

MISCONDUCT ADVISORY TEAM

DIOCESE OF CHARLOTTETOWN

FEBRUARY 7, 2011

DIOCESAN RESPONSE TO ALLEGATIONS
OF SEXUAL MISCONDUCT

The following protocol is a pastoral and Canonical response to allegations of sexual misconduct committed by a cleric, lay employee or volunteer of the Diocese of Charlottetown. This is an internal Diocesan investigation separate from any investigation initiated by Child and Family Services, by police or any other agency. Diocesan Staff, clergy and volunteers are to do all in their power to cooperate fully with police or other agencies conducting civil investigations. This procedure is to be followed in all cases where information is received, which has at least the semblance of truth, about an offence alleged to have been committed by a person over whom the Bishop of Charlottetown has jurisdiction. Anyone wishing to lodge a complaint is to contact the Vicar general or Chancellor of the Diocese at (902) 368-8005, their pastor, or Parish Pastoral Associate.

PHASE 1 - INITIAL COMPLAINT AND FOLLOW-UP:

1. When a complaint is received, the person receiving the complaint is to deal pastorally and compassionately with the complainant and explain the Diocesan policy to them. The complainant shall be referred immediately to the Bishop's delegate, or to an alternate appointed by the Bishop, so that a response to the complaint can be initiated within twenty-four hours. The alternate shall be called if the Bishop's delegate is not available or when there could be a conflict of interest. In cases involving a priest, the alternate must also be a priest; otherwise, a qualified Religious Brother or Sister or lay person may be chosen. The Bishop is to be informed that a complaint has been received.
2. The delegate shall investigate the allegation as a matter of urgent priority. The delegate shall report his/her findings to the Bishop. Care is to be taken that no one's good name is unnecessarily called into question.

Bishop's delegate is:

Rev. Lyndon P. Hogan

Bishop's alternate delegate is:

Rev. Eric J. Dunn

3. **If the complaint involves a child under the age of eighteen (18) years, the delegate has a legal obligation to report the allegation to Child and Family Services and/or the police. The Diocese will cooperate with police and other civil authorities and do all in their power to assist them in their investigation.**
4. If a child /children under the age of eighteen (18) years, other than the complainant or alleged victim, may be at risk, the allegation must be reported to police and Child and Family Services. The Diocesan Misconduct Advisory Team shall be notified that an allegation has been made.

5. The delegate shall advise police and Child and Family Services that the Diocesan policy requires that the family of the child be contacted, so that s/he might reach out pastorally to the family as soon as possible. The delegate also advises that the accused shall be notified of the accusation, unless police or Child and Family Services advises that to do so would seriously impede the process of their investigation.
6. The delegate ensures that Diocesan insurer(s) are notified of a potential claim.
7. The delegate shall offer the alleged victim and/or their guardian support, including referrals to therapy for the alleged victim and their family. Should the offer for counseling be accepted, the Diocese will pay for the counseling for an agreed upon term, which may be extended, depending on the circumstances. The delegate shall offer the alleged victim the assistance of a support person from the Misconduct Advisory Team. The role of the support person is to provide emotional support (not counseling), spiritual support, assistance with communication and assistance understanding the Diocesan procedure.
8. If the complaint involved allegations of sexual misconduct by a priest or staff member of the Diocese with an adult (over 18 years) and the complainant does not wish to pursue civil litigation, the delegate shall confer with the Bishop as to whether the Diocese wishes to undertake an internal investigation, or any other action. New norms from the Congregation for the Doctrine of the Faith (July 15, 2010) have doubled the statute of limitations for reporting misconduct cases to 20 years after the alleged victim's 18th birthday. Exceptions even for the 20 year limitation can be made on a case by case basis.
9. The delegate shall notify the person accused about the allegations as soon as circumstances reasonably permit. The person accused will be informed that they may be given an administrative leave by the Bishop until the civil and/or internal investigation has been completed. This administrative leave is in no way to be seen as an admission of guilt, but is for the benefit of all concerned (Canon 1722). If the person accused is a cleric, their faculties to preach (Canon 764) and the right to hear confessions (Canon 974 § 1) may be suspended. The delegate shall instruct the person accused to have no further contact, direct or indirect, with certain individuals, identified by name or in some other way. The delegate shall set up an initial interview with the person accused.
10. The delegate shall offer the services of a qualified professional counselor/therapist to the person accused. Should the offer for counseling be accepted, the Diocese will pay for the counseling for an agreed upon term, which may be extended depending on the circumstances. The delegate shall offer the assistance of a support person from the Misconduct Advisory Team. The support person for the accused person cannot be the support person for the alleged victim as well. Where circumstances require that an accused priest leave his living accommodations, the delegate and support person may assist him in finding appropriate alternate accommodations.
11. The delegate supplies the Bishop with a report of his findings as soon as circumstances reasonably permit.

