

DIOCESE OF ALEXANDRIA-CORNWALL

GUIDELINES

FOR DEALING WITH COMPLAINTS OF

SEXUAL ABUSE OF CHILDREN

AND

SEXUAL ASSAULT OF ADULTS

REVISED, MARCH 2015

GENERAL INTRODUCTION

The Catholic Church in Alexandria-Cornwall is made up of people who care deeply for the well-being of all its members and of those to whom they minister. Over the past decades, we have become more aware of the possibility of harm being done to those very people who stand most in need of our care and compassion. We hear Christ's words: "Whatsoever you do to the least of mine, you do to me." We respond to these words with a renewed commitment to ensuring that our parish communities will be known for their care of the vulnerable, their safety and their integrity.

It is in this spirit that the Diocese has developed a set of guidelines:

- A. Managing Allegations of Sexual Abuse and of Sexual Assault
- B. Care of Victims

The Bishop's office is directly responsible for the implementation of these guidelines. The Bishop will ensure that these guidelines are well known throughout the diocese and are continually kept in mind by the parishes, movements and individuals that make up the diocese. Each year, he will gather his staff to develop a plan for the pastoral year to ensure the continued formation necessary in this regard.

Volunteers will be made aware of these guidelines and of their obligation to report any case to the Delegate.

The guidelines will be published on the diocese's website.

Flyers will be distributed occasionally in parishes to keep parishioners informed about these issues.

A. MANAGING ALLEGATIONS OF SEXUAL ABUSE OF CHILDREN AND OF SEXUAL ASSAULT OF ADULTS BY CLERGY, RELIGIOUS, LAY EMPLOYEES, AND VOLUNTEERS

This set of guidelines was first established in the spring of 2003, according to the recommendations of an ad hoc committee that functioned during the fall of 2002. Suggestions made by parish pastoral councils, the diocesan presbyteral council and various concerned citizens and associations were also integrated. They were amended in August 2005 and in September 2011 according to the recommendations of an independent audit conducted that same year.

The guidelines take into consideration the responsibilities of the Diocese flowing from civil and criminal law as well as from the Code of Canon Law of the Catholic Church. They incorporate the major recommendations found in the report of the Canadian Conference of Catholic Bishops (CCCCB), *From Pain to Hope*, as well as subsequent recommendations from the CCCB and the Assembly of Catholic Bishops of Ontario. They also reflect the recommendations made in the final report of the Cornwall Public Inquiry dated December 2009.

A volunteer advisory board, called **The Diocesan Advisory Committee**, is directed in their role by this set of guidelines.

The Advisory Committee consists of an interdisciplinary body of at least five persons named by the Bishop, chaired by the Delegate, and including the Sub-Delegate, the Diocesan Spokesperson as well as an alternate spokesperson, and a victim's care advisor. At least one member of the committee, when possible, will not be of the Roman Catholic community.

The Committee attends to every complaint received by the Delegate as well as to all cases brought forward through criminal or civil action. The principal duty of this Committee is to ensure that these guidelines are followed throughout the life of a case and that the procedure is prompt, reasonable and fair; to advise the Delegate of his/her responsibilities in dealing with a case; to advise the Bishop through his delegate on actions he should take regarding the Victim, the Accused and the broader community affected by the case. Throughout the process the committee will cooperate with civil authorities, always respecting the rights of both the Victim and of the Accused.

Before sitting on this Committee prospective members will have some experience related to their responsibilities. They are also sworn to confidentiality regarding the identity of Complainants and Accused.

All communication with the media during the process of investigation of an incident will be through the Diocesan spokesperson or his/her delegate. No other member of the committee will be allowed to speak to the media regarding a specific incident or regarding the committee's work. The statement released to the media will be informative but will maintain confidentiality, both of the alleged victim and of the alleged perpetrator. The identity of both the alleged perpetrator(s) and the alleged victim(s) will be kept confidential, though this might be difficult when the accused person is removed from his/her functions in the diocese/parish.

