



Diocese of Montreal – Anglican Church of Canada

IV. SEXUAL MISCONDUCT POLICY

It is the obligation of the churchwardens and the incumbent to ensure that their congregations are free from sexual misconduct. It is the responsibility of the churchwardens and incumbent to ensure the parish has implemented, and is maintaining, an effective screening policy. Volunteers must receive training at the beginning of their ministry assignment regarding the diocesan policy and sign a policy acknowledgement form.

Every person who has information with respect to the abandonment, desertion or need for protection of a child, or the infliction of abuse upon a child, must report this information to the appropriate Children's Aid Society and inform the Executive Officer, Archdeacon Janet Griffith, immediately at (514) 602-3756. Churchwardens, must ensure this obligation is understood and complied with.

The Sexual Misconduct Policy and Procedures of the Diocese of Montreal, approved by Diocesan Council on March 11, 2008 are as follows:

Diocese of Montreal Sexual Misconduct Policy and Procedure

1. Preamble

- 1.1 We affirm that every human being is created in the image of God who has made for us loving, covenantal relationships with our Creator, others and the world. We believe that our peace arises out of right relationships. Our personal dignity, freedom and bodily integrity are ensured by faithfulness to just covenants of mutual entrustment, care and respect. Such covenants undergird the moral framework of our communal life, responsibilities and entitlements.
- 1.2 We further acknowledge that children, adolescents, the infirm and elderly are particularly vulnerable to the tragic consequences of broken covenants and abusive treatment. Special care must be taken to protect their individual rights and personal integrity.
- 1.3 There is universal agreement that respect, reverence and mutuality are necessary in all human relationships. This agreement about the fundamentals of human relations, including sexual relations, leads to a firm judgement and condemnation of sexual abuse and exploitation.
- 1.4 Sexual abuse is self-gratification by exploitation. It makes and impersonal object of the other person, abusing both the person and sexuality itself. Abuse occurs in a wide range of sexual activities: always in rape and child molestation, usually in adultery and prostitution, and sometimes even in marriage. Sexual abuse also occurs in the socially subtle aspects of sexism and in sexual harassment or employees in the workplace. The Church must be clear about these violations of sexual intimacy. It must be explicit in its teaching about these particular aberrations of sexual relations, aggressively proactive about its social policy and action touching these areas, and forthright in dealing with violations in its own community.
Lambeth Conference Report, 1988

1.5 This policy has been adapted from policies of the General Synod, the Synod of the Ecclesiastical Province of Canada and the Diocese of Fredericton, whose work is gratefully acknowledged.

2. Policy

2.1 The Diocese of Montreal undertakes to ensure that all activities, work and pronouncements with which it is engaged uphold the values of love, truth and justice, and are demonstrably free from violence, coercion and discrimination.

2.2 It is our policy that sexual assault, sexual harassment or sexual abuse of any kind, whether to an adult, adolescent or child, male or female, by or to any officer, cleric, member, employee or volunteer, will not be tolerated.

2.3 We will actively work to prevent such occurrences and deal with any accusations promptly, seriously and systematically, in co-operation with proper authorities where appropriate.

2.4 Particularly in relationships of trust where power and authority and confidentiality are dynamic, the greatest of care will be expected to be exercised to avoid taking advantage of trust, or abusing power and responsibility of authority.

2.5 At all times an ethic of mutual respect, responsibility and caring, as well as modelling wholeness and healthy sexuality in relationships, will be the goal. We will practice, advocate and educate to that end.

2.6 Adherence to this policy is seen and understood as a mandatory and vital component of our life and work together as clergy, employees, officers, members and volunteers of the Diocese of Montreal, and applies to, but is not limited to, the following: clergy of the Diocese, employees of the diocese and parishes, members of the Synod and the Council, officers of the Synod, and chairs and members of the Synod's other committees, both lay and cleric.

