


- 1  Anglican Province of Canada
Sexual Misconduct Policy and Procedure

2  **Introduction**

A Call to Human Dignity – General Synod 2001

- All persons ... *shall be treated* with courtesy, compassion, fairness and integrity by our church ... without discrimination

3  **Introduction**

Lambeth Conference Report, 1988

“Sexual misconduct”

- Is self-gratification by exploitation
- Abuses both the person and sexuality itself
- Occurs always in rape and child molestation, usually in adultery and prostitution and sometimes in marriage
- Occurs in ... sexism and in sexual harassment of employees

4  **Introduction**

The Province must be

- Clear about violations of sexual intimacy
- Explicit in its teaching about aberrations of sexual relations
- Forthright in dealing with violations

Lambeth Conference, 1988

5  **Definitions**

Sexual Misconduct

- Includes sexual assault, sexual harassment, sexual exploitation, sexual abuse or any other sexual activity or conduct (including sexual intercourse) where a cleric or other church worker exploits the vulnerability of a person under one’s pastoral care, guidance or leadership
- Such behaviour, whether initiated by the church worker or by the person under care or leadership, is deemed to be sexual misconduct

6  **Definitions**

Sexual Harassment

“Sexual Harassment”

- Behavior of a sexual nature that is known or ought reasonably be known to be unwelcome

- Includes actions which contribute to a 'poisoned' environment e.g., cartoons
- Exploitation of a power relationship
- Is prohibited by law

7 Definitions

Sexual Harassment

- 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
- Many behaviours from verbal innuendo and subtle suggestions to overt demands and unwanted inappropriate physical contacts of a sexual nature
- One incident or a series of incidents

8 Definitions

Sexual Assault

- “**Assault**” means any intentional use of force or threat of use of force against another person without his or her consent
- “**Sexual assault**” is a form of assault involving sexual activity. Kissing, sexual contacts, fondling, or sexual intercourse with another without his/her consent is sexual assault
- “**Aggravated sexual assault**” includes bodily harm, assault with a weapon, threats, and/or threats to a third party

9 Definitions

Sexual Assault

- Other categories of sexual assault include:
 - intercourse with a female under age 14
 - intercourse with a female age 14 -16
 - incest; bestiality; gross indecency; sexual interference
 - invitation to touching
 - sexual exploitation of a young person, parent or guardian procuring sexual activity of a child
 - exposing genitals to a child
 - vagrancy; juvenile prostitution
 - corrupting children; and
 - indecent acts

10 Definitions

Sexual Assault - Consent

- **Consent is non-coercive**
It is not consent if
 - a victim agrees to any assault under threat, or
 - consent is obtained by fraud or by the influence of a person in authority over the victim (e.g. counselor, pastor, guardian)
- An accused who shows “honest belief” of consent may not be convicted

11 Definitions

Sexual Assault - Consent

- Never 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; protection for mentally or other incapacitated or vulnerable children, adolescents and adults

Criminal Code

12 Definitions

Sexual Exploitation

- 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 / gain

13 Principles (13)

- Confidentiality
- Accused presumed innocent
- Right to counsel
- All complaints taken seriously
- Prompt investigations
- Time limits respected

14 Principles

- No interference with criminal investigation
- Immediate reporting of sexual assault or abuse of a child or vulnerable adult to police and the provincial child / vulnerable adult protection agency
- Protection of the safety and well-being of complainant and others

15 Principles

- Safety of workplaces for all church officers, members and volunteers
- Pastoral sensitivity
- Pastoral care for all
- False or vexatious complaints prohibited

16 Preventative Measures

- Educational programs for all clergy and laypersons
- All are to make the workplace free from sexual misconduct
- Policy training included in all orientation programs
- Policy training at least once / two years

17 Preventative Measures

Written Agreement

- Each new Provincial cleric or lay appointee including:
 - members of Provincial Synod
 - Provincial Council
 - Provincial committees

18 **Complaints** Who to Complain to

- **Complainant:** Cleric or lay person complains to

The Prolocutor (First Line Designate)

19 **Informal Complaints**

- **Written record** - Prolocutor shall complete and retain a written record of the complaint, the action taken and the outcome of the contact

20

Informal Complaints

- **Child / Vulnerable Adult abuse or harassment** - all complaints are referred to the appropriate external authorities – Provincial investigation stops
- **Sexual harassment** - Prolocutor shall inform the alleged harasser that it is unacceptable behavior and must stop
- **Complaint withdrawal** - the complainant will normally determine whether to proceed

