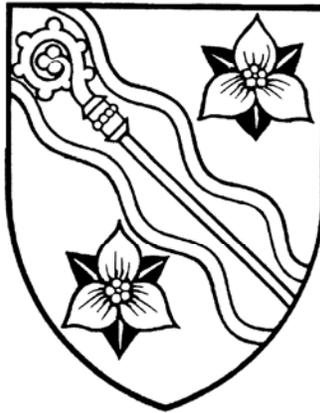


Diocese of Niagara
Anglican Church of Canada



**Sexual Misconduct Policy:
Sexual Harassment,
Exploitation and Assault**

Presented at the Clergy/Layworkers Education Day - October 19, 2000
Approved by the Synod of the Diocese of Niagara – October 28, 2000

SECTION 1: POLICY AND OVERVIEW

1.1 PREAMBLE

- i) We affirm that every human being is created in the image of God who has made us for loving, covenant relationships with our Creator, others and the world. We believe that our peace arises out of right relationships. Our personal dignity, freedom and bodily integrity are ensured by faithfulness to just covenants of mutual entrustment, care and respect. Such covenants undergird the moral framework of our communal life, responsibilities and entitlements.
- ii) We further acknowledge that children, adolescents, the infirm and the elderly are particularly vulnerable to the tragic consequences of broken covenants and abusive treatment. Special care must be taken to protect their individual rights and personal integrity.
- iii) It is a statement of truth that respect, reverence and mutuality are necessary in all human relationships. This truth about the fundamentals of human relations, including sexual relations, leads to a firm judgment and condemnation of sexual abuse and exploitation cannot and will not be tolerated.
- iv) Sexual abuse is self-gratification by exploitation. It makes an impersonal object of the other person, abusing both the person and sexuality itself. Abuse occurs in a wide range of sexual activities: always in rape and child molestation, usually in adultery and prostitution and sometimes within family relationships. Sexual abuse can also occur in the socially subtle aspects of sexism and in sexual harassment of employees in the workplace. The Church must be clear about these violations of sexual intimacy. It must be explicit in its teaching about these particular aberrations of sexual relations, aggressively proactive about its social policy and action touching on these areas, and forthright in dealing with violations in its own community. (Lambeth Conference Report 1988)

1.2 POLICY

- i) The Diocese of Niagara undertakes to ensure that all activities, work and pronouncements with which it is engaged uphold the values of love, truth and justice, and are demonstrably free from violence, coercion and discrimination.
- ii) It is our policy that sexual assault, sexual harassment or sexual abuse of any kind, whether to an adult, adolescent or child, male or female, by or to any staff person, contract employee or volunteer, will not be tolerated.
- iii) We will actively try to prevent such occurrences and deal with any accusations promptly, seriously and systematically, in cooperation with proper authorities where appropriate.
- iv) Particularly in relationships of trust where power and authority and confidentiality are dynamic, the greatest of care will be exercised to avoid taking advantage of trust, or abusing power and the responsibility of authority.

- v) At all times, an ethic of mutual respect, responsibility and caring, as well as modeling wholeness and healthy sexuality in relationships will be the goal. We will practice, advocate and educate to that end.

1.3 DEFINITIONS

a) **Sexual Harassment**

- i) Sexual harassment shall refer to any attempt to coerce an unwilling person into a sexual relationship, or to subject a person to persistent unwanted sexual attention, or to punish a refusal to comply, or to reward compliance.
- ii) Sexual harassment must be understood as an exploitation of a power relationship rather than as a sexual issue.
- iii) Sexual harassment may involve a wide range of behaviours from verbal innuendo and subtle suggestions to overt demands and unwanted inappropriate physical contacts of a sexual nature. It is usually a series of incidents. It is behaviour of a sexual nature that is known or ought reasonably to be known as behaviour that is unwanted or unwelcome.
- iv) Sexual harassment includes actions which contribute to an environment that is "poisoned" by suggestive pictures or cartoons. Sexual harassment is prohibited by federal and provincial law.

b) **Sexual Misconduct**

Sexual misconduct for the purposes of this policy is sexual exploitation, sexual harassment, sexual assault (commonly called sexual abuse) or any other sexual activity or conduct in which a person in a pastoral relationship with another takes advantage of the vulnerability of the person under his/her pastoral care or other guidance or leadership. This behaviour, regardless of who appears to have initiated it, shall be deemed to be sexual misconduct.

c) **Pastoral Relationship**

Pastoral relationship is a relationship between a cleric, employee or volunteer and any person to whom such cleric, employee or volunteer provides pastoral counseling, pastoral care, spiritual direction, spiritual guidance or from whom the cleric, employee or volunteer has received confession or confidential or privileged information.

d) **Sexual Exploitation**

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

e) **Sexual Assault**

Sexual assault, commonly known as sexual abuse, is any intentional use of force or threat of use of force involving some form of sexual activity, including but not limited to the examples listed below, against another person without his/her consent. Sexual assault is an activity that may be criminal in nature as defined either as child abuse under the Ontario Child and Family Services Act or as criminal under the Criminal Code of Canada.

