

Personal Boundaries in Ministry: Policy and Procedures for Response to Complaints



Essential Elements of a Misconduct Policy

- Statement of the philosophical, moral or religious foundation of the policy
- Definitions of misconduct to be addressed by the policy: abuse; exploitation of the ministerial / professional relationship; harassment
- Application of the policy: whom it governs

Essential Elements 1.

- Description of supports offered to both complainants and accused persons.
- Description of the decision-making process.
- Assertion of the institution's right to conduct an internal investigation subsequent to criminal proceedings to ensure that no hazard exists to children or vulnerable persons and to use the findings of this investigation in making decisions about reinstatement of an accused person.

Essential Elements 2.

- Appointment of persons for the Administration of the policy.
 - Statement on the legal obligation to report child abuse, and description of the process when there is a suspicion of child abuse (i.e. referral to child protection/police and cooperation with the authorities as they investigate, automatic suspension of person under criminal investigation)
- Note: Some jurisdictions have a similar legal obligation to report elder abuse.

Essential Elements 3.

- Explanation of limitations on confidentiality as required by law and for administration of the policy. Policy re communications with stakeholders and the public, including media.
- Description of an optional informal process for dealing with alleged sexual harassment.

Essential Elements 4.

- Description of the internal investigation process for
 - a) formal complaints of harassment or
 - b) complaints of exploitation of the ministerial relationship or
 - c) abuse investigation subsequent to police or child protection investigation.

Essential Elements 5.

- ✓ interview of the complainant
- ✓ written documentation of the complaint
- ✓ complaint in writing is forwarded to accused person
- ✓ accused person has opportunity for response
- ✓ interviews of witnesses and review of other relevant information, documents etc.

Essential Elements 6.

- Guidelines for management of accused persons pending the outcome of the internal investigation.
- Rehabilitation of persons found to have committed abuse.
- Direction for maintenance of files and records.
- Crisis response plan for the faith community or institution.

Response Procedures for Abuse

- Criminal conduct with an adult or abuse of a child:
 - Police and child protection to be notified immediately.
 - Full cooperation with civil authorities.
 - Removal of accused from ministry pending results of investigation.
 - Internal investigation on hold.

Response to Allegation of criminal abuse of an adult

- Diocese encourages adult complainant to go to police.
- Diocese consults legal counsel about duty to report to civil authorities without consent of complainant.
- Past abuse of a child to be reported if abuser has current contact with children.

Flow Chart: Allegation of Child Abuse (Child Currently in Need of Protection)



Diocese confirms child protection authorities have been notified or makes its own report.



Diocese only advises accused person after child protection authorities and Diocese's lawyer have indicated that such contact will not impede their investigation.



Anyone who suspects that a child has been abused by a member of clergy, employee or volunteer must notify child protection authorities.

Flow Chart: Allegation of Child Abuse (Child Currently in Need of Protection)

Diocese advises accused person to seek legal counsel
and offers support person



Diocese develops a response to the place of ministry
affected by the allegation



Media spokesperson is appointed

Flow Chart: Allegation of Child Abuse (Child Currently in Need of Protection)

Diocese notifies insurer



Provided child protection authorities have no objection, Diocese contacts family of child to offer support person and counselling



Flow Chart: Allegation of Child Abuse (Child Currently in Need of Protection)

Outcomes

1. Investigation finds abuse occurred

- Abuser is referred for treatment and rehabilitation.
- Diocese continues support for treatment of complainant.
- Canon law procedures are invoked.

Flow Chart: Allegation of Child Abuse (Child Currently in Need of Protection)

2. Investigation does not substantiate abuse

- Diocese undertakes internal review to assess risk to children.
- Diocese at its discretion exonerates accused person or, if there is a concern re risk to children, institutes rehab program and limits contact with vulnerable persons.
- Diocese may invoke canon law procedures.
- Diocese exercises discretion in continuing support of treatment costs of complainant.

Response to Exploitation

- Violation of a professional / fiduciary relationship.



Flow chart: Adult complainant (Exploitation)

Diocese is notified of complaint.



Diocesan representative contacts complainant and explains diocesan policy and procedures, obtains signed consent form for an investigation.



Diocese appoints investigator.



Diocese develops a response to the place of ministry.



Flow chart: Adult complainant (Exploitation)

Diocese notifies accused person & advises re right to legal counsel.



Diocese appoints support persons for complainant and accused person.



Support persons contact complainant and accused person.



Investigator interviews complainant, collects other evidence, prepares a written summary of the complaint.



Flow chart: Adult complainant (Exploitation)

Investigator provides complainant with report for signed approval.



Diocese gives written complaint to accused person.



Accused person has 10 days to respond.



Investigator interviews accused person, collects other evidence, prepares a written summary of the response.



Flow chart: Adult complainant (Exploitation)

Investigator gives written report to the Diocese.



