

Sexual Misconduct Policy: Sexual Harassment, Exploitation and Assault

October 2001

Section 1: Policy

This document contains only Section 1 of the Sexual Misconduct policy. This is not the entire policy but can be used to assist parishes with training. For more detail, please refer to the entire Sexual Misconduct Policy containing three sections 1) policy, 2) procedures, and 3) appendices.



Diocese of Toronto
Anglican Church of Canada

Contents

Section 1: Policy on Sexual Misconduct

1.1	Theological Foundation	2
1.2	Principles	3
1.3	Definitions:	4
	Sexual Misconduct	
	Pastoral Relationship	
	Sexual Harassment	
	Sexual Exploitation	
	Sexual Assault	
	Consent	
	Complainant and Respondent	
1.4	Prevention	6

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Section 1: Policy on Sexual Misconduct

1.1 Theological Foundation

The Holy Scriptures speak of the Church as the Body of Christ,¹ and call its members to live lives that are rooted in Christ² and to grow together in love, thanksgiving and service to God and neighbour.³ To be a Christian is to be part of a new creation, a new humanity guided and empowered by the Holy Spirit.⁴ The Church is to work for – and, as a sign to the world, to exemplify in its own life and relationships -- a community of truth, justice and mercy, compassion and reconciliation, mutual service and steadfast faithfulness.⁵ This vocation is identified in the Baptismal Covenant by which we are united with Christ in his death and resurrection and become members of the family of faith, the Church.⁶ We confess that we have not always lived up to this high calling.⁷

In company with the Bishops and People of the Anglican Communion, The Incorporated Synod of the Diocese of Toronto (commonly known as the Anglican Diocese of Toronto):

“affirms that every human being is created in the image of God who has made us for 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 trust, care and respect. Such covenants undergird the moral framework of our communal life, responsibilities and entitlements.

“[and] further acknowledges 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.

“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.

“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 on these areas, and forthright in dealing with violations in its own community.”(Lambeth Conference Report, 1988)

Sexual misconduct cannot be treated by the Church as a private matter even between consenting adults, since others’ attitudes and relationships are bound to be affected. Moreover, the greatest care is expected to be exercised in relationships of trust, power, authority and confidentiality, to avoid taking advantage of trust, or abuse of power and the responsibility of authority.

¹ Romans 12:5; I Corinthians 12:12-27; Ephesians 1:22-23 [citations refer to the New Revised Standard Version]

² Ephesians 3:17; Colossians 2:7

³ Colossians 1:6; John 13: 12-17; John 15:12; Matthew 7:12; Luke 10:25-28

⁴ Romans 8:18-27; II Corinthians 5:17; Galatians 6:14-15; John 1:12-14, 16

⁵ Matthew 28:18-20; Acts 1:8; II Corinthians 5:18-21; Colossians 1:18-23; I Timothy 5:11-16; Hebrews 13:1-8

⁶ Ephesians 4:1-6; Book of Common Prayer, p. 529; Book of Alternative Services, pp. 158-160

⁷ I John 1:8-10

1.2 Principles

1. The Anglican Diocese of Toronto undertakes to ensure that all activities and work in which it is engaged uphold the values of love, truth and justice proclaimed in the Gospel of Jesus Christ.
2. This policy applies to every bishop, priest, deacon, or lay person under the jurisdiction of the Diocesan Bishop of the Diocese of Toronto. [See Canon 22 s.2]
3. All employees, clergy, and volunteers have the right to a work environment that is free of sexual misconduct from any source, be it co-worker/minister, client, parishioner, volunteer, service provider or member of the public.
4. Clergy and those responsible for liturgical, pastoral, education or recreational activities in the Anglican Diocese of Toronto are expected to maintain the highest ethical standards of mutual respect, responsibility and caring, as well as modeling wholeness and healthy sexuality in all their relationships with those for whom they have responsibility.
5. Sexual misconduct as defined in this policy will not be tolerated and all incidents and complaints will be investigated.
6. Professional counsellor/client relationships are to be respected and maintained by all clergy and other professionals in the service of the Diocese or parish in every pastoral or counselling situation. Exploitation of this trust through sexual activity, touching for sexual purposes, or the suggestion or depiction of any such activity, is not to be tolerated.
7. An accused person is presumed innocent until proven guilty. The fact that procedures have been initiated does not create an inference of guilt.
8. Preserving the safety and well being of a complainant, or others who might be affected, is a priority.
9. Pastoral care is available to any complainants, respondents, their families, or others affected within the Diocesan community.
10. A support person may be appointed by the Canon Pastor to assist a party (complainant or respondent) involved in a proceeding governed by this policy.
11. The Diocesan Bishop may initiate an investigation under the procedures of this policy into any situation where there is reasonable suspicion of sexual misconduct as defined in this policy, whether or not a complaint has been made.
12. The Anglican Diocese of Toronto actively tries to prevent sexual misconduct and deal with every accusation promptly, seriously and systematically, in co-operation with the proper authorities, where appropriate. We co-operate with investigations being undertaken under the Criminal Code, Ontario Human Rights Code, or the Child and Family Services Act. Nothing is done to interfere with a criminal investigation.

1.3 Definitions

Sexual Misconduct

Sexual misconduct for the purposes of this Policy is sexual exploitation, sexual harassment, or sexual assault (commonly called sexual abuse).