3. Definitions

3.1 Sexual Harassment

3.1.1. Sexual Harassment refers to any attempt to coerce an unwilling person into a sexual relationship, or to subject a person to persistent unwanted sexual attention, or to punish a refusal to comply, or to reward compliance. Sexual harassment must be understood as an exploitation of a power relationship, rather than as an exclusively sexual issue. Sexual harassment may involve a wide range of behaviours from verbal innuendo and subtle suggestions to overt demands and unwanted inappropriate physical contacts of a sexual nature. It may be an incident or a series of incidents. It is behaviour of a sexual nature that is known or ought reasonably to be known as behaviour that is unwanted or unwelcome. Sexual harassment includes actions which contribute to an environment that is "poisoned" by suggestive pictures or cartoons. Sexual harassment is prohibited by federal and provincial law.

3.2 Sexual Assault

3.2.1. "Assault" means any intentional use of force or threat of use of force against another person without his or her consent. The law does not specifically define the term "sexual assault". It is, however, any form of assault involving some form of sexual activity. Kissing, sexual contacts, fondling or sexual intercourse with another without his or her consent is simple sexual assault. (The judge or jury decides whether in a particular case there was sexual assault.)

3.2.2. There is also the category of “aggravated sexual assault” which includes bodily harm, assault with a weapon, threats or threats to a third party. Other categories of sexual assault include intercourse with a person under the age of 14, intercourse with a person age 14-16, incest, bestiality and gross indecency.

3.2.3 Further sexual offences against children include: sexual interference, invitation to touching, sexual exploitation of a young person, a parent or guardian procuring sexual activity of a child, exposing genitals to a child, vagrancy, juvenile prostitution, corrupting children, indecent acts.

(Canada’s Law on Child Sexual Abuse – A Handbook)

3.2.4 Note: Consent is understood as non-coercive. If a victim agrees to any assault under threat, or if consent is obtained by fraud or by the influence of a person in authority over the victim (e.g. counsellor, pastor, guardian) it will be deemed to be no consent. An accused may show “honest belief” of consent and may not be convicted. However, it is always no consent for children under age 12; under specific circumstances with peers for children age 12-14; and with young persons age 14-18, consent is not valid if the accused was in a position of authority over them. Also there are further provisions for mentally or otherwise incapacitated or vulnerable children, adolescents and adults.

(Criminal Code of Canada, Bill C-127, 1983 and Bill C-15, 1988)

3.3 **Sexual Exploitation**

3.3.1 Sexual exploitation is a term to describe behaviour which may incorporate sexual harassment, assault or abuse, and sexual misconduct. It focuses on the power of the perpetrator in relation to the vulnerability of the victim and refers to the act of taking advantage of such vulnerability for one’s own pleasure or gain.

3.4 **Sexual Misconduct**

3.4.1 For church workers (lay or ordained, paid or volunteer), sexual misconduct is defined as sexual harassment, sexual assault, sexual exploitation, sexual abuse or any other sexual activity or conduct (including, but not limited to sexual intercourse) in which the church worker takes advantage of the vulnerability of a person under his or her pastoral care or other guidance or leadership. Such behaviour, whether it appears to be initiated by the church worker or by the person under care or leadership, shall be deemed to be sexual misconduct.

4. **Principles**

4.1 Confidentiality shall be respected, except where the law demands otherwise, or where others are at risk.

4.2 An accused person shall be presumed innocent until proven guilty.

4.3 Suspension from office or employment may be used as tool to protect all parties during an investigation. In such cases, suspension is without prejudice and, where it is suspension from employment, it shall be with pay.

4.4 All complaints shall be taken seriously and will be investigated as quickly as possible. All time frames specified in this policy shall be strictly adhered to unless an extension is consented to by the Bishop, the complainant and the respondent, such consent not to be unreasonably withheld.

4.5 Nothing shall be done to interfere with a criminal investigation.

4.6 A complaint of sexual assault or abuse of children shall be reported to civil authorities immediately and in accordance with the laws of the appropriate jurisdiction.

- 4.7 Preserving the safety and well-being of a complainant, or others who might be affected, will be a priority.
- 4.8 The Diocese of Montreal will do all it can to preserve the safety of the places of work, worship and meetings for its clergy, employees, officers, members and volunteers.
- 4.9 Any action taken will be done with pastoral sensitivity, upholding confidentiality, unless required to disclose by law, or where safety issues exist, or where waived by the parties.
- 4.10 Everyone is entitled to pastoral care.
- 4.11 No person or persons shall knowingly make a false or vexatious complaint. Intentionally to make such a complaint will be treated as a form of harassment subject to this policy.
- 4.12 Mandatory reporting of sexual abuse of minors shall be strictly complied with.

