



## SEXUAL MISCONDUCT COMMITTEE OF THE ROMAN CATHOLIC DIOCESE OF CALGARY

*Through the Sacrament of Baptism, we are called to share our gifts with one another and with the world. Given the importance of this call from God, it is essential that we, as a community, do all we can to assure that the right gifts are shared in the right way, at the right time, by the right people. We fulfill our mission more effectively when we make every effort to ensure a richer, stronger, more vibrant and safer community of faith.*

**REVISED SEPTEMBER 1, 2011**  
**ACCEPTED BY BISHOP F.B. HENRY MARCH 12, 2011**



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## **1.0 INTRODUCTION**

### **1.1 *Guiding Principles***

As a local faith community of the Catholic Church, the Roman Catholic Diocese of Calgary upholds and promotes the values expressed in the Gospel of Jesus Christ and in the teachings and laws of the Catholic Church. This means, among other things, that the Diocese takes a stance of deep respect for all persons and commits itself to the well-being of all persons.

The Diocese upholds the fundamental goodness of all that God has created. The Diocese holds, further, that through the death and resurrection of Jesus all humanity is saved, lifted up, and transformed. We are also deeply aware of the continuing weakness of human beings and the sinfulness of humanity.

The Roman Catholic Diocese of Calgary views any allegation of sexual misconduct by a cleric, religious or lay Diocesan employee as a serious matter. The objective of this policy is to respond to complaints of sexual misconduct in a manner that is both pastoral in approach and effective in application. The Diocese is sincerely committed to the spiritual and emotional well-being of complainants, families, the priests or deacons and the parishes they serve.

The Diocese is also committed to promoting a greater awareness and appropriate responses among clergy, religious and all other church personnel to any allegations of sexual misconduct.

The Diocese is committed to complying with the obligations of canon, civil and criminal law as well as informing complainants, the families and the accused of their civil and legal rights.

### **1.2 *Ethical Responsibilities***

In every situation or allegation of misconduct by a clergyman, a staff member or a volunteer of the Roman Catholic Diocese of Calgary, the Diocese will respond in accordance with the principles and values of Christian and Catholic morality. The primary concern will be the wellbeing of all persons involved, both the one(s) who suffer the effects of misconduct and the one(s) who might be guilty of misconduct. The Diocese has a particular concern about the health and well-being of children, adolescents and vulnerable adults who might be affected.

### **1.3 *Legal Responsibilities***

The Diocese will also always act in accordance with the laws of Canada and of the Province of Alberta. If the allegation of sexual misconduct involves a minor as defined by law or there are minors at risk, this policy does not apply. In this instance refer to the Child Welfare Act of Alberta. That is, the application of this policy cannot in any manner interfere with any investigations as conducted by the appropriate civil authorities. The exception where these laws require a priest to violate the seal of the confessional.

### **1.4 *Policy Objectives***

This Policy sets out the position of the Roman Catholic Diocese of Calgary as to 1) what constitutes misconduct by a clergyman or by an employee or volunteer of the Diocese, 2) the

procedures to be followed if a complaint of misconduct is made, and 3) the discipline that may be imposed. The Policy is intended to provide a fair, thorough, objective, accountable, transparent and compassionate response to all who may be involved in a misconduct allegation. Complaints shall, so far as is reasonably possible and in accordance with applicable laws, be received, investigated and determined in confidence in order to respect the privacy of those involved. This Policy shall be administered in accordance with Canadian and Canon Law and shall reflect the beliefs of the Diocese as outlined above.

