

# Sexual Misconduct Policy

Diocese of Qu'Appelle

June 2018

## 1. Introduction

Within the Diocese of Qu'Appelle, we value the diversity of people who participate in the work and worship of the church. Each one is recognized as God's image bearer and, as such, we are committed to relationships founded on respect. Every worker, volunteer, and participant of the church is entitled to a place of work and worship that is free of sexual misconduct. Therefore, sexual misconduct of any kind will not be tolerated. Complaints thereof will be taken seriously, immediate steps will be taken to end instances of sexual misconduct of which the Diocese becomes aware, and further response will be guided by this policy.

## 2. Responsibility and Application

The Diocesan Council is responsible for establishing and reviewing this policy for the Diocese as a whole.

It is the desire of the diocese to foster an environment that promotes redemption, healing, repentance, forgiveness, and reconciliation. However, it is not in the diocese's control to bring these things about. It is, however, the diocese's responsibility to ensure the safety of the aggrieved within the church context as well as a fair investigative process and appropriate outcomes. It must be acknowledged that the outcomes may or may not satisfy the aggrieved and/or the respondent.

This policy applies to all who are employed by, hold office for, are members of diocesan bodies, or otherwise volunteer with and provide services to the diocese. Every member of the church in the diocese is responsible to conduct themselves in a manner consistent with this policy in all their church-related activities whether on or off church property. Additionally, non-church programs being held on church property must not tolerate sexual misconduct.

All members of the Diocese of Qu'Appelle have a responsibility as Christians to ensure that parishes are free from sexual misconduct. Wardens and rectors bear the primary responsibility for encouraging and maintaining a safe and healthy environment. They are free to act, and should act, on this responsibility, regardless of individual complaints. It is the obligation of the wardens, incumbents and all persons in leadership positions to be familiar with this policy and, where appropriate, to undertake training, to ensure that they are able to fulfill these responsibilities.

This policy does not apply to matters of bullying or general harassment. Such instances are covered by the Preventing Bullying and Harassment policy. If at any point in a process being carried out under this present policy it is determined that it is a bullying or harassment situation, this policy will no longer be applicable. A process will be carried on under the Preventing Bullying and Harassment policy.

This policy must be posted in a location that is available to all employees and broadly accessible to all others associated with the Diocese.

## 3. Sexual Misconduct Defined

In this Policy the expression *sexual misconduct* includes *sexual harassment, sexual exploitation and sexual assault*.

*Sexual harassment* means any behaviour of a sexual nature that:

- is unwanted or unwelcome or ought reasonably to be known to be unwanted or unwelcome;
- may create a poisoned psychological or emotional environment for those who work in, or participate in any activity of, the church.

*Sexual harassment* may involve behaviour that is unintentional as well as intentional. It is defined by its impact on others rather than by the intent of the person engaged in the behaviour. It may consist of a single incident or persistent and repeated behaviour. It may be only verbal innuendo or subtle suggestion. It includes telling or circulating offensive jokes or stories, displaying or circulating offensive material such as pictures or cartoons, the stereotyping of individuals or groups on the basis of gender or sexual orientation, or persistent unwanted or unwelcome contact after the end of a consensual relationship.

*Sexual harassment* does not include:

- interactions between consenting adults;
- consensual relationships;
- expressions of affection between friends.

*Sexual exploitation* may consist of:

- conduct that places or that may reasonably be perceived as placing, or attempting to place, a condition of a sexual nature on employment, on any opportunity for training or promotion, or on any opportunity to participate in any church activity;
- the making of an express or implied promise of reward for complying with a sexually oriented suggestion;
- a reprisal or denial of opportunity, or an express or implied threat of reprisal or denial of opportunity, for a refusal to comply with a sexually oriented suggestion;
- taking advantage, or attempting to take advantage, of the vulnerability of a person under one's pastoral care or other guidance or leadership;
- taking advantage, or attempting to take advantage, of the vulnerable party in a power relationship for pleasure or gain.

*Sexual assault* is a term used in Canadian criminal law. A synopsis of some aspects of the criminal law is included here to emphasize the seriousness of sexual assault. In law the word "assault" means an intentional application of force to another person without that person's consent. It also includes an attempt or a threat to apply force to another person. The Criminal Code makes sexual assault an offence but does not define it. The courts interpret it to mean an assault committed in circumstances of a sexual nature such that the victim's sexual integrity is violated. Kissing, fondling and sexual intercourse, in the absence of consent, are sexual assaults. The law provides more severe penalties if a sexual assault causes bodily harm, wounding or disfigurement, if it endangers the victim's life, or if it involves use of a weapon or threats of bodily harm.