5. Prevention

- 5.1 The officers of the Synod and the Diocesan Council will take responsibility for education both about sexual assault and sexual harassment and about this policy among clergy, employees, officers, members and volunteers.
- 5.2 The same groups will strive to make the places of work, worship and meetings for clergy, employees, officers, members and volunteers free from sexual assault and sexual harassment.
- 5.3 This policy and any other policies addressing harassment will be explained to existing clergy, employees, officers, members and volunteers and their written agreement to comply with this policy will be required.
- 5.4 When clergy, employees, officers, Synod or Committee members or volunteers are hired, elected or chosen, their written agreement to comply with this policy will be required.
- 5.5 Part of the orientation for all new clergy, employees, officers, Synod or Committee members and volunteers will include a review of this policy and the procedures for making complaints.
- 5.6 Training for understanding of acceptable and unacceptable behaviours and orientation to this policy shall take place annually for new clergy, employees, officers, Synod and Committee members and volunteers, and at least once every three years there will be a general training session on respectful behaviours.

6. How to Proceed with Complaints of Sexual Assault or Sexual Harassment of Adults

- 6.1 Informal Process
 - 6.1.1 In the case of sexual harassment, it is expected that the person responsible for the harassment be informed simply and clearly that it is unacceptable behaviour and must stop. Where there is an allegation concerning the abuse or harassment of children, this process is precluded and all complaints are referred to the appropriate external authorities. (See Appendix VII)
 - 6.1.2 During this informal process stage, a person who believes that he or she is being harassed may request help from the first line designate listed below to assist with the communication with the person responsible for the harassment. The decision about future action of any sort will be made by the person complaining in a confidential atmosphere, except if the person hearing the complaint believes that the complainant or anyone else is at risk.

6.1.3	Complainant	First Line Designate
	Cleric, Employee, Member or Volunteer	Executive Officer
	Executive Officer	Bishop

- 6.1.4 The First Line Designate shall complete a written record of the concern raised, action taken and the outcome of the contact. This record shall be sent to and retained in confidence by the Archivist. The Archivist shall retain all informal complaints made or referred to him or her under this policy.
- 6.2 Formal Process
- 6.2.1 If the complainant wishes to proceed to a formal process, including investigation, decision making and mediation, the complaint shall be made in writing to the First Line Designate listed above with a copy to the Archivist. The help of the First Line Designate may be sought to assist with his initial stage of the formal process. The complaint letter needs to contain some particulars of the behaviour, but need not be exhaustive in its level of detail. The letter should request that the complaint be investigated.
- 6.2.2 If a complaint is made against the Executive Officer, it should be filed with the Bishop. If a complaint is made against the Bishop, it should be filed with the Metropolitan, and if the bishop is the Metropolitan, then with the bishop next senior by consecration in the Province of Canada.
- 6.2.3 If a complaint is made against a member of the clergy, the Executive Officer at his or her discretion may refer it to the Bishop.
- 6.2.4 The person who receives a complaint, if not the Executive Officer, shall advise the Executive Officer of the complaint immediately upon its receipt, and the Executive Officer shall immediately advise the accused person of the complaint and its particulars, and that an investigation has commenced no later than three working days after receiving the complaint.
- 6.2.5 The Executive Officer shall ensure that an investigation is commenced immediately by an investigator skilled and trained in this type of investigation.
- 6.2.6 All written complaints shall be forwarded to the Executive Officer and he or she shall retain all written complaints made or referred to him or her under the policy. All respondents shall have full access to a written complaint filed against them and retained by the Executive Officer. The written complaint shall be kept in a sealed, secure and confidential place.
- 6.3 Investigation Process
- 6.3.1 The Executive Officer, shall refer the complaint to the Committee of Inquiry described in Canon 34, who shall proceed to investigate the complaint pursuant to that Canon.
- 6.3.2 Pastoral care and counselling assistance will be offered to the complainant and the respondent. Counselling shall not be provided by any member of the Committee of Inquiry.
- 6.4 External Process
- 6.4.1 A report of the incident may always be made to the appropriate human rights commission, police or other civil authority.
- 6.5 The role of a third party
- 6.5.1 Those who observe or know of incidents of sexual harassment or sexual assault have the responsibility to assist in making meetings and other activities free from sexual assault and sexual harassment. Anyone having knowledge of or observing such incidents may encourage the person harassed or assaulted to begin the process of complaint, or share their concerns with a first line designate to discern any further steps that may be appropriate.

