

Sexual Misconduct Policy:

sexual harassment, exploitation and assault

October 2001

Section 2: Procedures



Diocese of Toronto
Anglican Church of Canada

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First version approved by Diocesan Executive Committee, 1992
Second policy approved by the Executive Committee, May 1999
Revised and approved October 2001, February 2004, June 2008
Administrative Revisions made September, 2010
Revised and approved September 2011, June 2014

Section 2: Procedures

Introduction

1. Purpose

This Sexual Misconduct Policy is intended to fulfill at least the following purposes:

- a) to help prevent sexual misconduct from occurring;
- b) to provide workable and fair procedures for responding to complaints of sexual misconduct;
- c) to provide a basis and framework for ongoing training and education on issues of sexual misconduct and the implementation of the policy.

2. Application

This policy is subject to the Canons of the Diocese of Toronto and the General Synod of the Anglican Church of Canada.

All clergy, employees and volunteers are expected to be familiar with this policy, consent to it and adhere to it. Other organisations functioning in the name of the Church or on its property are required to adhere to this policy or an equivalent one.

3. Initiation of Complaint

There are two ways in which an investigation of alleged sexual misconduct can be initiated under this policy.

- a) A person wishing to take action under this policy notifies the Canon Pastor, who determines which of the procedures under this policy (that is, sexual harassment or exploitation or sexual assault) most fittingly applies. As facts emerge, a complaint may be reclassified as harassment or exploitation or assault and the Canon Pastor has the right to redirect the management of the response accordingly.

All employees, clergy, and volunteers are encouraged to come forward with a valid complaint, or seek advice without fear of retaliation or reprisals.

- b) The Bishop may request the Canon Pastor to initiate an investigation under the relevant procedures of this policy where there is reasonable suspicion of sexual misconduct as defined in this policy, whether or not a complainant wishes to make a formal complaint. The Canon Pastor is required to advise the Bishop when he/she has been given information that may lead to a reasonable suspicion of sexual misconduct. In the case of an investigation initiated at the request of the Bishop, a signed release by the complainant is not required.

4. Timely Procedures

Complainants and respondents are expected to proceed in a timely way to address issues of sexual misconduct under this policy. Fairness to the complainant and the respondent requires that the complaint be initiated and processed expeditiously. The timelines are generally followed but extensions for significant cause are allowed. The Canon Pastor, after consultation with the appropriate resource people, may decline to deal with a complaint at any stage if, in his or her opinion, the initiation or processing of the complaint has been unreasonably delayed and substantial prejudice will result to the complainant or respondent.

5. Confidentiality

All complaints under this policy are dealt with confidentially, within the stated guidelines [outlined in Appendix D.] However, confidentiality may be limited as necessary for the administration of this policy, or as required by law, or where anyone is at risk, or if confidentiality is waived by the parties.

6. Legal Counsel and Civil Proceedings

This policy is not intended to preclude a complainant from seeking legal counsel or seeking a civil remedy. However, if there is notice that civil proceedings have commenced or may be commenced, any procedures under this policy will normally be suspended, except for the provision of emotional support and pastoral care as outlined in the policy.

7. Complaints against the Bishop

In the event that a complaint is made against the Diocesan Bishop, then the provincial Metropolitan (or the Primate if the Diocesan Bishop is Metropolitan) performs all functions under this policy that would otherwise be undertaken by the Diocesan Bishop.

8. Complaints against an Area Bishop or the Secretary of Synod

In the event that a complaint is made against an Area Bishop, the Diocesan Bishop performs all functions under this policy that would otherwise be undertaken by the Area Bishop.

In the event that a complaint is made against the Secretary of Synod, the Diocesan Bishop performs all functions under this policy that would otherwise be undertaken by the Secretary of Synod.

9. Vexatious Complaints

No person or persons is to knowingly make a false or malicious complaint. If it is determined that there was no sexual misconduct and that the complaint was initiated falsely or maliciously, then appropriate disciplinary action is to be taken against the person making the false or malicious complaint. The Canon Pastor, after consultation with the appropriate resource people, may decline to deal with a complaint at any stage if, in his or her opinion, the complaint is trivial, frivolous, malicious or made in bad faith.

10. Policy Revisions

A committee appointed by the Bishop reviews and proposes revisions to this policy as necessary every three years. (The policy may be revised sooner to bring it into conformity with new legislation.)

2.1 Sexual Harassment: Procedures

A. Introduction

1. When a person believes that he/she is experiencing sexual harassment, they may choose to proceed by an informal process rather than a formal process. Failing resolution or if a person is reluctant to confront the respondent, the person may proceed by a formal process and/or professional mediation. A decision by a complainant to choose not to attempt an informal process is not to be construed adversely in a formal process under this policy.
2. All complaints related to children under the age of sixteen which give rise to reasonable grounds that the child is in need of protection are treated as child abuse and reported to the Children's Aid Society.
3. If an individual feels he/she has been sexually harassed, the person may attempt, where possible, to clearly advise the person who is the source of the unacceptable behaviour, either verbally or in writing, that the conduct is unwelcome, that it is understood as sexual misconduct and that it must stop.
4. The complainant may find it helpful to keep detailed written notes recording the unwelcome behaviour, with date(s), time(s), location(s) and witness(es).
5. Where a complainant alleges sexual assault, the Canon Pastor will advise the complainant that she/he seek the assistance of the police rather than using the Policy.
6. If criminal charges have been laid against a respondent in connection with the subject matter of the complaint, no further proceedings will be taken under the Policy until the charges are either resolved or dropped. At that point, having regard to the particular circumstances, proceedings under the Policy may be reinstated by the Canon Pastor.

B. Informal process

1. A person complaining of harassment or the respondent may request the Canon Pastor to assist with communications between the parties in an effort to reach a mutually satisfactory resolution. The Canon Pastor determines whether an informal process is appropriate in the circumstances and may in their discretion appoint a person to facilitate this.
2. The informal process may include:
 - a) separate meetings with each of the parties;
 - b) a confidential meeting between the two parties for the purpose of discussion;
 - c) an educational session on harassment for the individual or work group, if appropriate;
 - d) referral to other resources as appropriate.
3. The informal process ends with a resolution agreement signed by both parties and ratified by the Canon Pastor, and with a copy given to each party. A memo summarizing the process will be placed on the file of the Canon Pastor. No record is placed in the individual's personnel files.

4. In the event that an informal process is unsuccessful, the Canon Pastor may commence an investigation into the complaint, normally within thirty (30) days.

Note: Statements made by either the complainant or the respondent in the course of an informal process are considered to be without prejudice under this policy and are not to be produced in an investigation under this policy if a formal process occurs. However, anyone may be required by law to give statements or produce documents.