- Examples:
- a) kissing, sexual contact, fondling or sexual intercourse
 - b) bodily harm or threats to harm, assault with a weapon
 - c) incest, bestiality and gross indecency
 - d) sexual offences against children such as sexual interference, invitation to touching, sexual exploitation of a young person, parent or guardian procuring sexual activity of a child, exposing genitals to a child, juvenile prostitution, corrupting children, indecent acts

f) **Consent**

Consent is understood as non-coercive. Consent has not been given if an individual agrees to any sexual activity under threat, or if consent is obtained by fraud or through the influence of a person in authority over that person. Children under the age of 12 cannot legally give consent. Under specific circumstances between peers, for children age 12 to 14, and with young persons age 14 to 18, consent is not valid if the accused was in a position of authority over them. There are further provisions for mentally or otherwise incapacitated or vulnerable children, adolescents and adults. (Criminal Code of Canada, Bill C-127, 1983 and Bill C-15, 1988)

g) **Compliant and Respondent**

"Compliant" and "respondent" are terms which describe the person bringing the complaints and the person who is accused of sexual misconduct respectively.

h) **Coordinator**

An individual appointed by the Bishop whose main responsibilities are as follows:

- i) acts as liaison between the process of investigations and decision-making;
- ii) receives documented complaints;
- iii) determines whether criminal activity may have occurred (in consultation with the Chancellor); and
- iv) advises the Bishop how to proceed with formal complaints.

See Appendix 5 – Co-coordinator and Diocesan Resource Team

1.4 PRINCIPLES

- 1) This policy applies to the Bishop, and every priest, deacon, or lay person under the jurisdiction of the Bishop of the Diocese. Adherence to this policy is mandatory. All clergy, employed staff members and volunteers of the diocese are to adhere to it. Parishes and diocesan agencies are expected to be familiar with this policy, consent to it and adhere to it.
- 2) Professional counselor/client relationships are to be respected and maintained by all clergy and other professionals in the service of the diocese or parish in every pastoral or counseling situation. Exploitation of this trust through sexual activity, touching for sexual purposes, or the suggestion or depiction of any such activity, will not be tolerated.
- 3) All employees and volunteers have the right to a work environment that is free of sexual misconduct.

- 4) Confidentiality will be respected, except where the law demands otherwise, or where individual(s) are at risk. (See Appendix 4 – Confidentiality)
- 5) An accused person will be presumed innocent until proven guilty.
- 6) All complaints will be taken seriously and will be investigated as quickly as possible. All time frames specified in this policy shall be strictly adhered to unless an extension is consented by the Co-coordinator, the complainant and/or the respondent, such consent not to be unreasonably withheld.
- 7) Nothing must be done to interfere with a criminal investigation.
- 8) A complaint of sexual assault or abuse of children shall be reported to civil authorities immediately and in accordance with the Laws of Ontario and Canada.
- 9) Preserving the safety and well being of a complainant, or others who might be affected, will be a priority.
- 10) The Diocese of Niagara will do all it can to preserve the safety of the places of work for its clergy, staff and volunteers.
- 11) Any action taken will be done with pastoral sensitivity, and upholding confidentiality, unless required to disclose by law or where safety issues exist, or waived by the parties.
- 12) No person or persons shall knowingly make a false or vexatious complaints. To intentionally make such a complaint will be treated in itself as a form of harassment subject to this policy.
- 13) Pastoral care will be available to any complainants, respondents, their families, or others affected within the diocesan community. (See Appendix 7 – Pastoral Care)
- 14) This policy is not intended to preclude a complainant from seeking legal counsel or seeing 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 this policy.
- 15) Clergy and those responsible for liturgical, pastoral, educational or recreational activities in the Diocese of Niagara are expected to maintain the highest ethical standards of mutual respect, responsibility and caring, as well as modeling wholeness and healthy sexuality in all their relationships with those for whom they have responsibility.

