

The Diocese of Corner Brook and Labrador

Policy and Procedure in reply to allegations of sexual misconduct

I. INTRODUCTION

The Corner Brook Roman Catholic Episcopal Corporation continues its involvement in various ministries, all of which brings members into contact with adults, youth and children. The Corporation is committed to giving witness to the gospel values of compassion and justice as it carries out the mission of the Church. Corporately and individually, the Church endeavors to live in right relationships with all of God's creation. In solidarity with those who are made poor and are oppressed it strives to challenge injustices, to bring healing to those who suffer and promote peace where life is threatened.

In keeping with this commitment, the Corporation acknowledges that sexual misconduct on the part of any member of the clergy or pastoral minister is behavior that is totally unacceptable and absolutely prohibited. The Corporation firmly states that sexual misconduct violates basic human rights and deprives an individual of his or her human dignity.

The Corner Brook Roman Catholic Episcopal Corporation will endeavor to take appropriate measures to prevent sexual misconduct on the part of its clergy or pastoral ministers and will make responsible interventions whenever unacceptable behavior violates another individual.

Accordingly, the Corporation adopts the following Policy and Procedures so as to act effectively for the protection and assistance of those who either have been, or might be, harmed by a member of the clergy or pastoral minister.

The development and implementation of this policy has as its goal the prevention of sexual abuse, the protection of the vulnerable, the pastoral care of those wounded by misconduct, along with the acknowledgment of the legal rights of the accused and the appropriate action toward those who have committed sexual misconduct.

This Policy is meant to be fair and responsive to the pastoral needs of the alleged victim and the accused member of the clergy or pastoral minister. The procedures shall facilitate cooperation and avoid interference with civil authorities responsible for investigating any allegation of sexual misconduct.

II. STATEMENT OF POLICY

The Roman Catholic Episcopal Corporation will take seriously and respond in a responsible, professional, pastoral, and compassionate manner, in all instances in which a member of the clergy or pastoral minister is reported to have been engaged in behaviour that has resulted in an allegation of sexual misconduct. Sexual misconduct includes, but is not limited to, sexual abuse, sexual exploitation, sexual harassment, and viewing or producing child pornography. All allegations will be taken seriously. The Roman Catholic Episcopal Corporation through the Sexual Misconduct Committee will initiate a prompt and objective investigation in an open and straightforward manner. The Roman Catholic Episcopal Corporation recognizes and will honor the reporting obligations regarding child sexual abuse. Whenever there is an allegation of sexual misconduct of the clergy or pastoral minister, The Roman Catholic Episcopal Corporation will inform and cooperate with law enforcement and child protection agencies as required by law (i.e. Royal Canadian Mounted Police,

will inform and cooperate with law enforcement and child protection agencies as required by law (i.e. Royal Canadian Mounted Police, Royal Newfoundland Constabulary, Child, Youth, and Family Services). Recognizing that any current abuse of children, whether sexual in nature or otherwise, is a matter for law enforcement and child protection agencies, this policy applies only to:

- (i) past sexual misconduct directed toward children who are now adults; and
- (ii) current sexual misconduct directed toward persons over the age of sixteen (16) years, and
- (iii) current sexual misconduct involving a child under the age of sixteen (16) years where civil authorities have completed their investigation.

In addition to the legal obligation to report under The Child, Youth and Family Services Act, S.N. L. 1998, c. C-12.1 , members of the clergy, pastoral ministers, lay employees or volunteers involved in any Corporation activity will report to the Bishop's Delegate all allegations of sexual misconduct. Personal discretion is not to be exercised in fulfilling these reporting obligations.

The Roman Catholic Episcopal Corporation recognizes that the damage done to anyone who has been a victim of sexual misconduct is devastating and long lasting and accordingly will respond with compassion to those who have been harmed, take actions to address the wrongs, and protect and promote the safety of children.

