

# **Diocese of Thunder Bay**



## **Diocesan Sexual Misconduct Policy**

November 2016

Dear Friends:

One of the most difficult situations for a bishop or a diocese to confront is the complaint of sexual abuse of someone, especially a minor, by a member of the clergy or anyone who is employed by the diocese and under the direction of the bishop.

The Bishop and members of the Diocesan advisory committee regularly reviews our Diocesan Sexual Misconduct Policy. Definitions and clearer expectations related to procedures have been developed and presented in this latest review.

I sincerely hope that we never have to implement this policy. However, I urge you to review this very carefully and to make all staff in your parishes aware of its contents. If there is any need for an explanation of the information contained in this booklet, please do not hesitate to call the Pastoral Centre for clarification.

May the Lord continue to bless you with the courage and grace you need to be faithful witnesses of your ministry and of Christ's care and concern for others.

Sincerely in Christ,

*+Fred J. Colli*

Most Rev. Fred J. Colli  
Bishop of Thunder Bay

## **Introduction:**

The vast majority of priests and religious in our diocese have been living out their ordination commitments diligently and faithfully, in particular their call to celibacy and all that it entails.

For priests and religious no cross has been heavier to bear over the past several years than the various news reports identifying priests and religious who have seriously violated their priestly vow of celibacy and have sexually abused others. We all have sensed the shame and disgrace as various priests and religious have been highlighted in the newspaper, television, and news magazines.

We have been aware that our parishioners are also affected by this scandal and we have wondered, at times, what they think of us even though we ourselves have not been guilty of any wrongdoing. We have changed our relationships with the children in our parishes and the young people in our youth groups. We are more reserved and hesitant even to touch them.

While only a small number of priests and religious have ever been involved in such misconduct, even one case is too many. In view of this the Diocese of Thunder Bay has revised its policy of dealing with situations of sexual misconduct involving priests, religious and lay personnel of the diocese. This policy also seeks to assure that our parishes are safe places for all.

While this policy cannot guarantee that future problems in this area will not occur, it does serve to assure that the Diocese of Thunder Bay takes seriously the conduct of its priests and pastoral workers. This policy provides a procedure to deal with any allegations of sexual misconduct concerning priests or others who are under the direction of the Bishop of Thunder Bay.

Following the example of Christ the Good Shepherd, the life of a priest is to be an example of unselfish love and generosity given to the work of building the Kingdom of God.

Priests, in particular, are to familiarize themselves with this policy and are to take note that any sexual misconduct is not in keeping with their call to celibacy.

## **Overview:**

In May 1990, the Diocese of Thunder Bay established a policy to deal with situations where there has been a complaint of injury to a minor because of sexual assault or by an invitation of a sexual nature. This policy included the establishment of an Advisory Committee of clergy and laity to assist the Bishop in dealing with such complaints and situations. This policy was updated in February 1994, March 2000, September 2004, May 2007, July 2010, October 2013 and most recently November 2016 to include all vulnerable persons. The procedures presented here and approved by the Bishop are to assist those concerned with responding to such complaints in a prompt and appropriate manner.

The first priority is to ensure that an immediate response is made to those who may be suffering from the alleged incident. Therefore, an expression of the compassion and concern of the Church will be made immediately to the persons involved. This will include an offering of counselling and, if necessary, therapy for the victims of the alleged abuse, together with their parents and siblings, to enable them to deal with the incident.

***“Any person who has reasonable grounds to suspect that a child be suffering from an alleged incident has the legal obligation to immediately make a report to Child and Family Services. At the same time, the Diocesan Assessor will ensure that the complaint, if it so warrants, is reported to Family and Children’s Services, so they can carry out their responsibilities under civil law.”***

The person who has been accused of the offence will be required to undergo assessment. This will be done without compromising their rights.

Where the alleged victim and family need Professional Counselling in dealing with the incident, a recommendation will be made as to the appropriate persons competent to provide this counselling. Persons requiring these services are to approach the agency suggested to arrange for an appointment.

The Diocese has created a list of social service agencies that can be given to victims and others affected by abuse. The costs of the service of Diocesan approved agencies will be borne by the Diocese for a prescribed period of time. Regular evaluations will be conducted by the Diocese.