C. Formal Process

General Information

1. If a formal process is initiated, it may be diverted to mediation at any point upon mutual agreement of the complainant and respondent. The Canon Pastor may refer the complaint, at any time, to a professional mediator if both the complainant and respondent agree to do so. The fee of the mediator is paid by the Diocese. The parties are responsible for their own legal expenses, if incurred.
2. The diocesan resource persons appointed in the formal process to provide support and pastoral care, or to investigate, cannot have acted in the informal process.
3. Upon mutual agreement of the parties a resolution may be agreed upon at any point in the process.

The Complaint

4. The complainant notifies the Canon Pastor in writing that he/she wishes to make a formal complaint under this policy. Alternatively, the Diocesan Bishop requests the Canon Pastor to initiate an investigation if she/he has a reasonable suspicion that sexual misconduct has occurred.
5. The complainant is provided with a copy of this policy and is asked to put the complaint in writing. The written complaint includes an account of the incident(s), date(s), time(s), name of the respondent(s), name of witness(es), if any, and is signed and dated by the complainant. The complainant is asked to sign a consent to release of information. This is normally accomplished within two (2) weeks of first contacting the Canon Pastor about the complaint. The complainant is offered the support of a diocesan resource person.
6. The Canon Pastor after consultation with the Area Bishop advises the senior person responsible for the place where the harassment allegedly occurred as to whether there are to be changes in location, reporting responsibilities, etc., of the complainant or the respondent, during the investigation. The final decision regarding such changes is to be that of the senior person responsible (unless he/she is the respondent in which case the final decision is made by the Area Bishop).
7. The Canon Pastor notifies the Secretary of Synod of the complaint. The Secretary of Synod notifies the diocesan insurers of a potential claim.
8. All public communications, including parish and media contacts, are made only by the Diocesan Bishop or his or her designate. All public statements are to have due regard to confidentiality of the affected parties and the principle of innocence until guilt is proven.

9. If the misconduct allegedly occurred in a place of ministry of the diocese, the Area Bishop, having regard for the pastoral needs of that place of ministry during and following the investigation, may request the Canon Pastor to appoint a crisis response team to provide appropriate short term support.

Mediation

10. If both parties and the Canon Pastor agree to mediation, the Canon Pastor makes the arrangements for the mediation. If any of the parties do not agree to participate in mediation, the complaint proceeds directly to investigation.
11. If mediation is initiated during the formal investigation, the investigation is put on hold and the mediation process shall take no longer than thirty (30) days from the time the mediation was agreed to, unless otherwise agreed in writing between the parties
12. The results of the mediation are reported by the mediator to the Canon Pastor who informs the Diocesan Bishop. The Bishop considers the mediation agreement, if any, in making his or her final decision.
13. If mediation fails, the investigation continues and the Diocesan Bishop makes a final decision.

The Investigation

14. The Canon Pastor appoints an investigating team.
15. The Canon Pastor informs the complainant of the names of the investigating team.
16. Investigating team meets with the complainant within one week of receipt of the complaint, or the complaint from the Bishop, and interviews the complainant. The investigating team documents the complaint in writing (“complaint report”).
17. Investigating team reviews the complaint report with the complainant who signs it to indicate agreement with its accuracy. Investigating team gives this to the Canon Pastor.
18. After receipt of the complaint report, the Canon Pastor contacts the respondent and informs him or her that he or she is the subject of a formal investigation under the Sexual Misconduct Policy. (In some circumstances the Canon Pastor may notify the respondent of the complaint prior to receipt of the complaint report. For example, such situations might include an awareness that rumours are spreading about the complaint; the Canon Pastor may be aware that the respondent is already informally aware of the complaint; or some interim action in light of the allegations needs to be taken.)
19. The Canon Pastor gives the respondent a copy of this policy and the complaint report. The Canon Pastor describes the complaint process, explains limitations on confidentiality and advises the respondent of his/her right to seek independent legal counsel.
20. The Canon Pastor advises the respondent of the names of the investigating team who will be requesting a meeting and that the respondent has two weeks in which to respond to the allegations.

21. The Canon Pastor offers assistance of a support person. (Support person cannot be the same person as a member of the investigating team on this case.)
22. Investigating team meets with the respondent within two weeks after the respondent has received the written documentation of the complaint. Investigating team interviews the respondent and/or receives the respondent's written reply to the complaint.
23. If the respondent declines to reply to the complaint, the investigating team completes the investigation without the respondent's response.
24. The investigating team interviews any other person or reviews any other documentation that may be relevant to the complaint.
25. The Canon Pastor monitors the work of the investigating team and support persons, ensuring required deadlines and other procedural requirements are met.
26. The Canon Pastor receives the report of the findings of the investigating team which shall contain findings of fact on any significant factual disputes with respect to the complaint.
27. The complainant and respondent each have the right to request a separate, but not confidential, meeting with the Diocesan Bishop during the period of investigation prior to the Bishop's decision.

Decision-Making Process

28. The Diocesan Bishop meets with the respondent, within three (3) weeks of receiving the report, to inform him/her of the final decision. The decision is in writing. The complainant is also informed of the decision by the Diocesan Bishop in writing and meets with the Diocesan Bishop unless the complainant advises the Diocesan Bishop that she/he does not wish to meet.
29. Where a complaint is sustained, a copy of the Diocesan Bishop's decision is maintained in the Canon Pastor's file and the respondent's personnel file. When a complaint is not sustained, there is no record of it in the individual's personnel file. However, summary documentation of the case is maintained in the confidential file of the Canon Pastor.

Discipline

30. The nature and type of discipline is determined by the Diocesan Bishop if a complaint is sustained and depends on the severity and frequency of the incident(s). Disciplinary measures may include counselling sessions, sensitivity training, a written warning or reprimand, an assigned on-site supervisor, transfer or limitations placed on function, suspension without pay, termination or relinquishment of exercise of ministry, or other discipline provided for in Canon 22.
31. If it is determined there was no sexual harassment and that the complaint was initiated maliciously, appropriate disciplinary action is taken by the Diocesan Bishop.

Appeal

32. An appeal of the Diocesan Bishop's decision may be made to the Metropolitan Bishop within thirty (30) days of the receipt of the Diocesan Bishop's decision by filing a written request with the reasons for the appeal. The consent of the Metropolitan will be sought in advance to hear the appeal or to nominate someone to act in his/her place to hear the appeal.

Committee of Review

33. Where an employee, volunteer or cleric is suspended or relinquishes his/her licence or has limitations placed on his/her functioning for longer than one year as a result of sexual harassment, his/her status may be reviewed and changed after a period of one year. The review is conducted by a committee of review appointed by the Diocesan Bishop which reports its recommendations to the Diocesan Bishop.

Civil Proceedings

34. This policy is not intended to preclude a complainant from seeking legal counsel or seeking a civil remedy either through the courts or under the Ontario Human Rights Code. However, if there is notice that civil proceedings have been commenced or may be commenced, or that a complaint has been filed with the Human Rights Tribunal of Ontario, any procedures under this policy are normally to be suspended, except for the provision of pastoral care as outlined in the policy.