Once a decision has been made as to guilt or innocence, the media spokesperson will be the Bishop of the Diocese of Alexandria-Cornwall as the committee is no longer acting in an advisory capacity.

a. RECEIVING AN ALLEGATION

I. ALLEGATION OF SEXUAL ABUSE OF A MINOR

The Bishop's Delegate shall, as a matter of urgent priority, carry out a discreet investigation of any allegation, be it sexual abuse, sexual assault or sexual harassment that has been reported. Discretion is called for to safeguard the privacy of the alleged victim and to protect the presumed innocence of the person accused. Anyone serving the Church in ministry, employment or a volunteer position who receives an allegation of sexual abuse of a child on the part of clergy, religious, lay employees or volunteers of the Diocese or parish has a legal obligation to report the Allegation to the Children's Aid Society.

He/she also has an obligation to report it to the Bishop's Delegate, who will also contact the Children's Aid Society to report the Allegation.

II. ALLEGATION OF SEXUAL ASSAULT OR SEXUAL HARASSMENT OF AN ADULT

Anyone serving the Church in ministry, employment or a volunteer position who receives an allegation of sexual assault or sexual harassment of an adult on the part of clergy, religious, lay employees or volunteers of the Diocese or parish has an obligation to report the Allegation to the Bishop's Delegate. If the allegation refers to an historical abuse of a minor, the Delegate will inform the Children's Aid Society.

III. DEALING WITH A THIRD-PARTY COMPLAINANT

The Delegate will contact the complainant immediately to verify the Allegation. If the Allegation concerns Sexual Abuse of a Minor, the Delegate will advise the Complainant of the Complainant's obligation to report the allegation to the Children's Aid Society. The Delegate will also advise the Complainant about the Complainant's right to contact the police and will offer support in helping the Complainant exercise that right.

IV. DEALING WITH THE ALLEGED DIRECT VICTIM

The Delegate will proceed to attempt to contact the alleged victim in order to verify the allegation, including cases of anonymous Allegations. Anonymous allegations will be documented and investigated to the fullest extent possible. In all contact between an alleged victim and the Delegate, the alleged victim will be treated with respect, dignity and compassion. When meeting personally with the complainant, the Delegate should always be accompanied by another member of the Advisory Committee.

The Delegate will advise the Alleged Direct Victim of his/her right to contact the police and will encourage the Alleged Direct Victim to exercise that right, offering support if needed.

Once the Allegation has been verified, the Delegate informs the Bishop and calls a meeting of the Advisory Committee as soon as possible.

The Bishop will ensure that the diocesan insurers are advised of the Allegation.

V. OTHER SOURCES OF INFORMATION

If the Bishop receives information concerning a criminal or civil action against a member of the Diocese arising from actions within or outside the Diocese, he will advise the Delegate as soon as possible; the latter will call a meeting of the Advisory Committee as soon as possible.

VI. THE SACRAMENT OF CONFESSION

The Bishop or any priest involved in this procedure should not hear the sacramental confession of the Alleged Direct Victim or of the accused. Notwithstanding the above, the sacramental seal of confession remains sacred and must not be broken.

b) PROCESSING AN ALLEGATION

I. THE ACCUSED

The Delegate will inform the Accused of the Allegation and will receive and record the Accused's response.

When an allegation is received the Bishop will immediately place the Accused on a leave of absence from parish ministry or from other Church-related responsibilities, brief the Delegate and the Diocesan Spokesperson, and call a meeting to advise the affected parish and community.

If civil litigation has been commenced, the Advisory Committee will advise the Bishop on limitations to be imposed on the Accused and on any further action to be taken.

II. CANONICAL OBLIGATIONS

In the case of the sexual abuse of a minor by a priest or deacon, if the Alleged Direct Victim is under the age of 38 at the moment the complaint is made, the Bishop will also initiate a canonical investigation according to Canon 1717 of the Code of Canon Law and refer the case to the Congregation for the Doctrine of the Faith in due course. If the Alleged Victim is over the age of 38, the Advisory Committee will advise the Bishop on whether he should request the Congregation to waive the statute of limitations and proceed with the canonical investigation and referral to the Congregation.