Each member of the clergy and pastoral ministers is required to become fully informed about the Roman Catholic Episcopal Corporation's Policy regarding sexual misconduct. A signed form stating that the member of the clergy under the jurisdiction of the Corporation or pastoral minister, involved in any Corporation activity, has read the policy and understands its content and shall be sent to the Bishop's Delegate for filing. Should a

complaint be received concerning a deceased member of the clergy or pastoral minister, the Bishop's Delegate shall seek the advice of the lawyer for the Roman Catholic Episcopal Corporation.

III. SEXUAL ABUSE OF CHILDREN

A victim always has a primary claim upon the Corporation's pastoral concern and support, especially, when the victim is a child. Studies indicate that children are especially vulnerable, that their sexual abuse can be traumatic, damaging to their spiritual, moral, psychological, and interpersonal development, and long lasting. It can also alienate them from the church and religion.

Parents and siblings of victims often experience anger, shock, and disillusionment. They too have a right to the pastoral concern and support of the Corporation.

The Corporation will respect and comply with Provincial Legislation such as The Child, Youth and Family Services Act, S.N. L. 1998, c. C-12.1 and any other relevant legislation. Thus, knowledge of complaints involving children always requires an immediate response.

IV. DUTY TO REPORT

It is a legal obligation under Provincial Legislation, known as *The Child, youth and Family Services Act, S.N. L. 1998, c. C-12.1* to report a suspicion of abuse of a child ***who is less than sixteen (16) years of age*** to the Director of Child, Youth and Family Services. No clergy or pastoral minister can absolve themselves from this duty to report directly to the Director of Child, Youth and Family Services, a social worker or a police officer by rationalizing that they have no "first hand information", that the information is "hearsay" or that someone else will make the report. Failure to report promptly on such complaints risks exposing the young person to harm and exposes the individual who fails to report to prosecution.

In addition to the legal obligation to report under The Child, Youth and Family Services Act, S.N. L. 1998, c. C-12.1 , members of the clergy under the jurisdiction of the Corporation and pastoral ministers involved in any Corporation activity will report to the Bishop's Delegate all allegations of sexual misconduct. Personal discretion is not to be exercised in fulfilling these reporting obligations.

V. APPLICATION

The person appointed by the Bishop known as the Bishop's Delegate is accountable to the Bishop for the application, implementation, and dissemination of the Corporation's policy.

This policy applies to all clergy under the jurisdiction of the Corporation and pastoral ministers appointed by the Bishop. This policy is intended to inform clergy and pastoral ministers of their obligation to respond to allegations of sexual misconduct and to ensure that they comply with civil, canonical, diocesan and other appropriate standards of conduct. The Policy and procedures outlined in this document are in place to ensure that any complaints of sexual misconduct are dealt with in a timely fashion.

This policy applies to instances of sexual misconduct as defined below, whether current, recent, or in the distant past.

Nothing in this policy and procedures, or their application, is intended to discourage or prevent anyone from seeking legal or ecclesiastical remedies.

This policy will be reviewed every three (3) years by the Bishop's Delegate in consultation with the Sexual Misconduct Committee.

VI. DEFINITIONS

Interpretation

In this Policy Document

(a) **Abuse** means the violation of the physical or psychological integrity or trust of another person. Abuse may consist of just one incident or might happen repeatedly.

(b) **Bishop's Delegate** is a person appointed on a bi-annual basis by the Bishop to coordinate and implement the Corporation's Policy on sexual misconduct by a member of the clergy or pastoral minister.

(c) **Bishop's Deputy Delegate** is a person similarly qualified to the Bishop's Delegate appointed on a bi-annual basis by the Bishop to coordinate and implement the Corporation's Policy on sexual misconduct in the absence of the Bishop's Delegate or in the event of the Bishop's Delegate's incapacity. The Deputy Delegate has the same role and function as the Bishop's Delegate.

(d) **Child** means a person actually or apparently under the age of sixteen (16) years.