12. The delegate shall convene a meeting of the Misconduct Advisory Team to provide consultation on appropriate assessment, treatment and support resources available to alleged victims and their family and to persons accused. The Misconduct Advisory team shall assist the Bishop in developing a plan of support for the parishioners or place of ministry affected by the allegation.

PHASE II - DIOCESAN INVESTIGATION

13. The Diocese has a right to conduct an internal investigation (Canon 1401) to determine whether the accused poses a hazard to children or vulnerable adults. Findings from the investigation will be used to determine future ministerial assignments and employment with the Diocese of Charlottetown. Following the investigation, depending on its outcome, the person accused may be returned to ministry or employment where he or she was assigned or they may be terminated from their ministry or position and Canonical sanctions/penalties may be applied (Canon 1311).
14. Where the person accused admits to part of or all of the allegations, or indicates that he or she does not wish to contest the allegation, s/he may be referred immediately to a specialized treatment facility for appropriate evaluation and/or treatment. Before treatment begins, they shall be required to sign a release, so that the report from the treatment facility will be made available to the Bishop and specified others. Successful completion of a treatment program will not automatically restore the person to their previous ministry or employment.
15. If, after the delegate's initial investigation is completed, the case warrants further investigation, and in the interest of truth, the Bishop may appoint an impartial investigator who is knowledgeable about sexual misconduct to investigate the complaint. The investigator's role is to be an impartial fact finder. The investigator shall interview the complainant, document the complaint in writing and provide the person accused with the written complaint, a description of his/her rights under the law and an opportunity to reply. The investigator shall interview the person accused, any witnesses and review any written documentation that may have a bearing on the allegations. Within sixty (60) days of his/her appointment, the investigator shall prepare a written report for the Bishop.
16. If the person accused is a cleric and the allegations have a semblance of truth the Bishop forwards the case to the *Congregation for the Doctrine of the Faith* along with all necessary information and expresses his opinion on the procedure to be followed and the measures to be adopted in both the short and long term.

PHASE III - CLERICAL SANCTIONS

17. The Congregation for the Doctrine of the Faith may:
- A. Authorize the bishop to conduct a judicial penal trial before a local Church tribunal.
 - B. Authorize the bishop to conduct an administrative penal process before a delegate of the local bishop and two assessors. The accused priest is called to respond to the accusations and to review the evidence. The accused has a right to present recourse to the *Congregation for the Doctrine of the Faith* against a decree condemning him to a canonical penalty. Should the accused choose to make an appeal, the decision of the Cardinal members of the *Congregation for the Doctrine of the Faith* is final.
 - C. In very grave cases where a civil criminal trial has found the cleric guilty of sexual abuse of minors or where the evidence is overwhelming, the *Congregation for the Doctrine of the Faith* may choose to take the case directly to the Holy Father with the request that the Pope issue a decree of “ex officio” dismissal from the clerical state. There is no canonical appeal for such a papal decree.
17. The applicable Canonical legislation for this Diocesan procedure is the Motu Proprio, “*Sacramentorum sanctitatis tutela*” and the 1983 *Code of Canon Law*. Canonical measures do not depend on whether an abuser was charged or convicted of a crime under the *Canadian Criminal Code* or other civil legislation or whether the abuser was found to have committed the abuse by a civil court.

MISCONDUCT ADVISORY TEAM:

18. A member of the Misconduct Advisory Team is to be appointed by the Bishop as a liaison with the media. The delegate will keep the media liaison informed of new developments. Wherever possible the media spokesperson should be a priest of the Diocese.

Media Spokesperson:

Fr. Paul Batchilder

19. The Misconduct Advisory team shall be convened at least twice a year, regardless of whether allegations have been received or not, to evaluate potential treatment options or counseling resources available, to keep abreast of changes in civil or Canon Law and/or new strategies for dealing with allegations and to review diocesan policy and procedures and recommend changes as necessary.