Pastoral Relationship

A pastoral relationship is a relationship carried out in the name of or on behalf of the Diocese, parish, or place of ministry, as the case may be, between a cleric, employee or volunteer and any person to whom such cleric, employee or volunteer provides pastoral counselling, pastoral care, spiritual direction, spiritual guidance or from whom the cleric, employee or volunteer has received confession or confidential or privileged information. In assuming responsibility for such a relationship, the cleric, employee or volunteer acknowledges responsibility for the well-being of the other person, intends to respect that individual's personal integrity and determines not to abuse the power inherent in the relationship. Any sexual activity or conduct in which a person in a pastoral relationship with another takes advantage of the vulnerability of the person under his/her pastoral care or other guidance or leadership, regardless of who appears to have initiated it, shall be deemed to be sexual misconduct.

Sexual Harassment

Sexual harassment is a specific form of harassment. It is engaging in a course of vexatious comment or conduct because of sex, sexual orientation, gender identity or gender expression, where the course of comment or conduct is known or ought reasonably to be known to be unwelcome or making a sexual solicitation or advance where the person making the solicitation or advance is in a position to confer, grant or deny a benefit or advancement to the other and the person knows or ought reasonably to know that the solicitation or advance is unwelcome. Sexual harassment includes behavior that has the effect of undermining, coercing, intimidating, humiliating or demeaning an individual on the basis of sex. It may have the effect of creating a place of ministry or workplace which is hostile or offensive. Such behavior may consist of a single incident or several incidents over a period of time. The harasser could be of the same or opposite sex as the person harassed and may be a supervisor, co-worker/minister, client, parishioner, volunteer or an external person providing service. Sexual harassment can occur in or outside the office or church building in person or by any other means but is not limited to a work-related activity.

Examples:

- ♦ threats or verbal abuse
- ♦ unwelcome sexual remarks, jokes, innuendo or taunting about a person's body or sexual orientation
- ♦ distribution of material of a sexual nature which potentially could be offensive
- ♦ displaying sexist, pornographic or derogatory pictures
- ♦ unwelcome invitations or requests or sexually suggestive remarks
- ♦ leering or other sexual gestures
- ♦ unnecessary physical contact, such as patting or pinching

Sexual Exploitation

Sexual exploitation is any form of sexual contact or invitation to sexual contact, with an adult by a professional person, cleric or anyone in a position of authority, trust or power over that adult whether or not there is consent from the individual (please see **Consent**). Sexual exploitation refers to the act of taking advantage of the vulnerability of an adult, with whom there is a fiduciary and/or pastoral relationship (please see **Pastoral Relationship**), for one's own pleasure/gain.

Sexual Assault

Sexual assault, commonly known as sexual abuse, is any intentional use of force or threat of use of force and involving some form of sexual activity, including, but not limited to, the examples listed below, against another person without his/her consent. Sexual assault is an activity that may be criminal in nature as defined either as child abuse under the Ontario Child and Family Services Act or as criminal under the Criminal Code of Canada. For purposes of this policy other related offences including the possession, distribution or accessing of child pornography shall be treated as sexual assault as set out in section 163.1 of the Criminal Code.

Examples:

- kissing, sexual contact, fondling or sexual intercourse
- bodily harm or threats to harm, assault with a weapon
- incest, bestiality and gross indecency
- sexual offences against children such as 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, juvenile prostitution, corrupting children, indecent acts

Consent

Meaningful consent for sexual activity is not possible in a pastoral or fiduciary relationship. Consent is understood as non-coercive, therefore, consent has not been given if an individual agrees to any sexual activity under threat, or if consent is obtained by fraud or through the influence of a person in authority over that person. Children under the age of 14 cannot give consent except in the limited circumstances between peers set out in section 150.1(2) of the Criminal Code. 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).

Complainant and Respondent

“Complainant” and “respondent” are terms which describe the person bringing the complaint and the person who is accused of sexual misconduct. The complainant may, in some circumstances, be the Diocesan Bishop.

1.4 Prevention

The Anglican Diocese of Toronto is committed to the prevention of sexual misconduct through a continuing program of education of clergy and laity.

1. The Diocesan Bishop of Toronto and the Diocesan Council take responsibility both for education about sexual exploitation, harassment and assault, and for the general implementation of this policy.
2. The Bishops and Diocesan Directors strive to make their places of work for Diocesan volunteers, clergy, and employees free from sexual exploitation, harassment and assault.
3. The Incumbents and Churchwardens of each parish strive to ensure that their congregations are free from sexual exploitation, harassment and assault.
4. This sexual misconduct policy is explained to existing clergy, staff and Diocesan volunteers and their written agreement to comply with this policy is required.
5. When new clergy are appointed or Diocesan and parish staff are hired, agreement to comply with all personnel policies of the church including this sexual misconduct policy is required in writing as a condition of employment or appointment.
6. When volunteers for Diocesan boards or committees or other councils are chosen, agreement to comply with this sexual misconduct policy is required as a condition of volunteering.
7. Part of the orientation for all new clergy, staff or for volunteers of Diocesan boards or committees, as well as other key volunteers, includes a review of this policy and the procedure for making complaints.
8. Training for clergy, Diocesan and parish employees and volunteers normally takes place at the beginning of their term in office or at least within the first six months of their appointment, and every three years thereafter.
9. The Canon Pastor and Director of Human Resources oversee the orientation and ongoing training of clergy and Diocesan employees concerning the workplace issues of sexual harassment, discrimination, sexual misconduct and ethical behavior. The Directors of each department are responsible for ensuring that members of the boards and committees with which they work have received such orientation and ongoing training. Churchwardens and Incumbents of parishes and those in charge of other Diocesan ministries are responsible for ensuring that employees and key volunteers have been trained and have consented to adhere to this policy.