(e) **Clergy** means bishops, priests and deacons under the jurisdiction of The Corner Brook Roman Catholic Episcopal Corporation.

(f) **Complainant** means victim of an alleged offence

(g) **Corporation** means *The Corner Brook Roman Catholic Episcopal Corporation*.

(h) **Pastoral Minister** means a person appointed by the Bishop to carry out pastoral work in the Diocese.

(i) **Sexual Misconduct Committee** means a committee appointed by **the Bishop** on a bi-annual basis to assist the Bishop's Delegate in the implementation of the Corporation's Policy on sexual misconduct.

(j) **Sexual Misconduct** includes but is not limited to sexual abuse, sexual exploitation, sexual harassment, and viewing or producing child pornography.

(k) **Child Sexual Abuse** means the sexual involvement or attempted sexual involvement with a person under the age of Sixteen (16) years.

(l) **Sexual Exploitation** means the use of one's position of power, authority or trust, to have sexual contact or attempted sexual contact with another person.

(m) **Sexual Harassment** means unwanted sexual conduct or language with others. This conduct entails unwelcome sexual advances, request for sexual favours or other verbal or physical conduct of a sexual nature when submission to or rejection of this conduct explicitly or implicitly affects an individual's status such as employment, when it unreasonably interferes with an individual's performance, or when it creates an intimidating, hostile or offensive environment.

(n) **Child Pornography** means

(a) photographic, film, video or other visual representation, whether or not it was made by electronic or mechanical means;

(i) that shows a person who is or is depicted as being under the age of eighteen (18) years and is engaged in or is depicted as engaged in explicit sexual activity, or

(ii) the dominant characteristic of which is the depiction, for a sexual purpose, of a sexual organ or the anal region of a person under the age of eighteen years, or

(b) any written material or visual representation that advocates or counsels inappropriate sexual activity with a person under the age of eighteen years.

VII. RESPONSIBILITY STRUCTURE

To carry out the Corporation's Policy on Sexual Misconduct, the Bishop shall appoint on a bi-annual basis:

(a) a person to coordinate and implement the Corporation's Policy and procedures on Sexual Misconduct, known as the Bishop's Delegate; and

(b) a Bishop's Deputy Delegate who is similarly qualified to the Bishop's Delegate, who in the absence of the Bishop's Delegate or in the event of the Bishop's Delegate's incapacity, has the same role and functions as the Bishop's Delegate.

(c) a Sexual Misconduct Committee to assist in the implementation and dissemination of the Corporation's Policy on Sexual Misconduct and respond to allegations of sexual misconduct involving clergy or pastoral ministers within the Diocese. The Bishop's Delegate will serve as chair of the Sexual Misconduct Committee. The Committee will be comprised of a minimum of 7 individuals. The members of this committee will include in addition to the Bishop's Delegate, the Bishop's Deputy Delegate, a Canonist, a Civil Lawyer, a Mental Health Professional, two members of the clergy, and two pastoral delegates. An individual member of the committee may serve more than one function on the committee (e.g. The Canonist may also be a member of the clergy and a pastoral delegate may also function as the Bishop's Deputy Delegate). In the event of an allegation of sexual misconduct against a member of the clergy or pastoral minister, the Bishop's Delegate in consultation with the Sexual Misconduct Committee shall appoint an Investigation Subcommittee.

(d) The Investigation Subcommittee will be comprised of three members from the Sexual Misconduct Committee. The Investigation Subcommittee may conduct the investigation itself or appoint a person to conduct an investigation. The Investigation Subcommittee is responsible for coordinating the investigation and preparing a report of the findings of the investigation for the Bishop's Delegate.