III. THE ADVISORY COMMITTEE'S ROLE

The Delegate, having called a meeting of the Advisory Committee, will continue to consult with and report to the Advisory Committee during the investigative process. The Advisory Committee will help determine and will evaluate the Delegate's actions.

The care to be afforded to the Alleged Direct Victim and members of his or her family will figure among the first issues to be considered by the Advisory Committee. Referral will be made to the Victims' Care Advisor in the appropriate cases.

If the matter is being pursued by the Children's Aid Society and/or the police, the Delegate will not undertake an investigation but will remain vigilant and will maintain appropriate ongoing communication with the civil authorities. In particular, he will ensure that a representative of the Diocese will monitor and observe any criminal trial or civil action arising from the Complaint.

If at the conclusion of a Children's Aid Society investigation or a police investigation no charges are laid but the Advisory Committee deems the innocence of the Accused in question, the Advisory Committee shall direct the Delegate to investigate the Allegations in order to make a comprehensive report to the Advisory Committee for recommendations to the Bishop.

If the Complainant has chosen not to go to the police with a complaint of sexual assault of an adult, the Delegate will investigate the Allegations under the direction of the Advisory Committee in order to make a comprehensive report to the Advisory Committee for recommendations to the Bishop.

Should the Accused choose to remove himself or herself from incardination or employment with the Diocese at any time during this process, the process will not be stopped but will be pursued with the necessary modifications to the new situation.

c) CONCLUDING PHASE

If a judicial process or the Advisory Committee determines that an offence has been committed, the Advisory Committee will make recommendations to the Bishop on issues of censure, treatment and future placement of the Accused and ongoing care of the Victim. In particular, no diocesan priest or deacon found guilty of sexual abuse or sexual assault will be transferred to another diocese for ministerial duty.

If a priest who is incardinated in the Diocese of Alexandria-Cornwall but working/living in another Diocese has an accusation of sexual abuse, sexual assault or sexual harassment made related to his work in the Diocese of Alexandria-Cornwall, the Bishop of the Diocese of Alexandria-Cornwall will contact the Bishop of the Diocese where the priest is presently working to inform him of the accusations. The Bishop of Alexandria-Cornwall, with the help of the committee, will ensure that proper follow-up is provided to the accusations, according to the guidelines of our Diocese.

If a judicial process or the Advisory Committee determines that no offence has been committed, the Advisory Committee will bring the case to a close. The Delegate will inform, according to necessity, the Bishop, the Complainant, the Accused and the Diocesan Spokesperson. If the Accused had been put on a leave of absence, the Accused is permitted to resume his/her duties.

If an out-of-court settlement is reached in a civil action, the Bishop, through the Delegate, will make the terms of the settlement known to the Advisory Committee. A confidentiality clause will not be initiated by the diocese, nor any language intended to stifle transparency and openness. An exception to the rule regarding the confidentiality clause may be requested by the victim(s) and his/her legal counsels. The Advisory Committee will advise the Bishop on the recommended follow-up to such a settlement.

In situations where no solid conclusion can be reached as to guilt, the Advisory Committee will advise the Bishop through the Delegate on actions to take. In such cases, the Bishop will allow himself to be guided by the principles of risk reduction in determining future action.

Throughout this process, the Advisory Committee will recommend and oversee the implementation of other related decisions taken by the Bishop in the following areas:

- Ongoing care for the Direct Victim and the Indirect Victims with the assistance, as indicated, of the Victims' Care Advisor.
- Pastoral care of affected parishioners, including written communications, community meetings, presence of the Bishop, intervention of counselors, etc.
- Information to the clergy.
- Public communication.
- The therapeutic, pastoral, and canonical status of the accused.
- The status of any criminal charges or civil actions.

d) ONGOING ACTION

The Delegate will keep a written record of all Allegations received, of meetings of the Advisory Committee and of the outcome of all proceedings. This record will be entered into the regular diocesan archives and kept indefinitely.