7. Sexual Assault or Sexual Harassment of Children, Vulnerable Adults or Adolescents (aged 16-18) – Special Concerns

7.1 Children

- 7.1.1 The law requires that complaints of sexual assault or sexual harassment of children must be reported immediately to the Youth Protection Agency.
- 7.1.2 Suspicion of assault or harassment requires similar reporting if there are reasonable grounds to believe that the child is at risk.
- 7.1.3 Officers of the Synod will co-operate with authorities in their investigation.
- 7.1.4 No further internal investigation by the Synod officials will proceed at this time to not jeopardize the criminal investigation. However, legal and counselling help may be offered.
- 7.1.5 Pastoral care for the respondent and the respondent's family will be offered. Pastoral care for the church community affected will be provided.
- 7.1.6 A volunteer under investigation under this section may be immediately suspended from such volunteer activity, without prejudice, with the terms of that suspension to be determined at the discretion of the Executive Officer. An employee under investigation may similarly be suspended, without prejudice and with pay.
- 7.1.7. Therapeutic or pastoral help will be offered quickly to the child's family and the child, in person, by the Executive Officer or the person designated by the Executive Officer.
- 7.1.8 Balancing protective action, correct legal response, pastoral care and confidentiality will be challenging and will require consultation with experts.
- 7.1.9 A Synod or Committee member or volunteer found guilty of sexual assault of a child in the criminal or civil court process will be removed as a Synod or Committee member or volunteer.
- 7.1.10 If the investigation is inconclusive, or if the accused is found not guilty, other appropriate action may still be considered by the Executive Officer in consultation with the Bishop and legal officers of the Synod.

7.2 Adolescents

- 7.2.1 Care will be taken to determine whether the involvement of parent(s) or guardian(s) is appropriate.
- 7.2.2. If it is determined that the previous section "Children" does not apply, the adolescent complainant may follow the procedures in section 6, "How to Proceed with Complaints of Sexual Assault or Sexual Harassment of Adults".

7.3 Vulnerable Adults

- 7.3.1 When a complaint is made of misconduct involving an adult who may be vulnerable because of mental incapacity, whether due to mental retardation, brain injury, age-related dementia or some other cause, care will be taken to determine whether the involvement of the complainant's family is appropriate. If the complainant is under the guardianship of a tutor, the tutor shall be notified of the complaint.
- 7.3.2 The Executive Officer shall ensure that pastoral support is made available to the complainant and the complainant's family, where appropriate.

7.4 Discipline

- 7.4.1 If an employee or volunteer is found guilty of sexual misconduct under this policy, he or she may be subject to sanctions as described in Canon XVIII of the General Synod.

- 7.4.2 Should a complaint be found to be falsely made and malicious in nature, discipline may be imposed on the complainant.
- 7.5 Updating and Reporting Process
 - 7.5.1 The Executive Officer shall report on the use of this policy at each regular meeting of the Synod. The report shall include statistics on the number of complaints made pursuant to this policy since the last report, the number of complaints resolved and in what manner they were resolved. The report may include recommendations from the officers of the Synod regarding any proposals to modify this policy.
 - 7.5.2 The officers of the Synod and the Diocesan Council shall monitor this policy on an as-needed basis, but at least every three years.
 - 7.5.3 This policy may be amended by either the Synod or the Diocesan Council.



Diocese of Montreal – Anglican Church of Canada

A CALL TO HUMAN DIGNITY: A Statement of Principles for the Anglican Church of Canada on Dignity, Inclusion, and Fair Treatment APPENDIX V

We, as brothers and sisters in the Anglican Church of Canada, affirm God's call to a new humanity in Christ, a humanity that exists as one body with many parts, embracing every people, nation and language. We affirm our call to live as one body in a household where the doors are always open, and all are welcome and safe.

