

PROCEDURE FOR CASES OF ALLEGED MISCONDUCT

REPORTING MISCONDUCT

7. Any person can contact the Bishop's Delegate(s) at bishopsdelegate@saintcd.com or by phone or mail (See Appendix 2) to make a confidential report of misconduct that is known or suspected. A person may also make a report through any cleric, employee or volunteer of the Diocese. Only the duly appointed Bishop's Delegate(s) should interview the complainant. Anyone else receiving a complaint should limit him/herself to listening only, without attempting to interview or offer comment, and without attempting to resolve the matter. The complainant should be encouraged to contact the Bishop's Delegate(s).
8. Unless an adult complainant does not wish to pursue an investigation, any cleric, employee or volunteer of the Diocese of St. Catharines who receives or is made aware of an allegation shall promptly report to the Bishop's Delegate(s) the substance of the allegation, the identity of the complainant and any other information in his/her possession with respect to the allegation.
9. Anonymous complaints will be documented and investigated to the extent possible.
10. It is recognized that the complainant and the victim may be two distinct individuals, especially in cases where the alleged victim is a vulnerable person.
11. If the accused person is ministering in another Diocese, the Bishop or his Delegate(s) will inform his counterpart in that Diocese that an allegation has been made.
12. When an allegation has been made against a non-incardinated cleric or a member of a Religious Community, the Bishop's Delegate(s) will advise the competent Superior or Bishop of incardination immediately. The Superior or Bishop will promptly invoke their Diocese's or Religious Community's own procedures for dealing with such matters or consent to this Diocesan Procedure being undertaken. (*See Appendix 1*)
13. In instances where there is a police investigation of a complaint, the Bishop's Delegate(s) may defer, suspend or terminate an investigation. The Diocesan lawyer is to be consulted in this situation before proceeding.
14. In order to protect the interests of all concerned, the Diocesan Bishop may at any stage of the process take any or all of the following actions:
 - a) The accused may be placed on an immediate administrative leave. Volunteers may be suspended from ministry.
 - b) In the case of a cleric, an appropriate residence may be assigned pending the outcome of the investigation;
 - c) In the case of a cleric, the faculty to preach may be removed (Canon 764), and if he is a priest, the faculty to hear confessions may also be removed (Canon 974). He may be forbidden the exercise of any public ministry including the public celebration of the Eucharist;
 - d) In the case of a cleric, he may be instructed to cease wearing clerical garb.

THE PRELIMINARY INVESTIGATION

15. The Bishop's Delegate(s) shall, as a matter of urgent priority, carry out or direct a discreet investigation of any allegation that has been reported. Discretion is called for to safeguard the privacy of the alleged victim and to protect the presumed innocence and good name of the person accused.
16. The Bishop's Delegate(s) shall meet personally or correspond directly with the individual making the allegation. The Bishop's Delegate(s) will inquire carefully about the facts and circumstances of the alleged incident and commit to providing a timely response on behalf of the Diocese to the alleged victim and/or the complainant.
17. The Bishop's Delegate(s) shall also meet or correspond directly with the person accused. The accused person will be instructed not to attempt to contact the complainant or any family member or possible witnesses.
18. The Bishop's Delegate(s) shall meet or correspond directly with any other persons deemed necessary for clarification of the matter. Archival material and other sources of information may be sought.
19. If the accused person is deceased, an investigation will proceed as far as possible, with reasonable efforts being made to discover the truth of the matter.
20. After obtaining information from the parties concerned and from any other sources, the Bishop's Delegate(s) may call upon the Advisory Committee to discuss the facts of the preliminary investigation, and to ask for their recommendations. If it is deemed useful in a particular case, the Bishop's Delegate(s) may make use of professional consultants.

PRELIMINARY FINDINGS

21. The Bishop's Delegate(s) will report the findings of the preliminary investigation to the Bishop. The report may include recommendations that are considered useful.
22. If the Bishop's Delegate(s) has found that an allegation is without substance, and unless the Bishop directs some further inquiry:
 - a) the complainant and the accused person will be advised that the investigation is closed; the complainant retains the right to pursue the matter civilly;
 - b) the accused person will be returned to ministry or employment; (*See #29*)
 - c) if the allegation has become public, appropriate steps must be taken to repair damage done to the reputation of the accused person;
23. If an allegation appears to be supported by the facts, the following steps will take place:
 - a) the Bishop's Delegate(s), after informing the Bishop, will advise the Victim Assistance Administrator and the Diocesan Spokesperson. The Diocesan lawyer and the Diocesan insurance carrier are also to be alerted of a potential claim.