Time Limits

35. The Canon Pastor may in his/her sole discretion, upon request or when dictated by the circumstances, extend the time for taking any step under the Policy.

Flow Chart of Response to Complaint of Harassment

Informal Process (optional)	
Complainant tells respondent to stop the unwelcome behaviour ↓	
Complainant documents details ↓	
Complainant may request the assistance of a diocesan resource person ↓	Formal Process
Case resolved with a resolution agreement	Case unresolved or complainant makes formal written complaint ↓
	Bishop, Area Bishop and Secretary of Synod informed of the complaint ↓
	Complainant offered the assistance of a diocesan resource person ↓
	Investigating team appointed ↓
	Investigating team meets with complainant and prepares complaint report ↓
	Respondent given the written complaint, given policy and offered the assistance of a diocesan resource person ↓
	Mediation (<i>may be initiated at any point in the process</i>) ↓
	Investigating team interviews respondent and others deemed necessary ↓
	If mediation is rejected or fails, the investigation is resumed ↓
	The investigation team writes the final report. The report will be sent to the Canon Pastor and the Bishop ↓
	The Canon Pastor on review of the report sends a report to the Bishop including suggestions of possible sanctions for the respondent if deemed appropriate ↓
	Mediation result report presented to Bishop ↓
	The Diocesan Bishop makes a final decision and determines appropriate discipline; conveys decision to both parties ↓
	An appeal may be made

2.2 Sexual Exploitation: Procedures

The Complaint

1. The complainant notifies either the Canon Pastor in writing that he/she wishes to make a formal complaint under this policy. Alternatively, the Diocesan Bishop requests the Canon Pastor to initiate an investigation if she/he has a reasonable suspicion that sexual misconduct has occurred.
2. The complainant is provided with a copy of this policy and is asked to put the complaint in writing. The written complaint includes an account of the incident(s), date(s), time(s), name of the respondent(s), name of witness(es), if any, and is signed and dated by the complainant. The complainant is asked to sign a consent to release of information. This is normally accomplished within two (2) weeks of first contacting the Canon Pastor about the complaint. The complainant is offered the support of a diocesan resource person.
3. The Canon Pastor advises the senior person responsible for the place where the misconduct allegedly occurred as to whether there are to be changes in location, reporting responsibilities, etc., of the complainant or the respondent, during the investigation. The final decision regarding such changes is to be that of the senior person responsible (unless he/she is the respondent).
4. The Canon Pastor notifies the Secretary of Synod of the complaint. The Secretary of Synod notifies the diocesan insurers of a potential claim.
5. All public communications, including parish and media contacts, are made only by the Diocesan Bishop or his or her designate. All public statements are to have due regard to confidentiality of the affected parties and the principle of innocence until guilt is proven.
6. If the misconduct allegedly occurred in a place of ministry of the diocese, the Area Bishop, having regard for the pastoral needs of that place of ministry during and following the investigation, may request the Canon Pastor to appoint a crisis response team to provide appropriate short term support. (See appendix A.)

The Investigation

7. The Canon Pastor appoints an investigating team
8. The Canon Pastor informs the complainant of the names of the investigating team.
9. Investigating team meets with the complainant within one week of receipt of the complaint or the complaint from the Bishop and interviews the complainant. The investigating team documents the complaint in writing (“complaint report”).
10. Investigating team reviews the complaint report with the complainant who signs it to indicate agreement with its accuracy. Investigating team gives this to the Canon Pastor.
11. After receipt of the complaint report, Canon Pastor contacts the respondent and informs him or her that he or she is the subject of a formal investigation under the Sexual Misconduct Policy. (In some circumstances the Canon Pastor may notify the respondent of the complaint prior to receipt of the complaint report. For example, such situations might include an awareness that

rumours are spreading about the complaint; the Canon Pastor may be aware that the respondent is already informally aware of the complaint; or some interim action in light of the allegations needs to be taken.)

12. The Canon Pastor gives the respondent a copy of this policy and the complaint report. The Canon Pastor describes the complaint process, explains limitations on confidentiality and advises the respondent of his/her right to seek independent legal counsel.
13. The Canon Pastor advises the respondent of the names of the investigating team who will be requesting a meeting and that the respondent has two weeks in which to respond to the allegations.
14. The Canon Pastor offers assistance of a support person. (Support person cannot be the same person as a member of the investigating team on this case.)
15. Investigating team meets with the respondent two weeks after the respondent has received the written documentation of the complaint. Investigating team interviews the respondent and/or receives the respondent's written reply to the complaint.
16. If the respondent declines to reply to the complaint, the investigating team completes the investigation without the respondent's response.
17. The investigating team interviews any other person or reviews any other documentation that may be relevant to the complaint.
18. The Canon Pastor monitors the work of the investigating team and support persons, ensuring required deadlines and other procedural requirements are met.
19. The Canon Pastor receives the report of the investigating team. The Canon Pastor may obtain outside professional consultation. The Canon Pastor may direct the investigating team to conduct further enquiries such as interviewing of witnesses or reviewing corroborating or exculpatory information.
20. The complainant and respondent each have the right to request a separate, but not confidential, meeting with the Diocesan Bishop during the period of investigation prior to the Diocesan Bishop's decision.

Decision-Making Process

21. The Diocesan Bishop meets with the respondent, within three (3) weeks of receiving the report, to inform him/her of the final decision. The decision is in writing. The complainant is also informed of the decision by the Diocesan Bishop in writing, and where possible, in person.
22. Where a complaint is sustained, a copy of the Diocesan Bishop's decision is maintained in the Canon Pastor's file and the respondent's personnel file. When a complaint is not sustained, there is no record of it in the individual's personnel file. However, summary documentation of the case is maintained in the confidential file of the Canon Pastor.

Discipline

23. The nature and type of discipline is determined by the Diocesan Bishop if the complaint is sustained and depends on the severity and frequency of the incident(s). Disciplinary measures may include counselling sessions, sensitivity training, a written warning or reprimand, an assigned on-site supervisor, transfer or limitations placed on function, suspension without pay, termination or relinquishment of exercise of ministry, or other discipline provided for in Canon 22.
24. If it is determined there was no sexual exploitation and that the complaint was initiated maliciously, appropriate disciplinary action is taken by the Diocesan Bishop.