As further affirmation of our new humanity, we remember the covenant we made in our vows of baptism to:

- Believe in God the Father, Jesus Christ, the Son of God, and God the Holy Spirit;
- Continue in the apostle's teaching and fellowship, the breaking of bread and prayers;
- Resist evil, and whenever we fall into sin, repent and return to the Lord;
- Proclaim the good news of God in Christ;
- Seek and serve Christ in all persons, loving our neighbour as ourselves;
- Strive for justice and peace and respect the dignity of every human being.¹

While committing ourselves to these vows, we acknowledge that keeping them is difficult and requires costly sacrifice on our part.

Confronted by the sins and omissions of our past, we are ashamed that we have wandered from the way and rebelled against God. We have failed to proclaim the good news. We have fallen short in service to God and to our neighbours. The church is one body; when one part is wounded, the whole body suffers. Christ took on human flesh and made us one with him. When we hurt another human being, we hurt him. Yet we know that, just as he was one with us in his suffering, we are one with him in his resurrection. We receive God's forgiveness in all its richness and rejoice in God's gifts of healing and reconciliation; we are empowered by the Holy Spirit for fullness of life.

We have a responsibility to treat everyone in a way that is faithful to our call as a Christian people. Jesus sums up the commandments when he says to us, "You shall love the Lord your God with all your heart, and with all your soul, and with all your mind. This is the greatest and the first commandment. And a second is like it: You shall love your neighbour as yourself". (Matthew 22:37-39)

All persons seeking spiritual care and nurture, as well as those pursuing employment and those people employed by our church shall be treated with courtesy, compassion, fairness and integrity by our church and its representatives or officials, without discrimination on the basis of age, sex, sexual orientation, family or marital status, race, colour, ethnic (or place of) origin, ancestry, disability, creed or social-economic status.

The following guidelines are designed to enhance the sense of dignity, inclusion, and fair treatment, experienced by individuals in their dealings with our church². We commend these procedures for

¹ The rite for Holy Baptism, Book of Alternative Services, p. 158-9.

implementation at all levels of our church. *[The guidelines which follow were commended for use at all meetings of organizations in the Diocese of Montreal by Diocesan Council, May 14th, 2002]*

1. Transparency of decision making.

Assumptions, expectations, and obligations concerning employees and volunteers within our church must be clear and openly shared. Our church must also work to achieve clarity about the ways in which decisions are reached and carried out.

2. Intentional listening

When relationships become fractured, our church must provide an appropriate forum in order to ensure that the complainant has the opportunity to be heard when seeking a solution to his or her complaint. Our church must respect and facilitate the individual's opportunities to be heard.

3. Sympathetic Companionship

We are one body; all are affected when one part is being wounded or destroyed. All issues and situations have an impact on the community as a whole. Therefore, systems must be in place to offer support and companionship to those who are wounded.

4. Clear and prescribed avenues for challenging decisions.

In responding to those who feel wronged or wounded, we should keep in mind what Jesus taught his disciples. In addressing conflict within the Church, Jesus highlights the importance of beginning with face to face encounter and hearing the evidence. If this is unsuccessful, a wider group is involved. Only as a last resort is the whole community engaged and the breaking of fellowship entertained. (Matthew 18: 15-17)

Bearing in mind this teaching of Jesus, clearly prescribed guidelines for hearing grievances must be available at all levels of our church, so that due process is always observed. Each parish and diocese will establish, review and make known such a process, the details of which may vary depending on the unique circumstances within each region. Such a process should consider:

- Opportunities for hearing grievances.
- A clear complaints procedure.
- Opportunities for mediation.
- An impartial complaints committee.
- Availability of ombudsperson(s).

5. Assurance of response.

Such a process will offer assurance of timely response to all legitimate complaints with a commitment to a clearly expressed outcome from those in a position to effect an outcome, such as apology, face to face meeting, or severance.

6. Accessibility

This process is to be known, available, accessible and affordable throughout all levels of our church. Our church must ensure that individuals responsible for creating and facilitating such a process will receive adequate training,. The commitment of time, human resources, and expertise will reflect our church's acknowledgement of the continued need for healing.

² Mission Statement of the Anglican Church of Canada

With this affirmation and the suggested guidelines in mind, we join hands and continue on our journey. We know that all within Christ's body have been welcomed by God.