Alleged victims who do not wish to avail themselves of the persons or the agencies suggested by the diocesan committee, should approach their personal physician to arrange a program of treatment that would be appropriate in assisting them. For Diocesan approval of various treatment options, the physician must describe this need in a letter to the Diocese including treatment, duration, cost and forms of evaluations.

### **Purpose:**

The Diocese of Thunder Bay recognizes that abuse, especially by priests, constitutes one of the most serious breaches of trust in human relationships. Abuse can have devastating consequences for the victim and his or her family, for the church community at large and for the priest involved. It is the purpose of the policy to ensure that the concerns of all individuals and groups affected by allegations of sexual abuse are properly and fairly dealt with in a manner consistent with the exercise of compassion and understanding.

### **Definitions:**

**ASSESSOR:** a priest assigned to the Diocese of Thunder Bay, or a lay person appointed by the Bishop of Thunder Bay to receive and investigate any complaint referred to them against any priest who is presently a member of the Thunder Bay Diocese, or a former member of the Thunder Bay Diocese, or any member of a religious congregation located in the Diocese of Thunder Bay, or any person under the direction of the Bishop of Thunder Bay.

**ASSOCIATE ASSESSOR:** a priest assigned to the Thunder Bay Diocese or a lay person appointed by the Bishop of Thunder Bay who shall assume the duties and obligations of the Assessor, when the Assessor is unable to assume said duties, and to take on such duties as may be directed by the Assessor or the Bishop from time to time.

**ADVISORY COMMITTEE:** a committee appointed by the Bishop which shall be comprised of the Assessor, the Associate Assessor, and individuals with expertise in the fields of counselling and civil law, and any other persons the Bishop may, from time to time, deem appropriate.

The members of the Advisory Committee are the same persons who form the Diocesan Committee for the administration of the Diocesan Policy.

The Advisory Committee shall advise the Assessor on matters involving a complaint or duties of the Assessor. The Assessor would then report such advice to the Bishop.

**SEXUAL ABUSE:** sexual assault or sexual harassment which includes conduct which is known or ought reasonably to be known to be inappropriate sexual advances or solicitations by any priest, member of a religious congregation or person under the direction of the Bishop of Thunder Bay.

**VULNERABLE PERSON:** which includes but is not limited to, a minor who is a person who has not reached the age of 18 years, also the elderly, the handicapped, and emotionally dependent persons.

**COMPLAINT:** any allegation of sexual abuse made by a victim; made by an identified third party; or made anonymously against a priest or member of a religious order who is or was a member of the Diocese of Thunder Bay, or persons under the direction of the Bishop of Thunder Bay.

**SACRED CONGREGATION FOR THE DOCTRINE OF THE FAITH:** located in Rome. In cases pertaining to clerics, the Sacred Congregation for the Doctrine of the Faith will make the definitive judgment on the cleric's suitability/unsuitability for ministry, as well as the consequent imposition of canonical penalties, among which the most grave is the dismissal from the clerical state.

**MONITOR:** If civil charges are laid against the accused, the committee will appoint someone to monitor the civil and criminal proceedings who will record and report the findings to the Advisory Committee

**VICTIM ASSISTANCE ADMINISTRATOR:** a person appointed by the Bishop to coordinate support to alleged victims and provide a sympathetic and attentive hearing to each victim of misconduct and to assess the needs of the victim, as well as coordinate the services or care to the individuals that will benefit from care.

### **Statement of Policy:**

1. It is recognized that any complaint must be responded to in a timely manner which reflects the concerns and interests of:
  - a) The individual against whom the sexual abuse has or is said to have taken place and that individual's family;
  - b) The Church community including the accused's parish community;
  - c) The individual who is accused and that individual's family;
  - d) The fellow clergy and religious of the one who is accused, and any others who may be affected by the allegations made.
2. The response set out in this policy is not intended to address any moral guilt that may or may not be involved, nor is the policy intended to replace the requirements of the Code of Canon Law; rather it is intended to set out a prudent pastoral response to the fact that a distressing allegation has been made and some response to it is necessary.