VIII. DISSEMINATION OF POLICY

Members of the clergy or pastoral ministers involved in any Corporation activities are required to become fully informed about the Roman Catholic Episcopal Corporation's Policy regarding sexual misconduct. The Bishop's Delegate shall be responsible for ensuring that the policy is disseminated to current members and as part of the orientation of new members joining the Roman Catholic Episcopal Corporation. A signed form stating that the member of the clergy or pastoral minister involved in any Corporation activity has read the policy and understands its content shall be sent to the Bishop's Delegate and kept on file. The Sexual Misconduct Policy shall be published and made available to Diocesan faithful and the general public through a brochure complete with contact information.

DC. PROCEDURES FOR RESPONDING TO ALLEGATIONS OF SEXUAL MISCONDUCT

1. The **Bishop's Delegate** will be informed of all complaints promptly and will request that complaints be made in writing. Anonymous complaints will be documented but will not be investigated. When the complaint involves allegations of abuse toward a child under the age of sixteen (16) years, the **Bishop's Delegate** shall report **immediately** to the appropriate authorities as defined under *The Child, Youth and Family Services Act, S.N. L. 1998, c. C-12.1*.

2. The person who receives the complaint or knows of an actual act of sexual misconduct on the part of another member of the clergy or pastoral minister shall inform

the Bishop's Delegate. In the case of child sexual abuse the matter shall be referred to Child, Youth, and Family Services or the Police, as per section 3(a) Duty to Report.

3. Upon receipt of an allegation of sexual misconduct the ***Bishop's Delegate*** will convene a meeting of the **Sexual Misconduct Committee** to appoint an **Investigation Subcommittee**.

4. Within twenty four hours of receiving the complaint, the Bishop's Delegate will:

(a) inform the Corporation's lawyer, the insurance carrier in the region, and the Bishop, and later by way of written communication state the accusation to the insurance carrier.

(b) in consultation with the Sexual Misconduct Committee, appoint the Chairperson of the Investigation Subcommittee;

(c) inform the Chairperson of the Investigation Subcommittee of the allegation directed toward a member of the clergy or pastoral minister and request that she/he co-ordinate the appropriate proceedings to implement the Corporation's Policy and Procedures on Sexual Misconduct.

(d) inquire of the Corporation's lawyer whether there is a legal duty for her/him or any other member who has relevant knowledge to report the alleged abuse to police and civil authorities in the jurisdiction where the alleged abuse occurred. In response to the advice of the Corporation's lawyer, the Bishop's Delegate shall promptly make any report or disclosure required by law.

(e) The ***Bishop's Delegate*** will offer to meet with an adult complainant or guardian of a minor as well as the accused to provide him/her with an initial explanation of the Policy and Procedures in cases of alleged sexual misconduct

5. The Bishop's Delegate will meet with the member of the clergy or pastoral minister who has been accused, and:

(a). inform the member of the clergy or pastoral minister of the nature of the allegations;

(b). arrange for the removal of the member of the clergy or pastoral minister against whom the allegation is directed from actual contact with the complainant;

(c). advise the member of the clergy or pastoral minister of his/her right to consult with and retain the services of a lawyer;

(d). inform the member of clergy or pastoral minister that the Corporation does not pay for the services of a defense lawyer;

(e). remind the member of the clergy or pastoral minister of the fact that communication between an accused member of the clergy or pastoral minister and any other member of the clergy or pastoral minister, including the Bishop's Delegate, is not privileged and confidential. Any confidant, other than the Corporation's lawyer or the accused member of the clergy's own lawyer can be called as a witness.

6. The Investigation Subcommittee will undertake to commence the investigation within seven (7) days of the disclosure of the allegation. The Investigation committee may elect to engage an Investigator to conduct the investigation on their behalf. In such cases the Investigator will commence the investigation within seven (7) days of receiving the complaint.

7. Upon completion of the investigation, the Investigation Subcommittee chairperson will submit a report of the findings of the investigation to the Bishop's Delegate. The Bishop's Delegate will in turn review the report with the Sexual Misconduct Committee and make recommendations to the Bishop.