We accept the daunting challenges which lie ahead and are sustained by the Holy Spirit living within us. Therefore we step out as a church with commitment to express dignity and fair treatment for all.

Other references:

- The Principles of Natural Justice in Canon 18, part 5, Handbook of General Synod, p. 93
- General Synod Of The Anglican Church Of Canada, Resolution A130, 2001
- The rite for Holy Baptism, Book of Alternative Services, p. 158-9.
- Mission Statement of the Anglican Church of Canada 1998



Diocese of Montreal – Anglican Church of Canada
DECLARATION ON CONDUCT
APPENDIX VI

To be signed prior to paid or volunteer service

NAME – PLEASE PRINT

TITLE OR POSITION

DIOCESE, PARISH OR INSTITUTION

1. I have read and understood the policies on employment and conduct as contained in Canon 34 (Misconduct) of the Diocese, in the diocesan Sexual Abuse Policy, and in the Statement “A Call to Human Dignity” of the Anglican Church of Canada, and agree to abide by them.
2. I am aware of the procedures for dealing with misconduct, and of the consequences.
3. I understand that to function as an ordained or lay person in any office or ministry implies a fiduciary trust and responsibility, and to this I am committed.
4. To the best of my knowledge there are no circumstances that would be an impediment to my service in any office or ministry of the Anglican Church of Canada in the Diocese of Montreal.
5. I consent to having a police records check done, and will sign the necessary authorization.

SIGNATURE

WITNESS SIGNATURE

DATE

NAME OF WITNESS – PLEASE PRINT

PARISH OR ADDRESS



Diocese of Montreal – Anglican Church of Canada SEXUAL ABUSE POLICIES APPENDIX VII

DIOCESE OF MONTREAL SEXUAL ABUSE POLICIES 1994 - revised 2003

GENERAL LEGAL ISSUES

It is the policy of the Diocese of Montreal that sexual abuse of any kind by a priest, licensed person, employee or volunteer of the Diocese of any parish in the Diocese will not be tolerated. The greatest care must be exercised to avoid taking advantage of the special relationship of trust arising from the work of the clergy and other Christian workers. All persons in the employ or service of the Diocese or any of its parishes must take responsibility to maintain the highest ethical standards in their relationships and to exhibit unquestionable behaviour at all times.

For the purpose of this protocol, "sexual abuse" is defined as any act or behaviour of a sexual nature where the perpetrator is in a professional, fiduciary or pastoral relationship with the victim.

YOUTH

Article 38 (g) of the Quebec Youth Protection Act, R.S.Q., c. P-34.1 (the "Youth Act") reads:

- "38. For the purposes of this act, the security or development of a child is considered to be endangered where:
- (g) he is a victim of sexual abuse or he is subject to physical ill treatment through violence or neglect."

Article 39 of the Youth Act reads:

- "39 Every person, even one having privileged information, who has reasonable cause to believe that the security or development of a child is in danger within the meaning of paragraph (g) of Section 38 is bound to bring the situation to the attention of the Director without delay."

The obligation to signal a case of abuse against a child overrides, at law,* the privileged information or professional secrecy to which a priest or other person informed may be bound with respect to the disclosure of confidential information revealed to him or her by reason of their position or profession.

In fact, Section 9 of the Quebec Charter of Human Rights and Freedoms, R.S.Q., c. C-12, specifically provides that the obligation of a priest or other person informed not to disclose confidential information * will no longer apply where the law expressly provides that the legal privilege will be overridden, such as in the case of Sections 38 and 39 of the Youth Act.

It is important to remember that the signal must be done immediately and may be done confidentially without the name of the person advising the Youth Protection having to be made public.

GUIDING PRINCIPLES

1. As a priority, it is essential to take allegations of sexual abuse seriously.
2. The protection of children is a matter of fundamental concern.
3. An accused person will be presumed innocent until proven otherwise.
4. If there has been harm to others, the protection of the complainant and their family will be a paramount concern.
5. Notwithstanding the above four principles, nothing should be done that might impede a criminal investigation.