3. Any priest, member of a religious congregation, or person under the direction of the Bishop of Thunder Bay, whether an employee or volunteer, who receives or is made aware of a complaint, is obligated immediately, in addition to any duty imposed on him by the civil law or Child and Family Services of Ontario, to report to the Assessor, or failing this, to the Associate Assessor, the substance of the complaint, the identity of the complainant and any other information in their possession with respect to the complaint.
4. The Assessor shall receive any complaint and bring forth the details of the allegation to the attention of the Advisory Committee, and shall immediately direct the investigation of any complaint reported, making an initial report to the Bishop within 24 hours.  
If the Assessor is unable to act or is unavailable, the Associate Assessor shall, for the purpose of this procedure, exercise the duties of the Assessor. If it is deemed necessary, the Bishop, or the Assessor with the Bishop's approval, may delegate some appropriate portions of the assessment to another person. The Bishop may also appoint someone from outside the Diocese of Thunder Bay to assume the role of Assessor in a particular case.
5. The person against whom the complaint is made, shall be given an immediate leave of absence pending a resolution of the matters raised in the complaint, unless, following a careful examination of the facts and circumstances, the Assessor determines that the complaint is unsubstantiated. The granting of a leave of absence does not, nor is it meant to imply, any culpability, imputability or guilt in any way. It is designed solely to protect the interests of all affected, pending a resolution of the matter.
6. Where the Assessor determines that there is substance to a complaint, the Assessor or his delegate will immediately offer to provide appropriate professional counselling services and, if necessary,

therapy for the alleged victim, the parents and siblings, to begin immediately. Such services will be provided until a determination that they are no longer reasonably necessary or that the complaint is not substantiated.

- 6A. When there is an allegation against a cleric of sexual misconduct/abuse involving a minor (the Congregation of the Doctrine of the Faith defines a minor as a person under the age of eighteen years) and, when the allegation is plausible and has a semblance of truth, the congregation for the Faith requires that the local Bishop is obligated to refer the matter to them. Once the case of an accused cleric is studied, the Congregation for the Faith will indicate the further steps to be taken locally and offer direction to the Bishop on how to proceed. Canonical penalties (e.g. removal of faculties) may be applied.
7. Where the one who is accused might be helped by therapeutic counselling, such counselling shall be made available.
8. In the initial investigation, the Assessor shall, notwithstanding any other steps deemed necessary, meet the person making the complaint, the cleric or the other person involved, and any other such persons as the Assessor may deem appropriate or necessary for clarification of the matter.
9. During the course of the Assessor's initial investigation the following actions shall be taken:
  - a) Where the complaint requires that a report be made under the Child and Family Services Act of the Province of Ontario, the Assessor must make such a report. The Assessor shall also report to the Bishop and will relate the same to the Advisory Committee.

**Note:** If an allegation of sexual misconduct involving a victim, not subject to Child and Family Services legislation, is made against a priest, religious, or any employee or volunteer and there is merit to the allegation, the Assessor should recommend the victim or the Diocese report the incident to the police or other appropriate civil authority. If the victim agrees, the incident should be reported to the police or other appropriate civil authority immediately. If the victim wishes to maintain anonymity and does not wish to report the incident to the police or other appropriate civil authority, the victim should be reminded of their option to do so, acknowledging that in doing so they can still maintain their anonymity.

If and when requested, a member of the Sexual Abuse Committee could accompany a victim for support, in reporting the complaint to the appropriate civil authority.

- b) The Assessor shall bring forth the details of any complaint to the attention of the Advisory Committee in particular if the issue requires counsel concerning the nature and seriousness of the complaint.
  - c) If the complaint does not appear supported by the facts, the matter will be reported to the Bishop.
10. Upon receiving a report from the Assessor that the allegation is sincere; the Bishop of the Diocese, and/or his representative, is to:
- a) visit the parish immediately and speak to the people at Sunday Mass, meet with them and follow up with visits as needed, to provide for the parish community and its spiritual needs.

- b) require that the one who is accused take an immediate leave of absence from all ministry responsibilities and services.
- c) see that the Assessor, or another person delegated by the Bishop, express the concern of the church community to the one against whom the sexual abuse or sexual harassment is said to have taken place, and reassure such persons of the Church's invitation to provide professional counselling, and if necessary therapy to them and appoint a VICTIM ASSISTANCE ADMINISTRATOR if deemed appropriate and beneficial.
- d) See that the one who is accused has the opportunity to consult with independent legal counsel, and as happens with other organizations, any requests for legal cost of defence would be considered.
- e) See that the one who is accused has the opportunity to undergo assessment and/or therapeutic counselling, the results of which must be made available to the Bishop or the Assessor, and if they deem necessary, to the Advisory Committee.
- f) If appropriate, appoint someone, (v.g. the Chancellor) who will communicate with the public, the media and/or parish(es) when an incident of sexual misconduct has been made public.
- g) If the accused person is ministering in another Diocese, the Bishop or his delegate will inform his counterpart in that Diocese, that an allegation has been made.