- b) the needs of the alleged victim and/or family will be attended to by the Victim Assistance Administrator, at the direction of the Bishop's Delegate(s). The Victim Assistance Administrator will:
- i) meet personally or correspond directly with the alleged victim;
 - ii) convey to the alleged victim and/or family the Church's compassion and concern for them;
 - iii) in consultation with the alleged victim, assess his/her needs, in view of the alleged misconduct;
 - iv) coordinate the services that will benefit them, with assurances that the Diocese will fund appropriate professional, certified counselling services;
- c) the accused person:
- i) will be given a leave of absence immediately until the matter is resolved. Being placed on a leave of absence does not, nor is it meant to imply guilt;
 - ii) may be encouraged to consult with a lawyer and to cooperate with any police investigation;
 - iii) if a cleric, he may be assigned to an appropriate residence and continue to receive his salary and benefits pending a resolution of the matter;
 - iv) if a cleric, may be afforded the opportunity for counselling or be referred to a treatment facility.

24. When circumstances require it, the Bishop or his delegated representative will make a pastoral visit to the parish to offer encouragement and assistance to those affected by an allegation of misconduct. It may not be possible to provide information if this could interfere with present or future civil and/or criminal proceedings.
25. The Bishop and/or the Diocesan Spokesperson at the Bishop's direction will make a public statement when this is deemed necessary. Such a statement will not interfere with, nor offer comment on any civil or criminal proceedings.

FINAL DISPOSITION

26. When there is an allegation against a cleric of sexual misconduct/abuse involving a minor (the Congregation for the Doctrine of the Faith defines a minor as a person under the age of eighteen years), and when the allegation is credible and has a semblance of truth, the CDF requires that the local Bishop is obligated to refer the matter to them. Once the case of an accused cleric is studied, the CDF will indicate the further steps to be taken locally and offer direction to the Bishop on how to proceed. Canonical penalties (e.g., removal of faculties) may be applied.
27. In cases pertaining to clerics, the CDF will make the definitive judgment on the innocence/guilt of the cleric and his suitability/unsuitability for ministry, as well as the consequent imposition of canonical penalties, among which the most grave is the dismissal from the clerical state.

STATEMENT OF POLICY

1. This policy has the effect of particular law and its norms are to be diligently observed. The policy is to be applied in accord with the provisions of the Code of Canon Law and with the civil laws of Ontario and Canada.
2. It is the responsibility of the Diocesan Bishop first and foremost to deal with cases of clerics, employees and volunteers of the Diocese accused of misconduct and/or sexual abuse of minors. In the Diocese of St. Catharines, this responsibility is carried out through the Bishop's Delegate(s), with the assistance of an Advisory Committee, in conjunction with the Victim Assistance Administrator.
3. Any allegation will be addressed in a manner which reflects the Church's pastoral concern for
 - a) the victim against whom the misconduct is alleged to have taken place, and that individual's family;
 - b) the individual who is accused of misconduct;
 - c) the church and/or parish community where the misconduct is reported to have occurred, and the church and/or parish community where the accused individual is currently ministering;
 - d) fellow clerics and co-workers of the accused individual, and any others who may be particularly affected by the allegations.
4. During the course of the investigation, as outlined below, the Bishop's Delegate(s) shall take one of the following actions:
 - a) Report when the allegation involves a minor and requires that such a report be made under the Child and Family Services Act of the Province of Ontario.
 - b) If the complainant or the alleged victim is a vulnerable person, that person's caregiver shall be notified.
 - c) If the alleged victim is an adult the Bishop's Delegate(s) will advise that the alleged victim may be within their rights to report the incident to the police. The Bishop's Delegate(s) will not volunteer to report the incident to the police; however, if there is a compelling reason, would consider reporting on a case by case basis, if requested by the victim or when it concerns serious crimes.
5. All steps taken in accordance with this procedure shall be reflected by written and dated memoranda which shall be kept confidential to the extent possible. In view of privacy issues, access to Diocesan records will require police to execute a search warrant.
6. All persons carrying out any responsibilities in this procedure will cooperate with civil authorities carrying out their statutory responsibilities, subject to the inviolability of the sacramental seal.

GLOSSARY

ADMINISTRATIVE LEAVE - a term used for the temporary removal of a cleric from his assignment during an investigative process.

ADVISORY COMMITTEE – a committee appointed by the Bishop, comprised of the Bishop’s Delegates and other individuals with expertise in various disciplines, possibly including the fields of counselling and civil law, and any other persons whose personal qualities and qualifications the Bishop deems appropriate and useful. The Advisory Committee shall advise the Bishop’s Delegate(s) when requested on matters involving allegations of misconduct.

This Committee is advisory in nature and does not substitute for the discernment and power of governance of the Bishop and/or his Delegates.

ALLEGATION – a statement or accusation of misconduct that is yet to be proven. The allegation may pertain to events that are current, recent or in the distant past.