SCOPE OF THIS PROTOCOL

This protocol is designed to apply to instances whereby a priest or other licensed person of The Diocese of Montreal or an employee or volunteer of the Diocese or of any Parish within the Diocese has been:

- a) informed of an act of sexual abuse where the perpetrator is in a professional, fiduciary or pastoral relationship with the victim.
- b) accused of such an act.

STEPS TO FOLLOW

With adults Canon 34 (Misconduct) is invoked.

With minors

- a) The priest or other person informed must immediately report the situation to the Director of Youth Protection closest to the residence of the child involved or to the parish where they are working.
- b) Immediately thereafter, the priest or other person informed may report the situation and the fact that he or she has contacted the Director of Youth Protection to the Bishop or the Bishop's designate.

Any complaint against clergy or other employee or volunteer in the Diocese or Parish in the Diocese must be brought to the attention of the Bishop. If the complaint is against a lay staff worker or volunteer, the incumbent or head of the agency involved should be informed first and must take it to the Bishop.

During an investigation the person who is the subject of the allegation will be placed on leave of absence with pay. This leave is without prejudice and does not imply the guilt or innocence of the person under investigation.

The Youth Protection and the police will begin the investigation of the case and contact the individuals as they see fit.

No one in the Diocese shall interfere with any investigation of the appropriate authorities with respect to a situation involving possible sexual abuse. Any intervention, even if well-intended, runs the risk of being interference in a possible criminal investigation.

For this reason, the pastoral care of the victim, the victim's family, the accused, the accused's family and the Parish or Diocese as a whole, which are matters of paramount concern to all, shall be subject to the overriding responsibility of the Bishop or the Bishop's designate. No person shall take any steps on his or her own without first discussing the same with the Bishop or the Bishop's designate, who will consult with

the Director of Youth Protection and the police, if necessary, with respect to the best approach to be taken with respect to the pastoral care required in the circumstances.

If deemed advisable, the Bishop will meet with the congregation of the parish or take or direct such other action as is necessary at the earliest possible occasion, and no person shall take any steps on his or her own without first discussing same with the Bishop or Bishop's designate.

PAST ABUSE

In circumstances where the alleged sexual abuse occurred years ago, the obligation to signal to the Director or Youth Protection may not be as urgent. Section 39 of the Youth Act regarding the obligation to report applies when "the security or development of a child is in danger", which may not be the case if the abuse has happened in the past. However, since the individual accused may still be involved with children in the course of carrying out their duties in the Parish or in the Diocese, the priest or other licensed person must immediately report the information to the Bishop or the Bishop's designate who, in consultation with them and with the Chancellor, Vice-Chancellor or Church Advocate, can determine the obligation to report to the Director of Youth Protection.

If any questions arise at any time with respect to the obligations to report, please contact the Chancellor, Vice-Chancellor, Church Advocate or Ombudsman.

OFFENCE NOT TO REPORT

Due to the very sensitive nature of the issue of sexual abuse of children and the legal obligations imposed, it shall be an offence, subject to the Discipline Canon in addition to the Youth Act, for any person who has reasonable cause to believe that sexual abuse has or is occurring against a child, and who does not report the information to the Director of Youth Protection and to the Bishop or the Bishop's designate.

"The Seal of the Confessional"

The kind of confidentiality implied in the term "the seal of the confessional" is an age-old dimension of pastoral relationships. A recent Anglican affirmation of this principle is the following, adopted by the National Executive Council (now Council of General Synod) in November 1987.

"It is the historic obligation of the members of the clergy of the Anglican Church of Canada to regard as a sacred trust all confidential information imparted to them either under the seal of the confessional or revealed to them in their capacity as pastors." While other provinces do not support this by law, Section 9 of the Quebec Charter of Human Rights and Freedoms (R.S.Q. C-12) reads, "Every person has a right to non-disclosure of confidential information. No person bound to professional secrecy by law and no priest or other minister of religion may, even in judicial proceedings, disclose confidential information revealed to him by reason of his position or profession, unless he is authorized to do so by the person who confided such information to him or by express provision of law. The tribunal must, ex officio, ensure that professional secrecy is respected."

It is clear that this privileged position no longer exists when it comes to allegations of sexual abuse of children, as indicated above. It is up to the conscience of the individual pastor to decide which obligation, civil or ecclesiastical, is to prevail.