11. The Advisory Committee, when called upon, will discuss with

the Assessor the facts and actions of the investigation, and will make any recommendations they deem necessary with regards to all the circumstances of the case.

12. The Advisory Committee may recommend a canonical inquiry under paragraph 14, or further investigation, if it deems necessary.
13. The Advisory Committee will appoint a Monitor to observe any criminal or civil trials involving its clergy and make a report to the Advisory Committee of the proceedings.

### **Related Matters:**

14. The Diocese of Thunder Bay does not promote private or confidential settlement agreements with victims of misconduct and/or sexual abuse.
15. No Diocesan or Religious priest will be accepted for ministry or residence in a parish in the Diocese of Thunder Bay without full disclosure by his Bishop or Superior of any allegations of misconduct in the cleric's past.
16. An accused cleric, in consultation with his Bishop, is expected to provide a financial contribution to the costs associated with his defense of a civil or criminal action arising from an allegation of sexual misconduct.

### **Final Dispositions:**

17. Final dispositions of the matter by the Bishop may involve for the cleric, religious, or the person involved:

- a) a full reinstatement in ministry/work in the Diocese;
  - b) a temporary or permanent supervised appointment in the Diocese or a recommendation that such an appointment might be appropriate elsewhere;
  - c) no reappointment in the Diocese and no recommendation for appointment elsewhere; or
  - d) such other disposition as is appropriate in the circumstances.
  - e) the bishop will prepare a summary of the findings to be submitted to any new bishop for the diocese, to make him aware of any complaints against any priests now serving in his diocese. Also, any priest who is or who has been subject of an allegation of sexual misconduct will not be transferred to another diocese without full disclosure of the facts concerning the allegations to the bishop of the next diocese.
  - f) When it has been determined that serious misconduct has occurred there will be no reentry to ministry. If there is doubt about whether such misconduct has occurred, reentry to ministry may be possible. It is for the Bishop to determine any eventual return to active ministry of a cleric or volunteer. The Diocese's firm commitment to ensuring safe environments is the overriding consideration, and no one will be permitted to return to public ministry if such ministry is a potential danger for minors or a cause of scandal for the community.
18. A canonical inquiry, if desired by the Bishop, will begin only after any criminal proceedings, and if any, civil proceedings have been concluded. Such an inquiry could also be

recommended by the Advisory Committee.

19. All formal steps taken in accordance with these procedure shall be reflected by clearly written and dated memoranda which is permanently retained, and never cleared or destroyed, in the diocesan archives.

## **MEMBER OF RELIGIOUS CONGREGATIONS AND VISITING OR CONTRACTED PRIESTS:**

20. Except as they may be amended by paragraph 18, the provisions of this policy apply to complaints made against a member of a Religious Congregation and any visiting or contracted priest serving in the diocese.
21. When a complaint has been made against a member of a Religious Congregation or any visiting or contracted priests serving in the diocese, the Assessor will conduct the initial investigation and immediately advise the Superior of the accused's Religious Congregation and/or the Bishop or Superior of any visiting or contracted priests serving in the diocese of his/her actions.
22. Where the complaint arises by reason of conduct outside the Diocese and the allegations are made against a member of a Religious Congregation and/or visiting contracted priests presently in the Diocese, the Bishop will require that the one who is accused take a leave of absence.
23. In the case of a complaint arising by reason of conduct within the Diocese against a member of a Religious Congregation and/or any visiting or contracted priests serving in the diocese:
  - a) the results of the initial investigation will be forwarded by the Assessor to the Superior of the accused, and

- b) if the report is of the type described in paragraph 9a the Religious Congregation/Superior or Bishop will be responsible for all matters associated with the one who is accused.
24. To the extent that any costs are incurred in providing assistance and/or treatment to the alleged victim and/or their family, the Diocese will be reimbursed for the same by the Religious Congregation or by the appropriate Bishop or Superior of the contracted or visiting priest.