8. If the investigation concludes that there is a reasonable basis to the allegations of misconduct, the Bishop's Delegate, in conjunction with the Chairperson of the Investigation Committee, will proceed as follows:

- (a). continue to consult and seek advice of the Corporation's lawyer;
- (b). continue to consult and seek the advise of the Sexual Misconduct Committee;
- (c). advise the Bishop of the need for removal of the accused member of the clergy or pastoral minister from any place or situation where he or she might pose a danger to others;
- (d). where indicated, advise the Bishop of the need for a psychological assessment and arrange for the provision of any recommended therapy for the accused.

9. If the Investigation concludes that no misconduct or improper behavior has occurred, the Bishop's Delegate will proceed as follows: Advise both the complainant and the accused member of the clergy or pastoral Minister of the recommendations made by the Sexual Misconduct Committee following the investigation.

10. Throughout all the proceedings, the Bishop's Delegate shall:

- a. comply with all provincial and federal criminal and civil laws;
- b. inform and cooperate with law enforcement officials and child protection agencies;
- c. observe the prescriptions of Canon Law of the Church;
- d. and inform and cooperate where appropriate with the Bishop of the diocese concerned.

X. THE INVESTIGATION SUBCOMMITTEE

The Bishop's Delegate in consultation with the Sexual Misconduct Committee shall appoint a three member Investigation Subcommittee from the membership of the Sexual Misconduct Committee. The Bishop's Delegate shall appoint:

1. a Chairperson of the Investigation Subcommittee.
2. a Vice-Chairperson who shall assume the role of the Chairperson in the event that the Chairperson is unable to act in that capacity throughout the entirety of the investigation and resolution of a complaint.

The Investigation Subcommittee may conduct the investigation itself or appoint a person, hereafter referred to as an investigator, to conduct an investigation. An Investigator is ordinarily not a member of the clergy, employee or volunteer of the Diocese.

The Investigation Subcommittee:

1. Commences an investigation within 7 days of the request unless a decision is taken to engage an Investigator. In the latter case the Investigator will have 7 days from receipt of the allegation to commence the investigation.
2. Ensuring the investigation is conducted in a timely, neutral and thorough fashion, and pursuant to the guidelines contained in the policy.
3. Determines if the facts of the case support or refute positive findings of sexual misconduct.

The Chairperson :

1. coordinates the investigation in compliance with the Policy regarding sexual misconduct;
2. Keeps the Bishop's Delegate informed and involved regarding developments as is necessary and legally appropriate;
3. Files all documents in connection with the investigation which are kept in the office of the Bishop's Delegate; and
4. Prepares a written report outlining the findings of the investigation.

The Investigator (in the event that one has been appointed:

- I. commences an investigation within 7 days of the request.

2. conducts an investigation into the allegations and reports in writing all findings to the Chairperson of the Investigation Subcommittee.

3. conducts the investigation in a timely, neutral and thorough fashion, and pursuant to the guidelines contained in the policy.

M. CONFIDENTIALITY

All matters submitted to and proceedings conducted under these Policy and Procedures are confidential and shall remain confidential and shall not be disclosed to any third party except to the extent necessary to conduct a thorough investigation, or by agreement of the parties, or by operation of law, or by virtue of an order of a court of competent jurisdiction.

XII. TERMINATION OF INTERNAL INVESTIGATION

The *Bishop's Delegate* will terminate an internal investigation if and when a criminal investigation is initiated.

XIII. COMMUNICATION WITH MEDIA

In the event that the accusation of sexual misconduct against a member of the clergy or pastoral minister becomes public, all members of the Corporation will treat the matter as confidential and will refrain from commenting about it in public. Any media contact or inquiries regarding an incident of sexual misconduct by a member of the clergy or pastoral minister must be directed to the Bishop or his appointee. The Bishop or his appointee shall be responsible for all communication with the Media whenever the need arises.

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