



ANGLICAN DIOCESE MONTREAL



*Safe Church*  
**Sexual Misconduct  
Policy**  
Revised February 2018

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## 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 immediately at . 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**

#### **i. PREAMBLE**

- a) 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.

- b) 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.
- c) 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.
- d) Sexual abuse is self-gratification by exploitation. It makes an 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 of 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

- e) 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.

## ii. ***POLICY***

- a) 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.
- b) 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.
- c) 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.
- d) 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.
- e) 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.
- f) 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.

## iii. ***DEFINITIONS***

### a) Sexual Harassment

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.

#### b) Sexual Assault

- “**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.)
- 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.
- 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)
- 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 aged 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)

#### c) Sexual Exploitation

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.

#### d) Sexual Misconduct

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.

iv. ***PRINCIPLES***

- a) Confidentiality shall be respected, except where the law demands otherwise, or where others are at risk.
- b) An accused person shall be presumed innocent until proven guilty.
- c) 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.
- d) 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 is not to be unreasonably withheld.
- e) Nothing shall be done to interfere with a criminal investigation.
- f) 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.
- g) Preserving the safety and well-being of a complainant, or others who might be affected, will be a priority.
- h) 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.
- i) 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.
- j) Everyone is entitled to pastoral care.
- k) 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.
- l) Mandatory reporting of sexual abuse of minors shall be strictly complied with.

v. ***PREVENTION***

- a) 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.
- b) 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.

- c) 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.
- d) 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.
- e) 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.
- f) 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.

vi. ***HOW TO PROCEED WITH COMPLAINTS OF SEXUAL ASSAULT OR SEXUAL HARASSMENT OF ADULTS***

a) Informal Process

- 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)
- 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.

<ul style="list-style-type: none"> <li>• <b>Complainant</b></li> </ul>	<ul style="list-style-type: none"> <li>• <b>First Line Designate</b></li> </ul>
<ul style="list-style-type: none"> <li>• Cleric, Employee, Member or Volunteer</li> <li>• Executive Officer</li> </ul>	<ul style="list-style-type: none"> <li>• Executive Officer</li> <li>• Bishop</li> </ul>

- 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.

b) Formal Process

- 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.
- 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.
- 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.
- 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.
- The Executive Officer shall ensure that an investigation is commenced immediately by an investigator skilled and trained in this type of investigation.
- 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.

c) Investigation Process

- 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.
- 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.

d) External

Process

A report of the incident may always be made to the appropriate human rights commission, police or other civil authority.

e) The Role of a Third Party



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

### a) Children

- The law requires that complaints of sexual assault or sexual harassment of children must be reported immediately to the Youth Protection Agency.
- Suspicion of assault or harassment requires similar reporting if there are reasonable grounds to believe that the child is at risk.
- Officers of the Synod will co-operate with authorities in their investigation.
- 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.
- Pastoral care for the respondent and the respondent's family will be offered. Pastoral care for the Church community affected will be provided.
- 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.
- 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.
- Balancing protective action, correct legal response, pastoral care and confidentiality will be challenging and will require consultation with experts.
- 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.
- 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.

### b) Adolescents

- Care will be taken to determine whether the involvement of parent(s) or guardian(s) is appropriate.
- 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."

### c) Vulnerable Adults

- 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.
- The Executive Officer shall ensure that pastoral support is made available to the complainant and the complainant's family, where appropriate.

d) Discipline

- 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.
- Should a complaint be found to be falsely made and malicious in nature, discipline may be imposed on the complainant.

e) Updating and Reporting Process

- 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.
- The officers of the Synod and the Diocesan Council shall monitor this policy on an as-needed basis, but at least every three years.
- This policy may be amended by either the Synod or the Diocesan Council.