Appeal

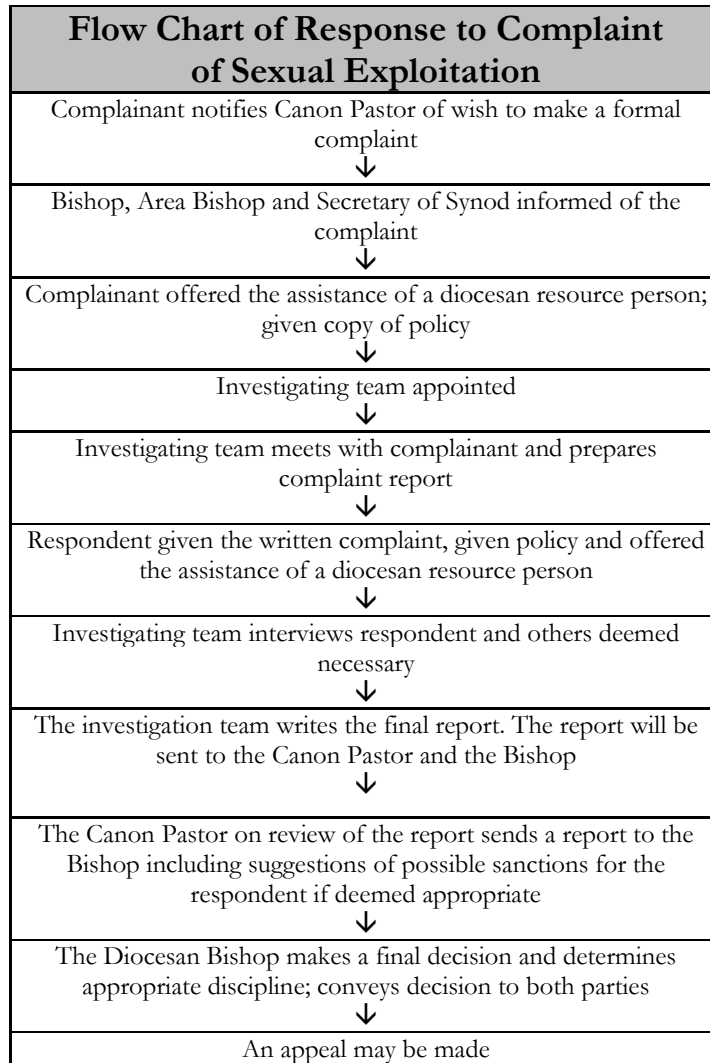
25. An appeal of the Diocesan Bishop's decision may be made to the Metropolitan Bishop within thirty (30) days of the receipt of the Diocesan Bishop's decision by filing a written request with the reasons for the appeal.

Committee of Review

26. Where an employee, volunteer or cleric is suspended or relinquishes his/her licence or has limitations placed on his/her functioning for longer than one year as a result of sexual exploitation, his/her status may be reviewed and changed after a period of one year. The review is conducted by a committee of review appointed by the Diocesan Bishop which reports its recommendations to the Diocesan Bishop.

Civil Proceedings

27. This policy is not intended to preclude a complainant from seeking legal counsel or seeking a civil remedy either through the courts or under the Ontario Human Rights Code. However, if there is notice that civil proceedings have been commenced or may be commenced, or that a complaint has been filed with the Human Rights Tribunal of Ontario, any procedures under this policy are normally to be suspended, except for the provision of pastoral care as outlined in the policy.



2.3 Sexual Assault: Procedures

- Sexual assault is sexual activity which may be criminal in nature, and is dealt with seriously.
- There are different procedures outlined in this policy depending on whether the complaint involves a child (or a vulnerable adult) or an adult.

2.3 A. The Process when the Complaint Involves a Child (or Vulnerable Adult)

1. **Obligation and Reasonable Grounds for Reporting**

Where a person suspects on reasonable grounds that a child is or may be in need of protection, this suspicion must be reported to child protection authorities. (In Ontario, a report must be made to a Children's Aid Society). This provision specifically includes a non-delegable obligation on respective members of clergy. For professionals and clergy, failure to report is a provincial offence.

For the purposes of this policy, a suspicion is defined as:

- ◆ a complaint from the child
- ◆ circumstantial evidence, such as cries for help, unexplained physical injury, etc.
- ◆ a statement of a credible eye witness to a recent complaint
- ◆ a statement of another that is buttressed with detail from the surrounding circumstances
- ◆ a credible witness who corroborates the statement of another (gossip and unsubstantiated conclusion are excluded.)

Anyone who is unsure as to whether she or he should report that abuse might have occurred is encouraged to seek the advice of colleagues, superiors, or child protection professionals. If there is doubt, it is preferable to err on the side of protecting the child.

Under the provisions of the Child and Family Services Act, a special obligation to report child abuse is placed on any person who in the course of their professional duties believes on reasonable grounds that a child is being abused or has been abused. This provision specifically includes a non-delegable obligation on respective members of clergy. For professionals and clergy, failure to report is a provincial offence.

It is noted that in Ontario the duty to report suspected child abuse overrides the privilege of confidentiality (including that of doctors and clergy). This law dictates that the positive requirements of the obligation to report supersede the confessional seal.

2. The person who suspects abuse is obligated in law to report personally the suspicion to child protection authorities. No action is taken by the Diocese against a person who institutes his or her own report.
3. Any member of staff or of the clergy of the Diocese who is aware of a report indicating that a child is being or may have been abused by a member of the staff or the clergy, or by a volunteer of the Diocese, informs the Canon Pastor who notifies the Diocesan Bishop, who in turn informs the appropriate Area Bishop.

4. The Canon Pastor notifies the Secretary of Synod of the complaint. The Secretary of Synod notifies the diocesan insurers of a potential claim.
5. The Canon Pastor immediately confirms with the child protection authorities that a report of the suspicion of abuse has been made.
6. The Canon Pastor documents the report.
7. The Diocese co-operates fully with child protection and/or police authorities who are investigating reports of child abuse.
8. The Area Bishop contacts the child's family following consultation with the Children's Aid Society (and/or investigating police department). The Canon Pastor, in consultation with the Area Bishop, offers the support of a diocesan resource person to the child and the child's family. In order not to interfere with the progress of the investigation, such contact to offer support is made only after the investigating authorities have indicated it is acceptable.
9. The respondent is notified of the report by the Canon Pastor, in consultation with the Area Bishop responsible for the respondent, unless there are concerns that such notification will impede the progress of the investigation.
10. The Canon Pastor, in consultation with the Area Bishop, offers the support of a diocesan resource person to the respondent (and his/her family as appropriate.)
11. Financial support and considerations related to the housing of families of respondents who are clergy are dealt with in accordance with Diocesan Canons, Policies and Guidelines.
12. Where a member of staff or clergy, or a volunteer is accused of child abuse, that person is normally removed from church related duties until all investigations and legal proceedings are completed and the Diocesan Bishop is satisfied that the person poses no risk to children. This removal implies no inference of guilt and may be reviewed periodically. The Diocesan Bishop may at his or her discretion inhibit the accused person [Canon 22 s. 12.]
13. All public communications, including parish and media contacts, are made only by the Diocesan Bishop or his or her designate. All public statements have due regard to confidentiality of the affected parties and the principle of innocence until guilt is proven.
14. If the assault allegedly occurred in a place of ministry of the diocese, the Area Bishop, having regard for the pastoral needs of that place of ministry during and following the investigation, may request the Canon Pastor to appoint a crisis response team to provide appropriate short term support. (See appendix A.)
15. Following the completion of all criminal and/or civil proceedings, the Diocese has the right and obligation to conduct an internal investigation to determine whether the accused person poses a hazard to children or vulnerable persons. The status of the respondent is determined according to the Canons of the Diocese. **Persons who have been found in a criminal proceeding to have committed sexual assault of a child shall under no circumstances be given duties of**

any kind (low, medium, or high risk) in the Diocese. In the case of acquittal of a person charged with sexual assault of a child (or where charges have not been proceeded with), the Diocese reserves the right to make an independent determination of the facts and the potential risks posed by the respondent based on a standard of the balance of probabilities, and erring on the side of protection of children and vulnerable persons.