### ***1.5 Policy Not Exhaustive***

Abuse of children, adolescents and vulnerable adults is of special concern and will not be tolerated. Any person found guilty of such abuse shall be permanently removed from any ministry with children, adolescents and vulnerable adults. Persons suspecting that a child may be in need of protection as defined under the laws of the Province of Alberta are required to report this to civil authorities. Clergymen, employees and volunteers of the Diocese are expected to be familiar with and to comply with applicable child protection reporting requirements in the Province of Alberta

In addition, the procedures outlined in this Policy do not preclude a complainant from pursuing civil or criminal remedies, or from seeking legal counsel. If notice is received that the complainant intends to seek a civil or criminal remedy, the response of the Roman Catholic Diocese of Calgary under this Policy may be suspended in whole or in part. However, where a complaint is made to the Canadian Human Rights Commission or to any other human rights commission, the procedures outlined in this Policy will normally proceed.

### ***1.6 Confidentiality***

The Roman Catholic Diocese of Calgary will maintain the confidentiality of the complainant and the accused person at all times during the processes covered by this Policy to the extent possible. However, should the complaint or the circumstances surrounding it become public, the Misconduct Committee Chair may, after consultation with the Bishop (and/or the Misconduct Advisory Team) act as, or appoint, a media spokesperson to represent and speak on behalf of the Diocese in order to protect its interests and to act, so far as is reasonably possible, in accordance with the Guiding Principles, Ethical Responsibilities and Objectives of this Policy.

The Bishop will then ensure that the designated media spokesperson:

- has a copy of this Policy;
- understands the sensitivity of the issues involved and the desire of the Diocese to maintain confidentiality at all times; and
- is kept apprised of any new developments in the case.

## **2.0 DEFINITIONS**

### **2.1 *Misconduct:* an over-arching term that encompasses:**

- **abuse** (physical, sexual or verbal),
- **harassment**
- **exploitation of a ministerial relationship.**

**2.1.1 Abuse:** Any physical, verbal, emotional or sexual conduct towards any person that causes that person to have concern or fear for his or her physical or emotional safety or well-being. Such activity may or may not be criminal in nature. Child abuse, as defined under the child protection legislation of the Province of Alberta, also constitutes abuse under this Policy.

**2.1.2 Harassment:** Any unwelcome conduct that interferes with an individual's performance of his or her duties or creates an intimidating, hostile, or offensive environment for him/her.

**2.1.3 Exploitation of a ministerial relationship:** Any abuse of power, betrayal of trust or exploitation of the power imbalance that is inherent in a relationship between a member, employee or volunteer of the Roman Catholic Diocese of Calgary and a person with whom she or he has a ministerial relationship. Because of the imbalance of power between the person offering ministry and the person to whom ministry is offered, the apparent consent of a possible victim does not in itself determine whether or not there has been an abuse of power, a breach of trust or an act of exploitation. For ordained ministers it never does.

**2.1.4 Ministerial relationship:** A relationship involving trust and confidence that is based primarily upon the ministry offered by a priest or deacon or other minister to another person. Examples of ministry include counselling, spiritual guidance and the celebration of the sacraments.

### **2.2 *Chair and Committee Structure:***

#### **2.2.1 Sexual Misconduct Policy Administrator**

The Bishop shall appoint a Sexual Misconduct Committee & Chair to administer this Policy. The Bishop shall not participate in the investigation or the review of any complaint under this Policy prior to receiving the Sexual Misconduct Committee Chair's final report. The Bishop shall be the final adjudicator of any complaint that is brought before him and shall be responsible for determining what action, if any, will be taken under this Policy.

If the Bishop is himself accused of misconduct, a Vicar General shall assume the

Bishop's functions under this policy.

### **2.2.2 Diocesan Sexual Misconduct Committee**

The Diocese will maintain a standing **Diocesan Sexual Misconduct Committee**.

1. This Committee will advise and develop recommendations regarding the diocesan pastoral response to victims and its plan for the affected parish or institution.
2. The Bishop may delegate any member(s) of this Committee to conduct an investigation into an allegation of sexual misconduct by a cleric, religious or lay employee.
3. Members of this Committee are invited to serve by the Bishop. Membership should include: the Bishop, two diocesan priests, a canon lawyer, a civil/criminal lawyer, a psychiatrist or psychologist, a social worker, a survivor and community representatives. The Chair of this committee should be a lay person. The professionals selected should have demonstrated professional experience and expertise in the area of sexual misconduct. The composition of the Committee should reflect the cultural and ethnic diversity in the larger community. Member recruitment should also take into account the importance of achieving gender balance on the Committee.
4. The Committee will convene on a regular basis or at the request of the Bishop.