## **PREVENTION**

### **Precautions:**

Priests and other diocesan employees can and should have a good rapport with minors and vulnerable persons. However, they must also avoid the kind of contact with minors that could raise questions or lead to negative comment on the part of reasonable people. Therefore, the following preventative measures are strongly recommended:

1. Activities involving physical contact with minors and vulnerable persons such as wrestling, tickling or inappropriate hugging, should be avoided.
2. Minors and vulnerable persons should not be taken to one's private room or bedrooms. Priests should not spend their days off with only minors or vulnerable persons. Minors or vulnerable persons are not to stay overnight at the rectory. Only priest, seminarians or immediate family members of a priest may stay in a rectory overnight.
3. Vacations, field trips, or other outings involving minors and vulnerable persons should not be taken unless parents or other adults are present.
4. Expensive gifts are not to be given to or accepted from a child, a young person, or vulnerable persons.

Given the seriousness of the consequences of sexual misconduct, especially when minors are involved, priests, in particular, have a responsibility to be their brother's keeper in these matters. While they must avoid paranoia or unhealthy interference in others' lives, they need to

be aware of danger signs seen in another's activities. Such danger signs might be clear violations of the guidelines presented in this policy. In addition, they also need to be aware of the danger to priests who, without doing anything wrong, seek the company of children and look to them for the emotional support only normal adult relationships provide. This caution applies to lay personnel as well.

When a priest fears that a brother priest or a lay employee may be involved in such behaviours, he should speak first to the person involved and then consider whether it is appropriate to speak to the Diocesan Assessor. Furthermore, it is important to recognize that the abuse of alcohol or other substances can lead to a breakdown of inhibitions that could lead someone into acting irresponsibly and inappropriately, and could give way to scandal.

In a spirit of true concern and regard for each other, let us work together to help build, support and heal.

### **‘Street Smart’ Suggestions**

Our insurance company and our legal counsel has recommended the following to assist priests and employees of the diocese, along with volunteers, in determining risk situations and avoiding situations that might be misunderstood concerning abuse issues:

1. Doors in Interview Offices or Reconciliation Rooms, where possible, should have a window in them for the protection of the interviewer and interviewee. Any new construction or renovation of Reconciliation Rooms is to provide for clear glass openings.
2. Situations for interviews with single persons should be done in normal office hours – or if in the evenings, with suitable cautions taken by the interviewer to avoid risk situations.

3. Computer screens in offices should be directed toward areas visible to others, where possible, to avoid the use of computers on inappropriate internet links.
4. In arranging office furniture for personal interviews with individuals or couples, care should be taken that the interviewer is not between the persons and the exit which could be interpreted as a ‘closed’ or ‘confined’ area for those being interviewed.
5. Priest and staff must always take into consideration the ‘personal space’ of people who approach them. Sometimes familial gestures of friendship or greeting (v.g. hugs, kisses) might not be appropriate or welcomed. Seek always to be kind and yet professional.
6. Unfortunately, in our society, there are those who might wish to take advantage of a situation for financial purposes, and might accuse or falsely describe a situation. If priests have standard routines for interviews etc. (v.g. sitting behind the desk) which are known to staff members and others, then any misinterpretation or misrepresentation of a situation could be clarified by them.
7. With computers, be prudent when allowing others to use your personal computer and especially internet connections on personal computers, in particular if ‘downloading’ of information is concerned. Chat rooms, and e-mail use of your computer by others, should not be encouraged. As well special care should be taken when using cell phones (v.g. picture taking), and/or placing pictures on facebook type accounts is discouraged.
8. Avoid high risk situations and always be attentive to potential actions or situations that could be misinterpreted by others as being inappropriate or unprofessional. This is for the safety of all.

9. Two adults are to be present for Children's Liturgy Programs. The Diocesan guidelines for Volunteer Ministers, with appropriate screening, are to be followed.
10. The preparation of children for the celebration of the sacraments of first reconciliation, first communion and confirmation is to be conducted in a group format.
11. The celebration of the sacrament of reconciliation with minors is to be celebrated in a open space that allows the penitent and the priest to be in full view of others.
12. One-on-one private meetings with adults are to be conducted in a space with a clear glass opening.

## **Diocesan Approved Agencies**

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