

Diocese of St. Catharines



**Responding
to Allegations of Misconduct
and/or the Abuse of Children or
Vulnerable Adults**



OFFICE OF THE BISHOP

October 2017

My dear brothers and sisters in Christ,

The revised Diocesan Policy for Responding to Allegations of Misconduct and/or the Abuse of Children or Vulnerable Adults is presented to you for your information. You are asked to familiarize yourself with the policy whether you are clergy, an employee or a volunteer in the Diocese.

Last year on the Feast of the Holy Innocents, December 28th, Pope Francis issued a Pastoral Letter to the Bishops of the World. In this letter he stated: "(the Church) recognizes the sins of some of her members: the sufferings, the experiences and the pain of minors who were abused sexually by priests. It is a sin that shames us. Persons responsible for the protection of those children destroyed their dignity. We regret this deeply and we beg forgiveness. We join in the pain of the victims and weep for this sin. The sin of what happened, the sin of failing to help, the sin of covering up and denial, the sin of abuse of power. The Church weeps bitterly over this sin of her sons and she asks forgiveness." It is a tragedy when a person who is supposed to represent Christ and His Body, the Church, commits heinous offences; it can shake our faith to its core. It can leave us questioning God, asking how this could be allowed to happen. We question the Church, which ought to be a place of sanctuary and sanctity. The unimaginable harm that is done to innocent victims of clergy abuse is devastating, and there is a ripple effect, harming family members and the whole church. This will always be a dark period in the history of the Catholic Church; however, the God of mercy can bring healing and hope.

In the same letter, Pope Francis states, "Let us find the courage needed to take all necessary measures and to protect in every way the lives of our children, so that such crimes may never be repeated". The Diocese of St. Catharines is committed to doing this. We cannot erase the past; but we can learn from it and build a better future. This document is a step in achieving that end.

Yours sincerely in Christ,

Most Reverend Gerard Bergie, D.D.
Bishop of St. Catharines

INTRODUCTION

The Roman Catholic Diocese of St. Catharines respects and upholds the dignity of every person as a child of God. We hold as a sacred responsibility the protection of every person within our sphere of influence, with particular concern for children and other vulnerable persons. Abuse of another person is always wrong. When abuse is perpetrated by Church representatives - clergy or laypersons, employees or volunteers, it is especially abhorrent since it violates not only the person but the sacred trust which the Church discharges.

The policy, along with our Responsible Faith Ministry protocol, is an integral part of the Diocese of St. Catharines' commitment to provide safe environments for the pastoral activities of our Christian community, where all persons can feel confident to live their faith.

The policy applies to all priests and deacons, religious sisters and brothers under vows in religious orders, employees and volunteers of the Diocese of St. Catharines serving and/or residing in the Diocese.

The policy and procedures set out in this document ensure that the Church fulfills its responsibility to provide for the just and timely resolution of complaints of sexual misconduct, giving priority to the protection of children and vulnerable individuals, while maintaining the principle that a person is innocent until proven guilty.

Any person who comes forward with an allegation of misconduct will be treated with respect and compassion. The Diocese will offer meaningful assistance to those who have suffered as a result of abuse perpetrated by one of its representatives.

The Diocese will intervene promptly and investigate thoroughly when an allegation of sexual misconduct is made.

This Diocesan procedure does not replace, nor is it intended to eliminate, the legal obligation of the Diocese to report to civil authorities, where such a requirement exists.

Some forms of abuse are crimes according to the civil law. The Diocese recognizes its duty to cooperate fully with civil authorities when allegations of such crimes are made. Where the law requires it (for example, when the abuse involves a person under the age of sixteen), an immediate report will be made to the appropriate Children's Aid Society.

Adult complainants of abuse (past or present) sometimes wish to preserve their privacy and would not report abuse if it were to be disclosed to civil authorities. Since they have the right to privacy (can. 220) and because the Diocese wishes to encourage disclosure of abuse, the decision to approach civil authorities will be left to the adult complainant. The Bishop's Delegate will advise complainants of their right to approach the police or civil authorities and will offer assistance to facilitate contact.

Third Edition, October 2017

STATEMENT OF POLICY

1. This policy has legal effect for all those in the jurisdiction of the Diocese of St. Catharines. 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 children and vulnerable adults. In the Diocese of St. Catharines, this responsibility is carried out through the Bishop's Delegate(s), with the assistance of an Advisory Committee.
3. Allegations 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 alleged to have committed misconduct;
 - c) the church and/or parish community where the misconduct is reported to have occurred, and/or 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 documented by written and dated memoranda which shall be kept confidential to the extent possible. In view of privacy issues, access to diocesan records requires 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 seal of sacramental confession.