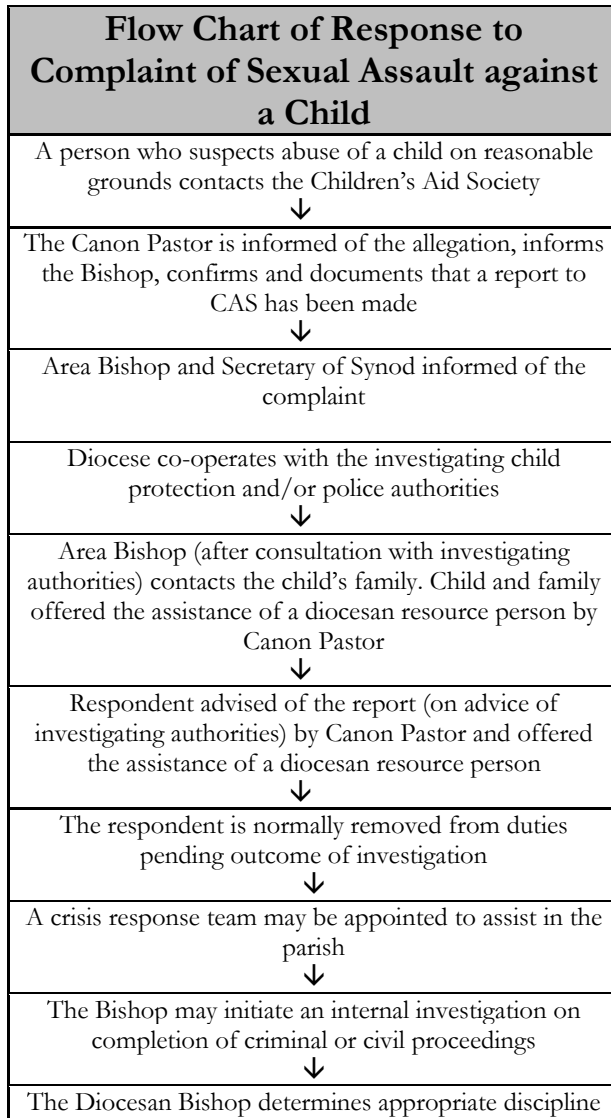
16. Where a respondent is fully exonerated of the accusation, this determination is announced publicly.
17. Where a complaint is sustained, a copy of the Diocesan Bishop's decision is maintained in the Canon Pastor's file and the respondent's personnel file. When a complaint is not sustained, there is no record of it in the individual's personnel file. However, summary documentation of the case is maintained in the confidential file of the Canon Pastor.

Discipline

18. Individuals found guilty of sexual assault are disciplined (Canon 22 s. 11). The nature and type of discipline is determined by the Diocesan Bishop and depends on the severity and frequency of the incident(s). Disciplinary measures are in accordance with the provisions of Canon 22.
19. If it is determined there was no sexual assault and that the complaint was initiated maliciously, appropriate disciplinary action is taken by the Diocesan Bishop.

Appeal

20. An appeal of the Diocesan Bishop's decision may be made to the Metropolitan Bishop within thirty (30) days of the Diocesan Bishop's decision by filing a written request with the reasons for the appeal.



2.3 B. The Process when the Complainant Is an Adult

The Complaint

1. When a person notifies the Canon Pastor that he/she wishes to make a formal complaint of sexual misconduct, the canon pastor determines which of the procedures under this policy (that is, sexual harassment or exploitation or sexual assault) most fittingly applies. If the sexual activity forming the basis of the complaint may be defined as criminal under the Criminal Code of Canada, the Canon Pastor encourages the complainant to report this matter to the police. The Canon Pastor may assist the complainant to do so. No report is to be made to the police without the consent of the adult complainant unless there is a grave concern that others may be at similar risk of assault, or the adult complainant is mentally incompetent. If the complainant chooses not to report the matter to the police, the complaint will be investigated according to “Sexual Exploitation Procedures” in this policy, even if the complainant chooses not to make a written complaint. Alternatively, the Diocesan Bishop requests the Canon Pastor to initiate an investigation if she/he has a reasonable suspicion that sexual misconduct has occurred.

If the Complainant was a Minor at the Time

2. Where the complaint involves abuse that allegedly occurred when the adult complainant was a child, no report will be made without the consent of the complainant unless either there is suspicion that other children are currently being abused or the person receiving the report has grave concerns for the safety of other persons. If it appears that other children may currently be abused, the person hearing the complaint will follow the procedures in section 2.3 A above, “The Process when the Complaint Involves a Child.”

Reporting and Co-operation with Authorities:

3. Where a member of staff or clergy becomes aware that a complaint of sexual assault may be made or has been made to the police against a diocesan employee, clergy or volunteer, the person who is aware of the complaint reports this immediately to the Canon Pastor who notifies the Diocesan Bishop and the appropriate Area Bishop.
4. The Canon Pastor notifies the Secretary of Synod of the complaint. The Secretary of Synod notifies the diocesan insurers of a potential claim.
5. The Diocese offers to co-operate fully with police authorities who are investigating reports of sexual assault.
6. The respondent is notified of the report by the Canon Pastor, in consultation with the Area Bishop responsible for the respondent, unless there are concerns that such notification will impede the progress of the investigation.
7. The Canon Pastor, in consultation with the Area Bishop, contacts the complainant and the respondent (and their families if appropriate), to offer the support of diocesan resource persons, but only after investigating authorities indicate that it is acceptable to do so, in order not to interfere with the progress of the investigation.
8. Financial support and considerations related to the housing of families of respondents who are clergy are dealt with in accordance with Diocesan Canons, Policies and Guidelines.