BISHOP’S DELEGATE(S) – a priest or lay person appointed by the Bishop, to receive and investigate any reported allegation of misconduct against any cleric, employee or volunteer who is or was ministering in the St. Catharines Diocese.

The Bishop may appoint another person, even someone from outside the Diocese to assume the role of Bishop’s Delegate in a particular case.

DIOCESAN SPOKESPERSON – a person appointed by the Bishop to manage all communication with the public concerning an allegation of misconduct.

MINOR – a person under the age of sixteen (16), as stipulated in the Ontario Child and Family Services Act, R.S.O. 1990, Chapter C-11.

MISCONDUCT – serious behaviour contrary to the norms of civil law or Catholic Church teaching.

SEXUAL ABUSE – contacts or interactions, or attempted contacts or interactions, between an adult and a minor in which an adult engages in a sexual activity with a minor or exploits a minor for the purpose of sexual gratification.

VICTIM ASSISTANCE ADMINISTRATOR – a person appointed by the Bishop to coordinate support to alleged victims and provide a sympathetic and attentive hearing to each victim of misconduct and to assess the needs of the victim, as well as coordinate the services or care to the individuals that will benefit from care.

28. In cases pertaining to a layperson, employee or volunteer of the Diocese, the Bishop may decide to pursue a formal canonical inquiry. Canonical proceedings should not be pursued at the same time as the secular proceedings (criminal and civil).
29. When it has been determined that serious misconduct has occurred there will be no re-entry to ministry. If there is doubt about whether such misconduct has occurred, re-entry to ministry may be possible. It is for the Bishop to determine any eventual return to active ministry of a cleric or volunteer. The Diocese’s firm commitment to ensuring safe environments is the overriding consideration and no one will be permitted to return to public ministry if such ministry is a potential danger for minors or a cause of scandal for the community.

RELATED MATTERS

30. Priests are reminded that the confessional seal is inviolable in any and all circumstances. What is revealed in confession is subject to the seal and cannot be revealed. What is revealed outside the confessional is subject to the Ontario Child and Family Services Act.
31. At no time should the Bishop, or any priest involved in the investigation procedure hear the sacramental confession of the accused person or of the complainant.
32. The Diocese of St. Catharines does not promote private settlement agreements with victims of misconduct and/or sexual abuse.
33. We encourage all people to share in the responsibility of curbing all forms of violence and in particular the sexual abuse and exploitation of children and vulnerable people.
34. No diocesan or religious priest will be accepted for ministry or residence in a parish in the Diocese of St. Catharines without full disclosure by his Bishop or Superior of any allegation of misconduct in the cleric’s past.

APPENDIX 1 - Allegations of misconduct or abuse made against a non-incardinated or religious cleric

With reference to #12 of this policy:

Upon receipt of a complaint from the Bishop or the Bishop's Delegate(s) regarding the conduct of a member of a Religious Community or a non-incardinated cleric, it is expected that the Religious Superior or Bishop of incardination will promptly take one of the following actions:

1. invoke that Religious Community or Diocese's own procedures for dealing with such matters;
2. taking the place of the Bishop's Delegate(s), utilize this procedure.

Where the Religious Superior or Bishop of incardination proceeds as per #1 or 2 above, the Religious Superior or Bishop of incardination or his delegate will:

1. answer inquiries about the progress of the matter and report to the Bishop's Delegate(s) from time to time;
2. will comply with the time-lines set by the Bishop's Delegate(s) and approved by the Bishop.

If the Religious Superior or Bishop of incardination is impeded and if the Bishop consents, the Bishop's Delegate(s) may assume jurisdiction over the allegation. In this instance:

1. it is expected that the Bishop's Delegate(s) will be given access to the files and archives of the cleric's Religious Community or Diocese of incardination pertaining to the accused person and will report the outcome of the investigation to the Religious Superior or Bishop of incardination;
2. the Bishop's Delegate(s) will answer inquiries about the progress of the matter that the Religious Superior or Bishop of incardination may make from time to time.

INTRODUCTION

Many communities have been wounded by the scandal and sin of sexual abuse inflicted by people in positions of trust and authority, and perpetrated against children and vulnerable individuals. This is abhorrent to all people of good will. Its devastating effects can be felt by the whole community and its prevention rests with the whole community working together.

With this document, the Diocese of St. Catharines has updated its policy to deal more effectively and openly with allegations of sexual misconduct and/or abuse of minors by clergy, staff and volunteers of the Diocese. This Diocesan Policy has two guiding principles. First, to ensure that allegations of misconduct are dealt with in a spirit of compassion, so that those who come forward with allegations are treated with respect and sensitivity. Second, to ensure that the Church fulfills its responsibility to see that justice is done and to discover the truth, giving priority to the protection of children and vulnerable individuals, while maintaining the principle that a person is innocent until proven guilty.