SECTION 2: SEXUAL HARASSMENT AND EXPLOITATION

Overview

When a person believes that he/she is experiencing sexual harassment or exploitation, 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 will not be construed adversely in a formal process under this policy.

If an individual feels he/she has been sexually harassed or exploited, the person should 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.

2.1 INFORMAL PROCESS

1. The complainant may request the Bishop or Co-coordinator to appoint a diocesan resource person to assist with communications with the person alleged to have committed the unacceptable behaviour in an effort to reach a mutually satisfactory resolution. The diocesan resource person may arrange and facilitate:
 - a) a confidential meeting between the two parties for the purpose of mediating a mutual understanding and agreement with both parties entering into a Mediation Agreement attached as Appendix 8;
 - b) an educational session on harassment for the respondent and/or work group;
 - c) referral to other resources as appropriate.
2. The informal process will end with a mutual resolution agreement, with a copy given to each party. A memo summarizing the process will be placed in the Co-coordinator's file of sexual harassment complaints.
3. A complainant is expected to proceed to the formal process as soon as possible, and under normal circumstances within thirty (30) days, in the event that the informal process is unsuccessful.

NOTE: Statements made by either the complainant or the respondent in the course of the diocesan resource person's involvement to facilitate communications are considered to be without prejudice within this policy and are not to be produced in an investigation if a formal process occurs. However, anyone may be required by law to give evidence and produce documents.

2.2 FORMAL PROCESS

2.2.1 Overview

If a formal process is initiated, it may be diverted to mediation at any point upon mutual agreement of the complainant and respondent. The Bishop or the Co-Coordinator 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 shall be paid by the diocese. The parties shall be responsible for their own legal expenses, if necessary.

A complaint can be made to either the Bishop or Co-Coordinator who will inform the other of the complaint and determine who will take the lead role in the process. The person taking the lead role will continue to inform the other of the progress of the complaint.

The diocesan resource persons appointed in the formal process provide support and pastoral care and shall not have acted in the informal process.

2.2.2 The Complaint

1. The complainant will notify either the Bishop or Co-Coordinator in writing that he/she wishes to make a formal complaint under this policy. (See Appendix I – Flowchart)
2. The complainant shall be provided with a copy of this policy and be required to put the complaint in writing. The written complaint shall include an account of the incident(s), date(s), time(s), name of the respondent(s), name of witness(es), if any, and be signed and dated by the complainant. The complainant will be asked to sign a consent of release information (Appendix 9). This will normally be accomplished within two (2) weeks of notification of formalizing the complaint. The complainant will be offered the support of a diocesan resource person. The complainant will normally not proceed further if the consent to release of information form is not signed.
3. The respondent will be advised by the Bishop, his or her delegate or the Co-Coordinator, that a formal complaint has been made against him/her under this policy. The respondent will be given a copy of the written complaint, provided with a copy of this policy and given the opportunity to respond in writing to the complaint within a two (2) week period. The respondent will be offered the support of a diocesan resource person.
4. An assessment shall be immediately undertaken concerning where the harassment or exploitation allegedly occurred as to whether there should be changes in location, reporting responsibilities, etc., of the complainant or the respondent, during the investigation. The final decision regarding such changes shall be that of the Bishop (unless he/she is the respondent).
5. The Bishop, or his or her delegate, shall notify the diocesan insurers of a potential claim.

Mediation

6. If both parties agree to mediation, the Co-Coordinator will make arrangements for the mediation. If one of the parties does not agree to participate in mediation, they will proceed directly to an investigation procedure.
7. If mediation is initiated during the formal investigation, the mediation process shall take no longer than thirty (30) days from the time the investigating team interviewed the complainant and respondent.
8. The results of the mediation shall be reported by the mediator to the Co-Coordinator who shall inform the Bishop. The Bishop will consider the findings of mediation in making his or her final decision.
9. If mediation fails, the investigation may continue and the Bishop will make a final decision.

The Investigation

10. The Bishop or his or her delegate, in consultation with the Co-Coordinator, shall appoint an investigating team.
11. The investigating team shall review the written complaint and response, if one exists, and within fifteen (15) days of their appointment, shall interview the complainant and the respondent and may interview witnesses or others who might possess relevant information about the complaints. The team may also gather any relevant documentary evidence.
12. The investigating team will prepare a preliminary investigation report which includes both the complaint and response. They will review this preliminary report with the complainant and the respondent separately to provide a final opportunity for input. The investigating team will document this input and include it in their final report.
13. The investigating team will submit a written report of its findings within thirty (3) days of their appointment to the Bishop.