Investigation

9. Where a member of staff or clergy, or a volunteer is accused of sexual assault that person is normally removed from church related duties until all investigations and legal proceedings are completed and the Diocesan Bishop is satisfied to that the respondent poses no risk to vulnerable persons. This removal implies no inference of guilt and may be reviewed periodically. The Diocesan Bishop may at his or her discretion inhibit the accused person [Canon 22 s. 12].
10. All public communications, including parish and media contacts, are made only by the Diocesan Bishop or his or her designate. All public statements are to have due regard to confidentiality of the affected parties and the principle of innocence until guilt is proven.
11. If the assault allegedly occurred in a place of ministry of the diocese, the Area Bishop, having regard for the pastoral needs of that place of ministry during and following the investigation, may request the Canon Pastor to appoint a crisis response team to provide appropriate short term support. (See appendix A.)
12. Following the completion of all criminal and/or civil proceedings, the Diocese has the right and obligation to conduct an internal investigation to determine whether the accused person poses a hazard to vulnerable persons. The status of the respondent is determined according to the Canons of the Diocese. **Persons who have been found in a criminal proceeding to have committed sexual assault under no circumstances are to be given duties of any kind (low, medium, or high risk) in the Diocese.** In the case of acquittal of a person charged with criminal sexual activity (or where charges have not been proceeded with), the Diocese reserves the right to make an independent determination of the facts and the potential risks posed by the respondent based on a standard of the balance of probabilities, and erring on the side of protection of children and vulnerable persons.
13. Where a respondent is fully exonerated of the accusation, this determination is announced publicly.
14. Where a complaint is sustained, a copy of the Diocesan Bishop's decision is maintained in the Canon Pastor's file and the respondent's personnel file. When a complaint is not sustained, there is no record of it in the personnel file. However, summary documentation of the case is maintained in the confidential file of the Canon Pastor.

Discipline

15. Individuals found guilty of sexual assault are disciplined (Canon 22 s. 11). The nature and type of discipline is determined by the Diocesan Bishop and depend on the severity and frequency of the incident(s). Disciplinary measures will be in accordance with the provisions of Canon 22.
16. If it is determined there was no sexual assault and that the complaint was initiated maliciously, appropriate disciplinary action will be taken by the Diocesan Bishop.

Appeal

17. An appeal of the Diocesan Bishop's decision may be made to the Metropolitan Bishop within thirty (30) days of the Diocesan Bishop's decision by filing a written request with the reasons for the appeal.

Flow Chart of Response to Complaint of Sexual Assault against an Adult		
Complainant contacts the Canon Pastor ↓		
Canon Pastor encourages complainant to report the matter to the police ↓	If complainant chooses not to report to police, follow “Sexual Exploitation” procedure	If complainant was a minor at the time of the alleged abuse, proceed according to “Process when the Complaint Involves a Child” (<i>previous process</i>)
Canon Pastor informs the Bishop of complaint ↓		
Area Bishop, Secretary of Synod informed of the complaint ↓		
Diocese co-operates with investigating authorities ↓		
The complainant offered support of a diocesan resource person ↓		
Respondent advised of the complaint by Canon Pastor (after consultation with the authorities), and offered support of a diocesan resource person ↓		
The respondent is normally removed from duties pending the outcome of the investigation ↓		
A crisis response team may be appointed to assist in the parish ↓		
The Bishop may initiate an internal investigation on completion of criminal or civil proceedings ↓		
The Bishop determines appropriate discipline		

Section 3. Appendices

Appendix A: CRISIS RESPONSE

Whenever an allegation of sexual misconduct made against a member of the clergy, a member of staff or a volunteer threatens the integrity of the parish or place of ministry, the Canon Pastor may, at the request of the Area Bishop, send a crisis response team (CRT) made up of diocesan resource persons to the parish or place of ministry.

When in the parish or place of ministry, the CRT will contact the key person as appropriate, consult with the Churchwardens or board of directors and employees, maintain clear communication with the Area Bishop, the Canon Pastor, the Incumbent or interim priest, and make recommendations to the Area Bishop about what is needed in the parish or place of ministry to reduce the risk of trauma. The CRT in consultation with the Area Bishop may hold a public meeting or meetings within the parish or place of ministry. The work of the CRT shall be short-term.

Appendix B: AREA BISHOP

The Area Bishop has primary responsibility for the pastoral needs of the parish or place of ministry. The Area Bishop maintains regular contact with appropriate church leadership to monitor the situation. The Area Bishop shall be regularly briefed by the Canon Pastor regarding the processing of the complaint and will be consulted and make the decisions regarding the pastoral, educational and communication needs of the parish. The Area Bishop, in consultation with the Canon Pastor, may contact the complainant, respondent, and/or their families as appropriate, to assure them of the Church's care but not to provide primary pastoral care.

Appendix C: CANON PASTOR, ASSISTANT TO THE CANON PASTOR, and DIOCESAN RESOURCE TEAM

The diocesan resource team (DRT) is established to be composed of the Canon Pastor and a number of diocesan resource persons.

The DRT are trained volunteers appointed by the Bishop for a specific term and are available to:

- (a) provide assistance to all the members of the diocesan community in sexual misconduct manners;
- (b) assist in the resolution of complaints as set out in the policy;
- (c) provide education, training and information to the Diocese and parishes in all aspects of sexual misconduct and on the policy.

DRT is responsible to and supervised by the Canon Pastor.

The Canon Pastor is appointed by the Bishop for a term of three (3) years. The Canon Pastor is responsible for:

- (a) the administration of the sexual misconduct policy;
- (b) recruitment, selection and training of DRT in consultation with the Bishop.;
- (c) assignment of diocesan resource persons to individual complaints under the policy;
- (d) providing advice and guidance to DRT and to the diocesan community;

- (e) submitting an annual report to the Bishop on the operation of the policy;
- (f) advising the Secretary of Synod of a complaint so that the diocesan insurers may be advised;
- (g) consulting with the Diocesan Executive Officer and the human resources staff in the implementation of the policy;
- (h) consulting with the Area Bishops in respect to complaints arising in their areas under the policy; assignment of a crisis response team under the policy at the request of the Area Bishop.

The Assistant to the Canon Pastor is appointed by the Bishop in consultation with the Canon Pastor. The Assistant to the Canon Pastor will have all the responsibilities of the Canon Pastor in his or her absence or when appointed by the Canon Pastor.

Appendix D: CONFIDENTIALITY

As a first principle, every effort will be made on the part of all parties concerned to hold in confidence information obtained in the process of a complaint made under the Sexual Misconduct Policy. There will be times when this information is required to be disclosed by law, for the administration of the sexual misconduct policy, where safety issues exist, or where confidentiality is waived by the parties. It may be necessary to indicate that an investigation has been initiated, such as when a person is placed on leave or inhibited during the investigation.

Matters of confidentiality may bear directly not only upon the proper process of investigation, but on the well-being and recovery of victims and individuals involved. When an offence has been alleged and an investigation is in process, immediate colleagues may become privy to confidential information. To promote collegial support, thereby empowering one another with confidence and hope, those aware of allegations are admonished against gossip and rumour, and are required to hold such information as confidential.