### **2.2.3 Chair**

The Misconduct Committee Chair shall administer this Policy. All complaints of alleged misconduct under this Policy shall be made or forwarded to the Misconduct Committee Chair. If the Misconduct Committee Chair is himself or herself the subject of a complaint, the Misconduct Committee Chair shall request that the Bishop appoint an Alternate as provided in section **2.2.4. infra**.

The Misconduct Committee Chair shall conduct an independent assessment of a complaint pursuant to the Policy (**3.2 infra**). If he/she determines it necessary, he/she shall also conduct, or appoint an Investigator to conduct, an independent investigation into the complaint pursuant to the guidelines of this Policy (**2.2.4. and 3.6 infra**).

The Misconduct Committee Chair is not the adjudicator of any complaint under the Policy. He/she shall make recommendations to the Bishop as to what action, if any, should be taken at the completion of his investigation.

### **2.2.4 Alternate Policy Chair**

In cases where there is a conflict of interest (actual or perceived) or for other compelling reasons, the Bishop may, on his own initiative or upon the request of the Misconduct Committee Chair, the complainant or the accused, appoint an Alternate to the Misconduct Committee Chair. The Alternate shall, as directed by the Bishop,

either:

- (a) act as a consultant to the Misconduct Committee Chair; or
- (b) act in place of or on behalf of the Misconduct Committee Chair.

#### **2.2.5 Investigator**

If the Misconduct Committee Chair determines that it is necessary or desirable, he/she may appoint an Investigator (s) to conduct the investigation. In most instances, it is desirable that two (2) investigators be appointed and that attention be given to the matter of gender. The Investigators shall have the same duties and responsibilities as the Misconduct Committee Chair in the course of the investigation and shall submit a written report of the findings to the Misconduct Committee Chair.

#### **2.2.6 Support Persons**

The Misconduct Committee Chair shall offer to provide separate Support Persons to complainants and accused persons during the investigation and adjudication of a complaint. The complainant and the accused person shall have separate Support Persons unless they each request and agree to have the same Support Person(s). Support may include emotional support (not counselling), spiritual support, assistance with communications, and assistance with understanding this Policy, including procedures with respect to responding to or making an allegation of misconduct. The Support Person shall not take part in the investigation except as a resource for the person to whom he or she is providing support.

#### **2.2.7 Other Assistance**

Because the well-being of its members and the persons to whom it offers ministry is of utmost concern, the Roman Catholic Diocese of Calgary shall offer to provide specific care for complainants and accused persons during the investigation of a complaint under this Policy. Provision of such care is within the discretion of the Misconduct Committee Chair and may include:

- Assistance with therapy fees for the complainant. Such assistance shall be provided for pastoral reasons and does not constitute an admission of responsibility or an admission that the facts as alleged occurred. The complainant shall acknowledge this in writing prior to receiving such assistance.
- Assistance with therapy or legal fees for the accused person. Such assistance is provided for pastoral reasons and does not constitute an admission of responsibility or that the facts as alleged occurred.

#### **2.2.8 Care for Communities at Risk**

The Roman Catholic Diocese of Calgary is also concerned about the well-being of the communities where the alleged abuse took place. Accordingly, the Diocese will provide such care and information to any place of ministry where misconduct is

alleged to have occurred as it deems necessary. In doing so, the Diocese will maintain the confidentiality of the complainant, the accused person and their families to the fullest extent possible.

