be engaged to assist with the drawing up of specific charges on behalf of the diocese. The charges will be served on the accused and they will include the date and place of the hearing, together with notice that the hearing may proceed in the absence of the accused. The complainant will be advised in writing by the bishop that the hearing will be held.

(f) Formal Hearing The Executive Committee shall be responsible for appointing annually a Diocesan Discipline Committee (DDC) of three persons, at least one of whom shall be lay and on which both genders shall be represented, as follows: a senior priest of the diocese and two other persons who are practicing Christians. Continuity on the DDC will be provided by staggered appointments initially of three, two and one years. Re-appointment for a second term may be made by the Executive Committee. The DDC shall determine its own procedures subject to section 3 of this policy.

Training will be provided the DDC as determined by the bishop. The DDC shall meet as required by the bishop to hear evidence and decide guilt or innocence pursuant to the charges brought against an accused person by the diocese. The DDC will provide its written report to the bishop no later than 7 days after the hearing ends. The report will list the witnesses who testified at the hearing and the Committee's findings of guilt or innocence, with reasons, for each of the charges. The bishop will inform the accused and the complainant in writing of the DDC's decision and of the appeal procedure. When an accused person has been found not guilty, a public statement to this effect will be made under the authority of the bishop, subject to consultation with the accused, and distributed as widely as appropriate.

(g) Penalty Where the DDC has found the accused to be guilty, the bishop will decide the penalty and administer Church discipline pursuant to the Canons of General Synod on licensing and discipline. If discipline action against an employee is taken, the bishop may invoke the following sanctions:

i. Admonition

(a) Caution. In a case in which conduct has been unwise, but not necessarily unethical, the bishop may give an oral caution to the person. No record of this caution will be kept on the person's file.

(b) Warning. In a case of clearly inappropriate and possibly unethical behavior, the bishop may give a warning in writing. A copy of this warning will not be kept on this person's file.

(c) Reprimand. In a case involving unethical behavior, the person will appear before the bishop and will be given a reprimand in writing. As well as the reprimand, any written record of this incident that appears on this person's file will be shared with that person.

(d) Censure. A record of the action will be put on file. In a case in which disciplinary or rehabilitative action is called for, rehabilitation will be provided as needed, with ongoing accountability to the bishop for at least a year.

ii. Inhibition. If a person voluntarily admits to an offense or is convicted of the same, the bishop may either remove permanently or suspend that person under Canon 4.

If a volunteer is found guilty of sexual misconduct, she or he will not be permitted to hold office in any parish until such time as the bishop, in consultation with the DRT, removes the ban and the individual applies for such permission after five years have passed since the conviction.

(h) Records. Files and records, which may be kept on individuals pursuant to this policy, will be accessible for examination by the individual, with the authorization of the bishop. After five years such files and records will be removed to a special confidential storage with access under authorization of the bishop as determined on a case-by-case basis.

(i) Pastoral Care. The bishop will attempt to help both the victim and the offender obtain appropriate therapeutic and pastoral care. Where it is appropriate and possible, the bishop will also attempt to help the families of those involved. When it is considered appropriate, the bishop, subject to consultation with those involved, will inform the parish or place of ministry of the circumstances of the complaint and the subsequent action that has been taken, and will seek to facilitate general healing.

(j) Appeal. Where a written notice of appeal is received from the accused the Executive Committee shall establish, with the cooperation of the Dioceses of Saskatchewan and Qu'Appelle, a three person Appeal Board consisting of an episcopal, a clerical and a lay representative nominated by the bishops of the two dioceses. The Appeal Board shall convene to hear and decide the appeal. The Appeal Board shall have the authority to confirm, alter or reverse the decision of the DDC, to alter the penalty or to recommend to the Executive Committee that a new discipline hearing be held. The expenses of the Appeal Board shall be borne by the diocese upon authorization of the bishop. The decision of the Appeal Board shall be given within 7 days of its hearing the appeal and shall be final and binding on the parties. If no written notice of appeal is received by the bishop within 30 days of the report of the DDC, or where the accused waives appeal, the case will be closed.

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