PROCEDURE FOR CASES OF ALLEGED MISCONDUCT

REPORTING MISCONDUCT

7. Any person may contact the Bishop's Delegate(s) by

Email: bishopsdelegate@saintcd.com

Phone: 905-684-0154

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

to make a confidential report of misconduct by a cleric, employee or volunteer in the diocese that is known or suspected. A person may also make a report through any cleric, employee or volunteer of the Diocese. Only the Bishop's Delegate(s) should interview the complainant. Anyone else receiving a complaint should limit him/herself to listening with compassion 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 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 the counterpart in that Diocese that an allegation has been made.
12. When an allegation has been made against a non-incardinated cleric (that is, a priest or deacon functioning in our diocese but belonging to another diocese) or a member of a religious community, the Bishop's Delegate(s) will advise the competent Superior or Bishop of incardination immediately. That 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.

13. In instances where a complaint has been reported to the police, the Bishop's Delegate(s) may defer, suspend or terminate an investigation. The Diocesan lawyer is to be consulted in this situation.

PRELIMINARY INVESTIGATION

14. From the time a report is made, or at any time following, in order to protect the interests of all concerned, the Diocesan Bishop may take any or all of the following actions:
 - a) The person alleged to have committed misconduct 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 Bishop's Delegate(s) shall

15. as a matter of urgent priority, carry out or direct a discreet investigation of a reported allegation.

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. meet personally or correspond directly with the individual making the allegation to inquire about the facts and circumstances of the alleged incident. The Bishop's Delegate(s) shall commit to providing a timely response to the alleged victim and/or the complainant.
17. meet or correspond directly with the person accused. The accused person will be instructed not to contact the complainant or any family member or possible witnesses.
18. 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 to the Bishop the findings of the preliminary investigation, and may make recommendations.

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:
- a) the Bishop's Delegate(s), after informing the Bishop, will advise the Diocesan Spokesperson and the Diocesan lawyer. The Diocesan insurance carrier is also to be alerted of a potential claim.
 - b) the needs of the alleged victim and/or family will be attended to at the direction of the Bishop's Delegate(s) who 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 an administrative leave immediately until the matter is resolved;
 - 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 requested, or when he believes it would be beneficial, the Bishop or his delegated representative may 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 a credible allegation against a cleric of sexual misconduct/abuse involving a person under the age of eighteen, the Congregation for the Doctrine of the Faith 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.
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 children or vulnerable adults, 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

may be 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 support 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

Reporting Child Abuse and Neglect: It's Your Duty

*** The following excerpts are from the Child and Family Services Act (September 2012) of the Government of Ontario's Ministry of Children and Youth Services. For the complete text go to: <http://www.children.gov.on.ca/>*

The Child and Family Services Act (CFSA) recognizes that each of us has a responsibility to protect children from harm. 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.

What does an “ongoing duty to report” child abuse or neglect mean?

Even if you know a report has already been made about a child, you must make a further report to the CAS if there are additional reasonable grounds to suspect that the child is or may be in need of protection.

Can I rely on someone else to report to a CAS?

No. You have to report directly. 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 (including 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.

**Family and Children’s Services
Niagara**

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 South 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

GLOSSARY

ADMINISTRATIVE LEAVE – 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 Delegate(s) 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 does not substitute for the discernment and power of governance of the Bishop and/or his Delegate(s). Terms of Reference for the Advisory Committee can be found at <http://www.saintcd.com/misconduct-policy/>.

BISHOP’S DELEGATE(S) – a priest or lay person appointed by the Bishop, to receive and investigate reported allegations 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 this role in a particular case.

CHILD – In the context of this Diocesan policy, a person under the age of sixteen (16).

CLERIC – an ordained priest or deacon. An incardinated cleric is one ordained for this diocese; a non-incardinated cleric may live or minister in this diocese, but officially belong to the diocese/religious community for which he was ordained.

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 – wrongful, improper or unlawful conduct motivated by premeditated or intentional purpose or by obstinate indifference to the consequences of one's act; unacceptable and/or criminal behaviour; culpable neglect of duties.

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

VULNERABLE ADULT – any adult who is isolated and/or who by nature of a physical, emotional or psychological condition is dependent on other persons for care and assistance in day-to-day living.



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