Diocesan Bishop reviews report, consults with legal counsel and makes decision as to whether exploitation occurred.



If exploitation occurred, Diocese takes steps to offer counseling to complainant and a management plan for offender to prevent recurrence.

Flow chart: Adult complainant (Exploitation) 2.

- Diocese notifies accused person & advises re right to legal counsel.



- Diocese appoints support persons for complainant and accused person.



- Support persons contact complainant and accused person.



Response to Harassment

Complaints: 1.

- Harassment:
 - Unwelcome conduct including sexual harassment, discrimination based on sexual orientation, race, colour, religion, marital status, ethnic or national origin, physical or mental handicap and political belief.
 - that interferes with an individual's performance of duties or creates an intimidating, hostile, or offensive environment.

Harassment cont'd, 2.

- Response procedure for complaints of harassment not intended to preclude a complainant from seeking legal counsel or seeking a civil remedy. However if notice is received that the complainant intends to seek a civil remedy, the diocese's response will normally be suspended except for the provision of emotional and pastoral support.

Harassment: Informal resolution

- Diocese obtains consent of complainant and accused person to initiate informal process.
- MPA appoints facilitator to meet with complainant and accused person.
- *Case resolved* and resolution agreement signed and ratified
or
- *Case unresolved*.



Harassment: Mediation

- Diocese obtains consent of complainant and accused person to initiate mediation.
- Diocese appoints professional mediator to meet with complainant and accused person.
- *Case resolved* and mediation signed and ratified
or
- *Case unresolved.*



Harassment: Investigation 1.

- Diocese appoints investigator and notifies accused person.
- Diocese appoints support persons for complainant and accused person.
- Support persons contact complainant and accused person.
- Investigator interviews complainant and collects other evidence.

Harassment : Investigation 2.

- Written complaint is given to accused person.
- Accused person has 10 days to respond.
- Investigator interviews accused person and collects other evidence.
- Investigator gives written report to Diocese.

Harassment Investigation 3.

- A case can go directly to formal investigation without attempting Informal resolution or mediation.
- Formal investigation can also be suspended by the canon pastor if parties indicate they wish to mediate.

Elements of an Investigation, 1.

- Investigator assumes a position of neutrality.
- The investigator plans and organizes the investigation in a way that respects the rights of all persons involved while gathering appropriate evidence.
- All persons interviewed should be reminded that confidentiality may be limited.

Elements of an investigation, 2.

- Both complainant and accused person must be given opportunity to provide their version of the events.
- The investigator should ask specific, non-leading questions and obtain as detailed responses as possible.
- Both parties should be asked if they can provide names of other potential witnesses to be interviewed.


Elements of an Investigation, 3.

- Witnesses and others who may have relevant information should be contacted and interviewed, preferably in person. They should be provided with a copy of the Misconduct Policy.
- Persons interviewed should be asked to sign the interviewer's notes to verify their accuracy.