We urge all Catholics to respect and support those victims of sexual abuse who, despite the difficulty, struggled to allow a painful truth to be heard. We also urge all Catholics to support, sustain and encourage our clergy who, in living out their vocations with integrity, have been unjustly tarnished by the misconduct of a small number of fellow clerics. In recent years we have undertaken a more rigorous approach by developing a more thorough screening protocol for clergy, employees and volunteers.

It is our intention that this Diocesan Policy will help to promote healthy and safe environments for the pastoral activities of our Christian community, where all persons can feel confident to live their faith. While this policy cannot guarantee that future problems in this area will not occur, it does serve to assure everyone that the Church takes seriously the conduct of its clergy, employees and volunteers, and it follows a clear procedure in dealing with any allegations of misconduct.

This policy has been updated in accordance with the norms and guidelines of:

Circular Letter to Assist Episcopal Conferences in Developing Guidelines for dealing with Cases of Sexual Abuses of Minors perpetrated by Clerics, from the Congregation for the Doctrine of the Faith, May 3, 2011.

Apostolic Letter, issued motu proprio Sacramentorum sanctitatis tutela [SST], promulgating the Norms concerning the more grave delicts reserved to the Congregation for the Doctrine of the Faith, by Pope John Paul II on April 30, 2001, and revised by Pope Benedict XVI on May 21, 2010.

"From Pain to Hope", CCCB Ad Hoc Committee on Child Sexual Abuse, June 1992; and the follow-up document, "Orientations issued by the Canadian Conference of Catholic Bishops for updating a diocesan protocol for the prevention of the sexual abuse of minors and the pastoral response to allegations regarding abuse", October 2007.

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APPENDIX 2 – Contact Information

Bishop's Delegates: Rev. Mathew Pendanathu
Margaret Jong, J.C.L.

Email: bishopsdelegate@saintcd.com

Phone: 905-684-0154

Mail: P.O. Box 875, St. Catharines, ON L2R 6Z4

Family and Children's Services

Phone: 905-937-7731

Toll Free: 1-888-937-7731

82 Hannover Drive
St. Catharines, ON L2W 1A4

7900 Canadian Drive
Niagara Falls, ON L2E 6S5

654 Pelham Road
Welland, ON L3C 3C8

The Children's Aid Society of Haldimand and Norfolk:

Phone: 519-587-5437

Toll Free: 1-888-CAS-KIDS (1-888-227-5437)

70 Town Centre Drive
Townsend, ON N0A 1S0

Diocese of St. Catharines



**Policy and Procedures
for Responding
to Allegations of Misconduct
and/or the Abuse of Minors**



Reporting Child Abuse and Neglect: It's Your Duty

Your responsibilities under the Child and Family Services Act (Ontario Ministry of Children and Youth Services)

The Child and Family Services Act (CFSA) recognizes that each of us has a responsibility for the welfare of children. Members of the public, including professionals who work with children, must promptly report any suspicions that a child is or may be in need of protection to a children's aid society (CAS). The Act defines the phrase "child in need of protection" and explains what must be reported to a CAS. It includes physical, sexual and emotional abuse, neglect, and risk of harm.

Who is a "child in need of protection"?

The Child and Family Services Act defines a child in need of protection as a child who is or who appears to be suffering from abuse and/or neglect.

Who is responsible for reporting a child in need of protection?

Anyone who has reasonable grounds to suspect that a child is or may be in need of protection must promptly report the suspicion and the information upon which it is based to a CAS. If you think the matter is urgent and you cannot reach the CAS, call your local police.

What are "reasonable grounds" to suspect child abuse or neglect?

It is not necessary for you to be certain a child is or may be in need of protection to make a report to a CAS. "Reasonable grounds" refers to the information that an average person, using normal and honest judgment, would need in order to decide to report.

What is the age of the children to whom the "duty to report" applies?

It applies to any child who is, or appears to be, under the age of 16 years. It also applies to children already under a child protection order who are 16 and 17 years old.

Can I rely on someone else to report?

No. You have to report directly to a CAS. You must not rely on anyone else to report on your behalf.

Do professionals and officials have any special responsibilities to report?

Professionals and officials have the same duty as the rest of the public to report their suspicion that a child is or may be in need of protection. The Act recognizes that people working closely with children have a special awareness of the signs of child abuse and neglect, and a particular responsibility to report their suspicions. Any professional or official (religious leaders including priests, rabbis and members of the clergy) who fails to report a suspicion is liable on conviction to a fine of up to \$1,000, if they obtained the information in the course of their professional or official duties.

For more information on the Child and Family Services Act, visit the website for the Government of Ontario's Ministry of Children and Youth Services at: <http://www.children.gov.on.ca/>