The Delegate will meet as soon as possible with any diocesan administrator or newly appointed diocesan bishop to inform him thoroughly of ongoing cases and to brief him on past cases.

The Bishop will commission an independent audit of these guidelines and their implementation not less often than every five years. This audit will be entrusted to an accredited agency with the purpose of studying the effectiveness of the Diocesan Guidelines and recommending improvements, as necessary. The Delegate's records will be made available to the auditing agency.

The Bishop will make the results of the review available to the public if requested.

B. CARE OF VICTIMS

Over the past decades, leaders and members of the Catholic Church throughout the world have come to recognize the terrible harm that sexual abuse, assault and harassment can inflict on victims, particularly when they are minors. This recognition, though belated, now impels us to place the victim's needs first in our response to any complaint or revelation of harm. The Diocese is therefore committed to the pastoral support of victims, victims' families, or other persons affected by an incident or allegation of sexual abuse, assault or harassment. Without being exhaustive, the following illustrates how this support can be implemented.

a. IMMEDIATE ATTENTION

Support must first be evidenced in the attitudes of those who receive a complaint. Compassion requires that immediate attention be given to the person alleged to have been offended. This attention implies speed in response, respect in listening, care in questioning and sensitivity to the person's needs at that particular time.

The opportunity must be given to a Complainant to be accompanied by a friend, family member, colleague or professional when meeting the diocesan delegate to report an incident, and in subsequent meetings.

The victim's greatest need is to be heard and to be told of the church leadership's sorrow that the person has been hurt. A personal word of apology will be offered by the Bishop whenever guilt has been established. Whether or not guilt is established, the Complainant needs to know that his or her complaint is taken seriously in determining the course of action to be taken with the Accused.

b. COMPASSION AND CONCERN

The Diocese will immediately offer its support to the Alleged Direct Victim and his or her family.

Any and all assistance rendered will be understood as reflecting the Church's pastoral compassion and concern. Such assistance does not imply an admission of liability or responsibility or of an individual's guilt. The Diocese's readiness to provide professional or other compassionate help before the facts are adjudicated by a church or secular process is simply a reflection of the Church's commitment to healing for all God's children.

Support may include counseling, spiritual direction, support groups or other social services.

c. EXPLANATION OF THE PROCESS

It is important for victims to know early in the process of healing what the Diocese can do for them and what it cannot do and why. For this reason, the Bishop's Delegate will give the Complainant a copy of the Diocese's guidelines and explain the process involved.

The Complainant will be kept informed throughout the process and of its outcome. In particular, information concerning eventual treatment, restrictions or placement of the Accused will be shared.

d. OUT-OF-COURT SETTLEMENTS

In any out-of-court settlement, it is essential that the Direct Victim be assisted by independent counsel, even if the Diocese must help pay these legal costs. In any settlement, the Diocese will not impose a confidentiality clause, recognizing that it is important for the Direct Victim to be free to tell his or her story.

e. VARIA

The Diocese will endeavor to participate in community activities meant to foster education and healing around the issue of sexual abuse, assault and harassment.

The negotiation of a settlement is under the responsibility of the Diocesan Director of Administrative Services. The Bishop's Delegate and the Diocesan Advisory Committee members are not involved in these negotiations.

INTERPRETATION

In this policy,

“Adult” means a person aged 18 or over.

“Accused” means the one against whom an allegation is made.

“Advisory Committee”: (Or *Diocesan Advisory Committee*) as described on page 10 of the Directives.

“Allegation” means a statement or accusation of sexual abuse, sexual assault or sexual harassment that is yet to be proven.

“Child” means one who is under 16 years of age at the time of the offence.

“Complainant” means a person who raises an allegation; this may be the alleged Direct Victim or a third party.