Appendix E: Theological Basis From the first DIOCESAN SEXUAL ABUSE POLICY, ANGLICAN DIOCESE OF TORONTO

(Adopted by the Executive Committee, April 1992)

“Despite its mission to be the body of Christ, the church is no stranger to sexual abuse, even in its own midst. Our thinking about that abuse must be set in the framework of what it means to be a Christian, to be a sexual person of Christian faith, and to be a servant in the church.

“Christians have a high calling. Christ invites and empowers us to live out our lives in the love he shows us. Our identity as Christians is both gift and demand. Promised fullness of life, we are called to the self-giving of the cross, to faithfulness, compassion, and justice. Our faith is framed between acknowledgement of our arrogance, sinfulness, and brokenness, and commitment to the renewal of human life through dying to self. That renewal encompasses "the healing, wholeness, and liberation promised by God's grace to every facet of human life" which is the task of ministry.¹

“What does it mean to be a sexual person with such a faith? Sexuality is central to our being; we are body-selves. It is basic to our fulfillment, and our vulnerability. It carries our need to reach out to and embrace others, our longing for relatedness. Sexuality is the power to be in communion with another, to be caught up in the wonder of mutuality. Our sexuality, as a dimension of our whole selves, is to be offered to God; in the expression of sexual desires we are called to holiness.

“God values sexuality as good, blessed, and purposeful. Scripture sees it as a gift to be celebrated in joy and ecstasy, and to be held in the web of love and covenant. Trust and justice, mirroring God's ways with us, are to undergird it. Love is to be its expression. Mutuality is its meaning in a world God destines for a reconciliation we are to create, a harmony alive to the divine presence. Non-coercion, mutual acceptance of needs and rights, caring: these are characteristics of good sexual activity. Our God-given natures invite us to the responsible fulfillment of our sexuality.

“The ethic that must go with such an understanding of sexuality entails equal respect for children, women, and men, as persons made in God's image, and for everyone's right to sexual and bodily integrity.

“Those who undertake as priests or laity to serve the church (whether salaried or volunteer) must, in living out their faith, adhere to Christian ethical principles in their sexual conduct, and also in their exercise of authority and power. In sharing in the gospel mission to bring reconciliation, healing, and wholeness, they will draw close to those they minister to. They need to recognise the dynamics of trust in these relationships and the consequent potential for harm and abuse. The authority conferred by the church on those who work in Christ's name must be rooted in the love of Christ (Eph. 3:17). In their ministry they must model God's trustworthiness.

“For any Christian, to betray trust by the grave ethical transgression of sexually abusing another, whether child or adult, is to deny Christian identity. Such a betrayal cannot be other than a gross injury to the one abused, and a violation of faithfulness to Christ.”

¹ Mary D. Pellauer, Barbara Chester, and Jane Boyajean, editors, *Sexual Assault and Abuse: A Handbook for Clergy and Religious Professionals* (San Francisco: Harper and Row, Publishers, 1987).

Appendix F: Out of Diocese complaints.

Every effort will be made to meet the complainant at their location. This may, however, be limited because of the rules governing clergy living or functioning outside of their home diocese.

For more information, refer to the General Synod Canon on Discipline, Canon XVIII:
(<http://www.anglican.ca/resources/handbook>)

Appendix G: Re-Instatement

REINTEGRATION POLICY AFTER SUBSTANTIATED COMPLAINT OF SEXUAL EXPLOITATION/HARASSMENT OF AN ADULT

1. **GENERAL EXCLUSION**

Persons who have been found in a criminal proceeding to have committed a sexual offence against a child or adult, or following a substantiated complaint of sexual exploitation or harassment of a mentally incompetent adult will not be considered for reintegration and under no circumstances are to be given duties of any kind (low, medium, or high risk) in the Diocese.

2. **ISSUE**

This policy concerns the possible reintegration of clergy, staff and volunteers into a parish following substantiated complaint of sexual exploitation or sexual harassment of an adult.

3. **AFFECTED PERSONS**

This policy applies to every bishop, priest, deacon, or lay person under the jurisdiction of the Bishop of the Diocese of Toronto who have responsibilities within the parish or other areas of ministry.

4. **POLICY**

Where there has been a substantiated case of sexual harassment or exploitation of an adult, the respondent's continued role in the parish is reviewed by the Bishop who determines whether it is appropriate for the person to continue in, or return to, a position of responsibility within the parish or other areas of ministry.

Any possible reintegration must take into account the Church's over-riding responsibility to those in its midst.

Appendix H: Various Report Forms and Consent Forms



Diocese of Toronto
Anglican Church of Canada

SEXUAL MISCONDUCT POLICY:

Consent to Enter into an Informal, Facilitated Process to Attempt to Resolve a Complaint of Sexual Harassment.

I, _____ (*Name of Complainant*) have brought a complaint of sexual harassment against _____ (*Name of Respondent*) under the Sexual Misconduct Policy of the Diocese of Toronto.

1. I have received a copy of the Sexual Misconduct Policy and I have read it and understand it.
2. I agree to enter into an informal, facilitated process to attempt to resolve this complaint.
3. The facilitator appointed by the Diocese of Toronto is _____ (*Name*). I agree to this facilitator.
4. If the facilitation arrives at a resolution to the complaint, the resolution will be in writing. The resolution will be signed by the respondent, the facilitator, and myself, and will be referred to the Canon Pastor for approval and ratification. The Facilitation Resolution Agreement will be final and binding.
5. I understand that any statements or admissions made in the facilitated process may not be disclosed in an investigation if the facilitated process fails except where required by law.
6. I understand that if I have any questions about the operation of this Policy and my rights and responsibilities under it, I may speak with the Canon Pastor.
7. I understand that under the Policy I have the right to seek independent legal advice and to seek a remedy through the courts or under the Ontario Human Rights Code.

Signed: _____

Date: _____

Witness: _____

Date: _____



Diocese of Toronto
Anglican Church of Canada

SEXUAL MISCONDUCT POLICY:

Consent to Enter into an Informal, Facilitated Process to Attempt to Resolve a Complaint of Sexual Harassment.

I, _____ (*Name of Respondent*) am the subject of a complaint of sexual harassment brought against me by _____ (*Name of Complainant*) under the Sexual Misconduct Policy of the Diocese of Toronto.

1. I have received a copy of the Sexual Misconduct Policy and I have read it and understand it.
2. I agree to enter into an informal, facilitated process to attempt to resolve this complaint.
3. The facilitator appointed by the Diocese of Toronto is _____ (*Name*). I agree to this facilitator.
4. If the facilitation arrives at a resolution to the complaint, the resolution will be in writing. The resolution will be signed by the complainant, the facilitator, and myself, and will be referred to the Canon Pastor for approval and ratification. The Facilitation Resolution Agreement will be final and binding.
5. I understand that any statements or admissions made in the facilitated process may not be disclosed in an investigation if the facilitated process fails except where required by law.
6. I understand that if I have any questions about the operation of this Policy and my rights and responsibilities under it, I may speak with the Canon Pastor.
7. I understand that under the Policy I have the right to seek independent legal advice and to seek a remedy through the courts or under the Ontario Human Rights Code.