## **3.0 PROCEDURE**

### **3.1 *Complaints/Initiating the Process***

Where a person wishes to make a complaint of sexual misconduct on the part of a clergyman, a member of a religious order, an employee or volunteer of the Roman Catholic Diocese of Calgary under this Policy, he or she may do so by contacting the Sexual Misconduct Committee Chair directly through the Chancery Office or by confidential email. Contact information as well as the protocols for the Sexual Misconduct Committee of the Roman Catholic Diocese of Calgary shall be prominently displayed on the Diocesan website. Complaints of sexual misconduct received by anyone else under this Policy shall be referred forthwith to the Sexual Misconduct Committee Chair. A complaint may also be initiated by the Diocese or by its employees or volunteers where sexual misconduct is suspected or has been reported but no complainant has come forward. Any such complaint shall also be referred forthwith to the Sexual Misconduct Committee Chair. The allegation will be brought to the attention of the insurance company so that an investigation can begin from early on in the process and that counseling services will be available to all concerned parties as coverage is provided in the policy.

### **3.2 *Preliminary Assessment***

Upon receiving a complaint of alleged misconduct, the Misconduct Committee Chair shall make a preliminary assessment of the complaint in order to determine whether or not to initiate an investigation. In doing so, the Misconduct Committee Chair shall:

- (a) explain to the complainant the procedures that shall be followed under this Policy;
- (b) obtain information about the complaint from the complainant, using the form provided;
- (c) ensure that the complainant receives an opportunity to consult with a Support Person and/or legal counsel if he or she so chooses; and
- (d) should the Chair decide to proceed with an investigation, he/she should immediately advise the Bishop to inform the Diocesan insurer.

In determining whether an investigation should proceed, the Misconduct Committee Chair shall consider:

- the credibility of the complainant; the seriousness of the allegations; the wishes of the complainant;
- the safety of the Diocese's ministries;
- the interests of the Diocese and its members;
- applicable laws, including Canon Law;

- the Guiding Principles, Ethical Responsibilities and Objectives of the Policy; and
- any other factor the Misconduct Committee Chair deems relevant and appropriate.

### **3.3 *Abuse of Children***

If the complaint involves allegations of abuse of children, the Misconduct Committee Chair shall:

- (a) if the complaint involves a child currently in need of protection as defined under applicable child protection legislation, report the allegations to the appropriate authorities immediately in accordance with the applicable law;
- (b) ensure that the Roman Catholic Diocese of Calgary co-operates fully with any investigation by appropriate authorities;
- (c) not conduct an internal investigation until any criminal or child protection investigation is completed;
- (d) if it appears that other children or vulnerable persons may be currently at risk, take such action as is appropriate in the circumstances and in accordance with this Policy and applicable law, or recommend such action to the Bishop;
- (e) if warranted, notify the Misconduct Advisory Team and keep them informed of the investigation, recommendations and any resolution of the complaint; and
- (f) inform the Bishop of the complaint and the steps taken by the Misconduct Committee Chair.

**3.3.1** Any clergyman or employee or volunteer of the Diocese who suspects that a child may be in need of protection as defined under applicable territorial or provincial laws must report this suspicion to the appropriate authorities. If the alleged abuser is a member of the Diocese or an employee or volunteer of the Diocese, then the Misconduct Committee Chair must also be advised of the allegations.

**3.3.2** Any clergyman, employee or volunteer of the Diocese who is accused of abuse of a child must notify the Misconduct Committee Chair immediately and should consult with independent legal counsel.

**3.3.3** The Bishop shall immediately remove anyone accused of child abuse from contact with children or other vulnerable persons and, if the accused is a clergyman or an employee of the Diocese, place him or her on paid administrative leave pending the outcome of any investigation by police or child protection workers.

### **3.4 *Harassment or Exploitation of a Ministerial Relationship***

Where a complaint involves harassment or exploitation of a ministerial relationship by a clergyman, pending the outcome of the Misconduct Committee Chair's investigation, where he considers it to be in the interests of the good order of the Diocese of Calgary, or in the best interests of the accused and the complainant, the Misconduct Committee Chair may recommend to the Bishop that he:

- (a) place the accused on paid administrative leave; or

- (b) place the accused in an alternate ministry either with or without restrictions depending on the circumstances.