21 **Formal Complaints**

Filing

- A formal written complaint shall be made to the Prolocutor
- A complaint against the Prolocutor shall be filed with the Deputy Prolocutor
- A complaint against the Metropolitan shall be filed with the Primate

The complaint letter shall contain details of the events / behaviour, and request an investigation (Prolocutor may assist)

22 **Formal Complaints**

Filing

- Complainant may withdraw the complaint at any time
- The Prolocutor may suspend a staff person or volunteer against whom complaint has been filed
- None shall advise the complainant that this procedure is a substitute for criminal, civil, or administrative proceedings

23 **Formal Complaints**

The Prolocutor may obtain assistance from ...

- an Investigator from a Panel of Investigators; and / or
- a Mediator from a Panel of Mediators

24 **Complaint Filing**

Adolescents

- Care will be taken to determine the involvement of parent(s) or guardian(s), if any
- Prolocutor may determine whether s. 6 or 7(a) of this Policy should apply to the investigation of a complaint by an adolescent

25 **Formal Complaints**

Investigation

Contents of Investigation Report

- Complainant's allegation
- Accused person's response
- Facts found
- Unconfirmed statements
- Conclusions (with factual basis)
- Recommendations
- Decision where report is prepared by Prolocutor

26 **Formal Complaints**

- Where an investigator has prepared a report
- Prolocutor, shall, within one week, determine the matter or refer it to mediation
- If the Prolocutor determines the complaint is substantiated, s/he may take disciplinary or other remedial action, including referral to criminal proceedings

27 **Formal Complaints Appeals**

- Party may, within thirty (30) days of receipt of the decision, appeal the decision by filing with the Metropolitan a written request (with reasons)
- Metropolitan shall respond within two (2) weeks of receipt of the written request

28 **Mediation**

- Prolocutor may refer a matter to a mediator, who shall complete a mediation within 1 month
- The parties to a mediation sign a mediation agreement (see Appendix "F")
- The parties are entitled to retain counsel

29 **Mediation**

- Province shall pay the Mediator's costs and the parties shall pay their legal expenses
- Prolocutor and the parties shall take no further action until the mediation is complete

30 **Third Parties**

- Anyone having knowledge of sexual misconduct may encourage the notification or filing of a complaint, may personally communicate the concern, and should cooperate in the investigation

31 **Children & Vulnerable Adults**

- Child / vulnerable adult protection statutes require that one must report immediately one's suspicion of sexual misconduct to a child or vulnerable adult
- The Province will co-operate with authorities in their investigation

32 **Counseling and Pastoral Services**

- Prolocutor shall immediately offer therapeutic or pastoral help to the child or vulnerable adult and her/his family
- Prolocutor shall offer pastoral care and counseling to the complainant and respondent
- Province may provide pastoral services to an affected church community / diocese

33

Discipline

Following receipt of investigation report or the failure of mediation, Prolocutor may dismiss the complaint or impose a penalty, including:

- Caution
- Warning
- Censure with probation / rehabilitation

34 **Discipline**

- Suspension with or without terms
- Dismissal from employment
- Removal from a volunteer position
- A cleric, layperson, employee or volunteer found guilty of sexual assault of a child or vulnerable adult in the criminal or civil court process will be dismissed from employment and / or removed as a volunteer

35 **Discipline**

- Prolocutor shall give a written decision, with reasons, on the discipline to be invoked and shall provide a copy to the complainant, respondent and Diocesan Bishop
- If a complaint is false and malicious, discipline may be imposed on the complainant

36 **Records Management**

- Prolocutor shall retain the record of informal complaints and all formal complaint files for a minimum of ten (10) years in confidential files, in accordance with Appendix "C"

37 **Records Management**

Information Sharing

- Province shall include in every response to an employment or other inquiry a reference to the cause of dismissal for sexual misconduct
- A report of the incident(s) may be made to a provincial child / vulnerable adult protection agency, the Canadian or Provincial Human Rights Commission, the RCMP or other police force, or other appropriate civil authority

38 **Appendices**

- Appendix A - Flow Chart Child Complaint
- Appendix B - Flow Chart Adult Complaint
- Appendix C - Confidentiality
- Appendix D - Media Relations
- Appendix E - Pastoral Care
- Appendix F - Mediation Agreement