Signed: _____ Date: _____

Witness: _____ Date: _____



Diocese of Toronto
Anglican Church of Canada

SEXUAL MISCONDUCT POLICY: Consent to Enter into a Mediation of Complaint of Sexual Harassment.

I, _____ (*Name of Complainant*) have brought a complaint of sexual harassment against _____ (*Name of Respondent*) under the Sexual Misconduct Policy of the Diocese of Toronto.

1. I have received a copy of the Sexual Misconduct Policy and I have read it and understand it.
2. I agree to enter into a mediation to resolve this complaint.
3. The mediator appointed by the Diocese of Toronto is _____ (*Name*). I agree to this mediator.
4. If the mediation arrives at a resolution to the complaint, the resolution will be in writing. The Resolution Agreement will be signed by the complainant, the mediator, and myself, and will be referred by the Canon Pastor to the Bishop for approval and ratification. The Mediation Resolution Agreement will be final and binding.
5. I understand that any statements of admissions made in the mediation process may not be disclosed in an investigation under this Policy except where required by law.
6. I understand that if I have any questions about the operation of this Policy and my rights and responsibilities under it, I may speak with the Canon Pastor.
7. I understand that under the Policy I have the right to seek independent legal advice and to seek a remedy through the courts or under the Ontario Human Rights Code.

Signed: _____ Date: _____

Witness: _____ Date: _____



Diocese of Toronto
Anglican Church of Canada

SEXUAL MISCONDUCT POLICY: Consent to Enter into a Mediation of Complaint of Sexual Harassment.

I, _____ (*Name of Respondent*) have had a complaint of sexual harassment brought against me by _____ (*Name of Complainant*) under the Sexual Misconduct Policy of the Diocese of Toronto.

1. I have received a copy of the Sexual Misconduct Policy and I have read it and understand it.
2. I agree to enter into a mediation to resolve this complaint.
3. The mediator appointed by the Diocese of Toronto is _____ (*Name*). I agree to this mediator.
4. If the mediation arrives at a resolution to the complaint, the resolution will be in writing. The Resolution Agreement will be signed by the complainant, the mediator, and myself, and will be referred by the Canon Pastor to the Bishop for approval and ratification. The Mediation Resolution Agreement will be final and binding.
5. I understand that any statements or admissions made in the mediation process may not be disclosed in an investigation if the mediation fails except where required by law.
6. I understand that if I have any questions about the operation of this Policy and my rights and responsibilities under it, I may speak with the Canon Pastor.
7. I understand that under the Policy I have the right to seek independent legal advice and to seek a remedy through the courts or under the Ontario Human Rights Code.

Signed: _____ Date: _____

Witness: _____ Date: _____



Diocese of Toronto
Anglican Church of Canada

SEXUAL MISCONDUCT POLICY:
Consent to Begin an Investigation into a Complaint of Sexual Misconduct.

I, _____ (*Name of Complainant*) have brought a complaint of sexual misconduct against _____ (*Name of Respondent*) under the Sexual Misconduct Policy of the Diocese of Toronto.

1. I have received a copy of the Sexual Misconduct Policy and I have read it and understand it.
2. I understand that my complaint as well as any related documents I may provide to the Canon Pastor or an investigator appointed by the Diocese under the Sexual Misconduct Policy, will be given to the respondent or any persons necessary for the administration of the policy.
3. I understand that if I have any questions about the operation of this Policy and my rights and responsibilities under it, I may speak with the Canon Pastor.
4. I understand that under the Policy I have the right to seek independent legal advice or to seek a remedy through the courts or under the Ontario Human Rights Code.

Signed: _____ Date: _____

Witness: _____ Date: _____



Diocese of Toronto
Anglican Church of Canada

SEXUAL MISCONDUCT POLICY: Consent to the Release of Information.

Concerning the Complaint of _____ against _____ commencing

_____ (*date Diocese notified of complaint*).

1. Complainants, respondents and witnesses are advised to read the Diocesan Sexual Misconduct Policy so that they are familiar with the procedures involved. A copy of the Policy is included with this consent.
2. Every effort will be made by those who are responsible for the administration of the Policy to maintain the confidentiality of the process, subject to the exceptions noted below.
3. Complainants are advised that in the event of a formal complaint under the Policy, a copy of the written complaint, as well as related documents originating from the complainant, will be given to the respondent, or any persons necessary for the administration of the Policy.
4. Respondents are advised that a copy of the written response to the complaint, as well as related documents originating from the respondent, will be given to the complainant, or any persons necessary for the administration of the Policy.
5. Witnesses are advised that any information they provide, either verbally or in writing, to a person appointed to conduct an investigation under the Diocesan Sexual Misconduct Policy, may be disclosed to the complainant and respondent as well as to persons necessary for the administration of the policy.
6. If a respondent does not sign this Consent to the release of information, the investigation will proceed in the absence of information originating from the respondent. In such an event, the investigating team may make their report to the Bishop in the absence of such information which may otherwise be of assistance to the respondent.
7. In addition, anyone may be required by law to give evidence and document in the courts and other agencies involved in the administration of justice.
8. If you have any questions about the operation of this Policy and your rights and responsibilities under it, please speak with the Canon Pastor.
9. The Policy is not intended to preclude anyone from seeking legal counsel or seeking a remedy through the courts or under the Ontario Human Rights Code.

I acknowledge receipt of a copy of the Policy. I have read, understand, and agree with the Consent to the Release of Information as provided above.

Signed: _____

Date: _____

Witness: _____

Date: _____

Appendix I:



Diocese of Toronto
Anglican Church of Canada

Sexual Misconduct Policy Acknowledgement Form

Name _____
(please type or print name)

Title _____
(clergy/employee/volunteer)

Please initial beside each statement to verify your concurrence with it:

_____ I hereby acknowledge receipt of a copy of the Sexual Misconduct Policy of the Diocese of Toronto.

_____ I understand the contents of the Sexual Misconduct Policy of the Diocese of Toronto.

_____ I understand that to function as an ordained or lay person in ministry implies that the Church has entrusted me with responsibility to act for the well-being of others.

If you cannot check off any of the above statements or if you have questions about this, please contact the diocesan Canon Pastor prior to signing off on this document.

Signature

Date

Instructions: All ordained and lay staff are expected to comply with the Sexual Misconduct Policy of the Diocese of Toronto. This signed form will be placed in the named person's personnel file or other suitable confidential file if there is no personnel file. It will remain in the file for an indefinite period of time. Access to clergy personnel files is restricted to the person named on the file, the College of Bishops, the Human Resources Staff, and Archivist.

SCREENING FORM 1 revised September 2011