“Direct Victim” means a child who has been sexually abused by an adult, an adult survivor of child sexual abuse, or an adult who has been sexually assaulted. When an allegation is received, the one who claims to be a victim (or is identified as a victim by a complainant) will be treated as a victim unless there is a substantive doubt regarding the complaint;

“Delegate and Sub-Delegate” means the person appointed by the Bishop, to act as the principal agent within the Diocese for receiving and handling allegations of sexual abuse or sexual assault. They can be either clergy or lay. When necessary, the Sub-Delegate takes over the Delegate's responsibilities.

“Diocesan Spokesperson and Alternate” means the person appointed by the Bishop who is competent in media relations and who, on behalf of the Diocese, supplies accurate, pertinent information to the public at appropriate times. The Alternate handles the Diocesan Spokesperson's responsibilities when the latter is unavailable;

“Historical Abuse” means a case of sexual abuse that has come to light after the victim has completed 16 years of age.

“Indirect Victim” means the parents, foster parents, siblings, spouse, children, extended family, and close friends of the direct victim.

“Lay Employee” means a member of the laity who is employed by a parish or the Diocese to perform specific duties on behalf of the parish or the Diocese.

“Legal obligation to report” means the obligation imposed by the *Child and Family Services Act* which stipulates that the Children’s Aid Society must be contacted by any citizen who has reasonable grounds to suspect that a child is or may be in need of protection. Grounds triggering this obligation include physical, sexual and emotional abuse, neglect and risk of harm. Professionals (including clergy) are particularly bound by this obligation, and their neglect to do so constitutes an offence.

“Sexual abuse” means contact or interaction between a child and an adult when the child is being used as an object of sexual gratification by the offending adult.

“Sexual assault” means contact or interaction of a sexual nature between adults with or without mutual consent where a person deems himself or herself to have been victimized.

“Sexual harassment” means intimidation, bullying or coercion of a sexual nature, or the unwelcome or inappropriate promise of rewards for sexual favours. Sexual harassment includes a variety of behavior from seemingly mild transgressions to serious forms of abuse, and some forms of harassment overlap with sexual assault.

“Victims' Care Advisor” means a qualified, competent individual named by the Bishop to facilitate individualized support for a victim, both during and after the investigative process, upon referral by the Advisory Committee. The Advisor is sworn to confidentiality regarding the identity of Complainants and Accused. The Bishop will name a substitute advisor when warranted, upon the recommendation of the Victims’ Care Advisor.

The support offered can include counseling/therapy paid for by the Diocese. The Advisor also makes proposals for the care of Indirect Victims. Acting out of pastoral concern, the help offered through the Advisor is intended to be without prejudice of the Allegation.

If charges have been laid, or an investigation by the Children's Aid Society or the Police is ongoing, no meeting will be held with the victim unless proper authorization is obtained from the police or judicial authorities.

“Volunteer” means an unpaid person who is engaged in a recognized diocesan or parish activity.

CHURCH LEXICON

Celebret:

A document issued to a priest or deacon by his legitimate superior attesting to his incardination in a diocese or religious order and stating that there are no canonical impediments to his celebration of the sacraments.

Clergy (cleric):

Includes deacons, priests, and bishops.

Code of Canon Law:

A body of church law last revised in 1983 to be observed by members of the Catholic Church and made up of 1752 canons or individual laws relating to persons, sacraments, material goods, and organizations. Two sections of the Code deal with sanctions in the Church (offences and punishments) and with processes (trials) relating to them: c. 1311 to c. 1752. It is the responsibility of the Bishop to see that all canons are followed in the diocese. Diocesan policies must also be in accord with civil law.

Diocese:

The Catholic people of a given area under the pastoral care of a bishop. (The Diocese of Alexandria-Cornwall comprises all Roman Catholics living in the counties of Stormont and Glengarry. There are 70 other Catholic dioceses throughout Canada.)

Religious:

All who commit themselves to live the evangelical counsels (poverty, chastity, and obedience) in an institute or society approved by the Catholic Church, e.g. sisters, nuns, monks, brothers, etc.

Sacramental Seal :

The obligation imposed upon priests and bishops, upon pain of excommunication, not to act on or divulge information that has been acquired in the celebration of the sacrament of Reconciliation (confession).

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