### **3.5 *Where No Investigation Proceeds***

If the Misconduct Committee Chair determines that an investigation should not proceed, he shall so advise the complainant and make a report to the Bishop, setting out the nature of the complaint and the reasons why an investigation did not proceed. The complainant shall be informed that if dissatisfied with the Misconduct Committee Chair's decision, he or she may request the Bishop to review the decision. If the Bishop then decides an investigation should proceed, he shall refer the matter to an Alternate to conduct the investigation. If the Bishop does not proceed with an investigation, then a record of this and the reasons will be noted in a written report.

### **3.6 *Investigation***

Where an investigation proceeds, the Sexual Misconduct Committee Chair shall:

- (a) advise the complainant that an investigation shall be conducted and ensure that the complainant has an opportunity to meet with a Support Person;
- (b) advise the accused person of the nature of the complaint and that an investigation under this Policy is proceeding, and offer to provide a Support Person to the accused;
- (c) obtain any available insurance policies in effect at the time during which the alleged misconduct was to have occurred and notify the insurer of the potential claim;
- (d) interview or arrange for the interview of the complainant and any other individuals who may assist in the investigation and collect other relevant evidence;
- (e) after giving the accused person a reasonable opportunity to consider the complaint and, if so desired, to consult with a Support Person and/or legal counsel, interview or arrange for the interview of the accused person;
- (f) as deemed advisable, engage a court recorder to take down the proceedings of the investigation;
- (g) if the Sexual Misconduct Committee Chair considers it desirable, consult with the Misconduct Advisory Team or other professional advisors; and
- (h) upon completion of the investigation, prepare a written report to the Bishop that contains details of the complaint, a description of the evidence gathered, and recommendations as to what action, if any, should be taken by the Bishop. A copy of the written report shall be provided both to the complainant and to the accused.

### **3.7 *Informal Resolution of Harassment Claims***

In cases of alleged harassment, the Misconduct Committee Chair shall consider whether an informal resolution is possible and, if both the complainant and the accused person agree to participate, the Misconduct Committee Chair shall arrange an informal resolution process. Such a process may take the form of a "without prejudice" facilitated discussion between the complainant and the accused person or other type of mediation, as agreed to by the parties and approved by the Misconduct Committee Chair. If such a process does not result in a resolution of the complaint, a formal investigation may then proceed, although at any time during the course of

the investigation, if the Misconduct Committee Chair deems it appropriate and the parties agree, further informal resolution meetings may take place. All informal resolution discussions arranged by, or which occur with the approval of, the Misconduct Committee Chair, shall be “without prejudice” and not be used or referred to in any investigation or report. If a resolution is achieved, a resolution agreement shall be drawn up, signed by both parties and ratified by the Misconduct Committee Chair. A copy of the agreement shall be maintained in the file of the Misconduct Committee Chair.

### **3.8 *Bishop’s Adjudication***

Upon receipt of the Misconduct Committee Chair’s written report, the Bishop shall:

- (a) give the complainant and the accused person a reasonable opportunity to consult with legal counsel and to respond to the report in writing to the Bishop. Where the Bishop considers it desirable, he may also choose to meet with the parties;
- (b) if he considers it desirable, consult with legal counsel for the Diocese, the Sexual Misconduct Committee or any other appropriate professionals; and
- (c) make a final determination regarding the complaint and any action to be taken. This determination shall be made on the balance of probabilities, with the safety of children and vulnerable persons as a primary guiding principle. The determination shall be documented in writing and provided to the complainant and the accused person. Where practical, the accused and complainant shall be informed in person of the decision by the Bishop.

### **3.9 *Records where No Misconduct is Proven***

If the Bishop determines that no misconduct has been proven, no notation about the investigation or complaint shall be kept in the clergyman, employee or volunteer’s personnel file. The Misconduct Committee Chair shall, however, maintain a copy of the report and the Bishop’s decision in a confidential file in the Misconduct Committee Chair’s care.