Elements of an Investigation, 4

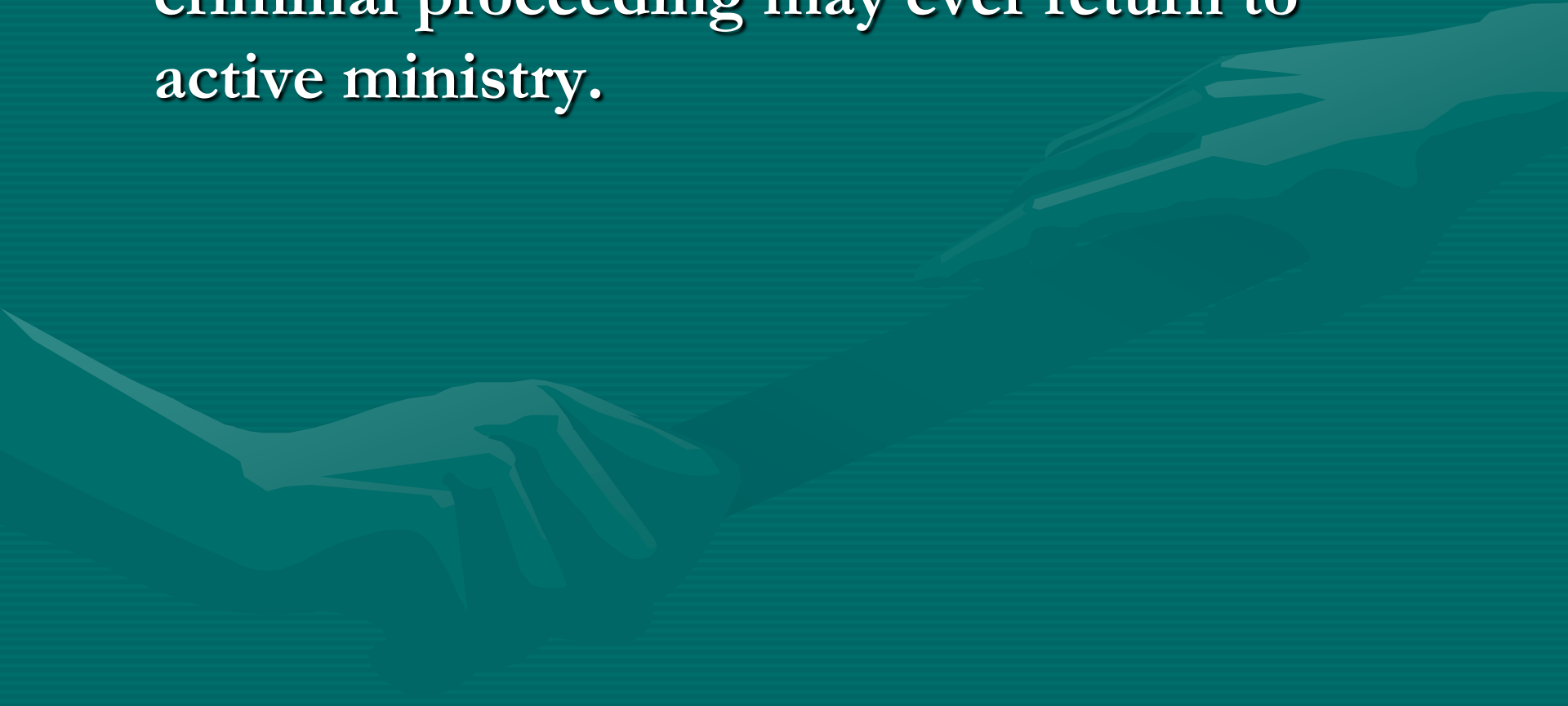
- Complainants and accused persons should be given the opportunity to review the witness statements and any other documentation.
- A written, detailed, factual report should be prepared.
- The investigator is *not* an advocate and *not* a counsellor.

Guidelines for reintegration into ministry of persons found to have committed sexual misconduct

A faint, stylized background image of two hands shaking, symbolizing agreement or support, set against a teal gradient.

Reintegration into ministry, 1.

- No person convicted of a sexual offence in a criminal proceeding may ever return to active ministry.



Reintegration into ministry,²

- Where a person has been acquitted in the civil courts, the church may conduct an internal investigation.
- The church must follow a policy of weighing the findings of that investigation with a lower standard of proof than a criminal court.

Reintegration into ministry, 3.

- The primary focus of the internal investigation and determination shall be on the safety of children, youth and vulnerable persons.
- No person deemed by the investigation to pose a risk to children, youth or vulnerable persons after this investigation may be assigned to active ministry.

Reintegration into ministry, 4.

- It may be possible to reintegrate a minister who has been found in a church misconduct response procedure to have committed harassment or sexual exploitation of an adult.
- Any reintegration process will be under the authority of the Canon Pastor. The minimum conditions for reintegration are as follows:

Reintegration into ministry, 5.

- The offender must have attended treatment that focuses on the offending behaviour.
- The offender must continue in treatment for at least one year after commencing active ministry and give consent to therapist to provide reports of any indications of relapse, or risk of relapse into offending behaviour.

Reintegration into ministry, 6.

- The offender must provide a letter stating the same as above and stipulating situations that may elevate their risk for re-offense and preventive steps they will take to avoid risk.
- The offender must agree in writing to disclosure of the finding of misconduct to the leadership and full membership of the ministry before commencing active ministry.

Reintegration into ministry, 7.

- The offender must agree to not partake in any one -on-one ministry for at least one year.
- The offender must agree to close supervision by a person trained in the dynamics of abuse and offender behaviour patterns, including reporting to the supervisor of his / her whereabouts and activities.

Reintegration into ministry, 8.

- The therapist must provide a letter to the leadership of the new ministry stating that the offender has taken full responsibility for the offence, without minimizing or blaming others or the victim, and that the offender is able to recognize and avoid the circumstance where he / she is at risk for offending and can identify preventive measures.

Systemic review of case management, 1.

1. Was the complaint responded within the time line of the diocesan policy?
2. Were the complainant and accused provided with copies of the policy and advised of their rights under the policy?
3. Was there an early response to the people of parish or ministry?
4. Is the parish stable or in need of further intervention?
5. If the complainant delayed their report to the Diocese, was the reason explored to identify any impediments to reporting?

Systemic review of case management

2.

- 4) Did the complainant feel threatened or in jeopardy if they complained?
- 5) Were the diocese's screening, training and supervision adhered to. If not, is the parish undergoing a safety audit and training?
- 6) Have the complainant and accused person been invited to comment on their experience of the diocese's response?
- 7) Has a report been completed that can be used in future policy revisions?