Generally speaking, if a person is charged with a sexual offence involving a victim under the age of 14 years, it is not a defence that the victim consented to the activity.

The law also creates some specific offences with respect to victims who are under 14 - touching any part of the body for a sexual purpose, or inviting, counselling or inciting one who is under 14 to touch the body of another person for a sexual purpose. The offence is treated more seriously if the person committing it is in a position of trust or authority toward the young person or is someone with whom the young person is in a relationship of dependency. Exposure of one's genital organs to a child under 14, for a sexual purpose, is also an offence.

#### **4. Addressing Sexual Misconduct**

Complaints or observations of sexual misconduct can be reported to the parish safety contact or any warden, deacon, incumbent, dean, or archdeacon. Additionally, the diocesan Safe from Harm officer can be contacted with complaints or observations of sexual misconduct at the diocesan level or for advice for how to navigate any related process.

#### **5. Sexual Misconduct Response Processes - Formal and Informal**

The aggrieved in the report or disclosure of sexual misconduct will typically be able to select a preferred way forward between informal and formal processes. In some instances, the diocese may decide that a formal investigation is the only way to reasonably ensure the safety of the aggrieved and others.

In an informal process, the aggrieved will receive help from a person they trust within the diocese to address the situation with the respondent. This can take the form of consultation, supported conversation, informal mediation, etc.

In a formal process, the Executive Archdeacon will be notified and will assist in identifying a qualified investigator who will meet with the aggrieved and respondent and all other parties and witnesses to make a formal assessment as to whether sexual misconduct did occur. The aggrieved and respondent will be informed of the outcome by the investigator after it has been documented in an investigative report and presented to the Executive Archdeacon.

#### **6. Corrective Actions**

If the findings of the investigation indicate that a violation of the Sexual Misconduct Policy has occurred, immediate and appropriate corrective and/or disciplinary action, up to and including dismissal or requirement to leave the church community, shall be administered. Corrective actions shall be proportional to the seriousness or repetitiveness of the offense. Appropriate actions include: an oral or written warning, training or counseling, monitoring the respondent, demotion, suspension, and dismissal.

#### **7. Confidentiality**

All complaints of sexual misconduct shall be handled within the bounds of strict confidentiality. Information shall be shared on a need-to-know basis only.

All persons involved with a complaint are expected to maintain confidentiality unless the law requires otherwise, there are safety issues or the parties waive confidentiality. Employees or volunteers who learn of complaints or investigations must not engage in gossip or rumour and must retain the information as confidential.

#### **8. Retaliation Prohibited**

A person who complains of sexual misconduct, who provides information related to such complaints, or who opposes sexual misconduct shall be protected against retaliation. Retaliation is considered as serious as prohibited sexual misconduct, and immediate and appropriate action, up to and including dismissal or requirement to leave the church community will be instituted. During the formal or informal investigation or response, all parties will be reminded that retaliation is prohibited.

Examples of retaliation include negative actions such as, but not limited to, unwarranted poor performance reviews, change in duties or service opportunities as a result of reporting sexual misconduct, other negative service or employment decisions, gossip and breach of confidentiality, laughing at, ignoring, or failing to take seriously reports/complaints of sexual misconduct, or continuing/escalating sexual misconduct after the aggrieved/reporter objects.

## **9. Appeal and Alternate Processes**

If the aggrieved or respondent have worked with the process and feel that it has failed at some point, or that the corrective action is not consistent with the incident(s) that led to the original complaint, an appeal process is in place. The appeal must be submitted in writing to the Executive Archdeacon who will ensure that the appeal is processed with the Bishop. Further appeals may be made to the Metropolitan of the Province of Rupert's Land.

Nothing in this policy prevents or discourages an employee from referring a sexual misconduct complaint to the Saskatchewan Occupational Health and Safety Division under The Saskatchewan Employment Act and regulations. All members of the diocese may also file a complaint with the Saskatchewan Human Rights Commission under The Saskatchewan Human Rights Code. Everyone also retains the right to exercise any other legal avenues.

Sources and resources:

<http://www.publications.gov.sk.ca/freelaw/documents/English/Statutes/Statutes/S15-1.pdf>

Briercrest College and Seminary Sexual Misconduct and Sexual Assault Policy

<https://www.anglican.ca/wp-content/uploads/2010/10/Sexual-Misconduct-Policy.pdf>

<http://www.toronto.anglican.ca/parish-administration/sexual-misconduct-policy/>