### **3.10 *Discipline***

If misconduct is found to have occurred, the Bishop shall determine the appropriate discipline, which may include the following, depending on the circumstances:

**Caution:** The Bishop gives an oral caution to the person and notes it on the person’s file.

**Warning:** The Bishop gives a warning in writing with a copy of the warning going into the person’s file.

**Reprimand:** The person appears before the Bishop and is given a reprimand in writing with a copy of the reprimand going into the person’s file.

**Censure:** The person appears before the Bishop, is given a reprimand in writing, with a copy of the reprimand going into the person’s file; opportunities for rehabilitation are provided as needed; and ongoing reports are given to the Bishop for at least one year after resuming work.

**Administrative leave:** the person found guilty of misconduct is suspended from the exercise of ministry, employment or volunteer work until there is clear evidence to the Bishop of rehabilitation and restoration. The person will be provided opportunities for rehabilitation as needed, and ongoing reports will be given to the Bishop for at least one year.

**Termination:** the person’s appointment, employment, or volunteer work is terminated.

### ***3.11 Juridical Norms of the Roman Catholic Diocese of Calgary and Canon Law***

In addition to the disciplinary procedures listed above, the Roman Catholic Diocese of Calgary is also bound by the applicable juridical norms (e.g. Articles of Incorporation, By-laws, etc.) and any other provisions under Canon Law. The Bishop shall ensure adherence to the requirements of these juridical norms and of Canon Law.

### ***3.12 Permanent Removal Where Child Abuse Is Determined***

The Bishop shall permanently remove from any ministry or work with children or adolescents any person found guilty of child abuse.

### ***3.13 Appeal***

Members of the Roman Catholic Diocese of Calgary have the right to appeal the disciplines of “Administrative Leave” or “Termination” according to the juridical norms of the Diocese and the provisions of Canon Law. The same right applies to employees of the Diocese according to the laws of the Province of Alberta.

## **4.0 OTHER MATTERS**

### ***4.1 Investigation of Alleged Child Abuse or Criminal Activity***

Following the completion of any criminal or child protection proceedings, the Roman Catholic Diocese of Calgary may conduct an internal investigation in order to determine whether an accused clergyman, employee or volunteer poses a hazard to children or other vulnerable persons. Such investigation shall be conducted pursuant to the guidelines set forth in this Policy and shall have as the primary guiding principle the safety of children and vulnerable adults. The results of this investigation shall be considered in determining any future assignments of the accused person.

### ***4.2 Records of Complaints***

Any complaint received by the Misconduct Committee Chair, whether or not an investigation is conducted, shall be maintained in the Misconduct Committee Chair’s confidential records. Copies of all files, records or reports pertaining to any complaint and investigation shall also be maintained in the Misconduct Committee Chair’s records.

### ***4.3 Payment of Accused’s Counsel Fees***

Because of his incardination, where the accused under this Policy is a clergyman of the Diocese of Calgary, the Diocese shall pay the reasonable fees of his independent legal counsel to defend a complaint. Depending upon the circumstances, the Diocese may also choose to pay some or all of the reasonable counsel fees of their employees, religious, non-incardinated priests or volunteers in defending a complaint under this Policy.

#### **4.4 *Sexual Misconduct Committee Chair's Annual Report***

On an annual basis, the Misconduct Committee Chair shall make a year-end report to the Bishop on the activities conducted under this Policy. This report may also include any of the Misconduct Committee Chair's recommendations about the workings of the Policy or suggestions for improvements to the Policy.

## **5.0 ~~SEXUAL MISCONDUCT COMMITTEE CHAIR~~ CONTACT:**

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## **6. OTHER DOCUMENTS**

***MODEL CODE OF CONDUCT***

***AGREEMENT TO ABIDE BY THE MODEL CODE OF CONDUCT***