Decision Making Process

14. The Bishop shall meet with the respondent, within three (3) weeks of receiving the report, to inform him/her of the final decision. The decision shall be in writing. The complainant will also be informed of the decision by the Bishop in writing, and where possible, in person.
15. Where a complaint is sustained, a copy of the Bishop's decision shall be maintained in the respondent's personnel file. When a complaint is not sustained, there shall be no record of it in the personnel file. However, summary documentation of the case shall be maintained in the confidential file of the Co-Coordinator.

Discipline

16. Individuals found guilty of sexual harassment or exploitation will be disciplined. The nature and type of discipline shall be determined by the Bishop and depend on the severity and frequency of the incidents). Disciplinary measures may include counseling 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 the exercise of ministry, or other discipline provided for in the Canons.
17. If it is determined there was no sexual harassment or exploitation and that the complaint was initiated maliciously, appropriate disciplinary action will be taken.

Appeal

18. An appeal of the Bishop's decision may be made to the Metropolitan Bishop within thirty (30) days of the receipt of the Bishop's decision by filing a written request with the reasons for the appeal. The Metropolitan shall respond within two (2) weeks of the written request for appeal.

Civil Proceedings

19. 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 Ontario Human Rights Commission, any procedures under this policy will normally be suspended, except for the provision of pastoral care as outlined in this policy.

SECTION 3: SEXUAL ASSAULT PROCEDURES

Overview

Sexual assault is sexual activity which may be criminal in nature, and will be 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.

3.1 The Process when the Complaint Involves a Child (or Vulnerable Adult)

- 1) Where a person suspects on reasonable grounds that a child is or may be in need of protection, this suspicion must be reported to the Children's Aid Society. 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 injuries, etc.;
 - a statement of a credible eye witness to a recent complaint;

- a statement of another which 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 an obligation on members of the clergy. For professionals and clergy, failure to report is a provincial offence.

It should be noted that in Ontario, the duty to report suspected child abuse overrides the privilege of confidentiality (including that of doctors and clergy). This law indicates 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 shall be taken by the diocese against a person who institutes his or her own report (See Appendix 2 – Flow Chart)
- 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, shall inform the Bishop or the Co-Coordinator.
- 4) The Co-Coordinator shall immediately confirm with the child protection authorities that a report of the suspicion of abuse has been made.
- 5) The Co-Coordinator shall document the report made stating time and date that the authorities were informed and the name of the intake social worker.
- 6) The diocese will offer to cooperate fully with child protection and/or police authorities who are investigating reports of child abuse.
- 7) The Bishop, or his or her delegate, will contact the child's family following consultation with the Children's Aid Society (and/or investigating police department). The Co-Coordinator, in consultation with the Bishop, shall offer the support of a diocese 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 will be made only after the investigating authorities have indicated it as acceptable.
- 8) The respondent will be notified of the report by the Co-Coordinator, in consultation with the Bishop, unless there are concerns that such notification will impede the progress of the investigation.

- 9) The Co-Coordinator, in consultation with the Bishop, will offer the support of a diocesan resource person to the respondent and their family as appropriate.
- 10) The Co-Coordinator shall ensure notification to the diocesan insurers of a potential claim.
- 11) Where a member of staff or clergy, or a volunteer is accused of child abuse, that person shall normally be removed from the church related duties until all investigations and legal proceedings are completed and the 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.
- 12) All public communications, including parish and media contacts, are to be made only by the Bishop or his or her designate. All public statements will have due regard to confidentiality of the affected parties and the principle of innocence until guilty is proven. (See Appendix 6 – Media Relations)
- 13) If the abuse allegedly occurred in a place of ministry in the diocese, the Bishop, having regard for the pastoral needs of that place of ministry during and following the investigation, may request the Co-Coordinator to appoint a crisis response team to provide appropriate short term support.
- 14) 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 Bishop shall appoint a committee of review to conduct an internal enquiry and advise the Bishop as to whether the respondent shall be reinstated in any duties having to do with children or vulnerable persons. The status of the respondent shall be determined according to the Canons of the Diocese. Persons who have been found in a criminal proceeding to have committed sexual abuse of a child shall under no circumstances be given duties where they may be in contact with children.
- 15) In the case of acquittal of a person charged with sexual abuse 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 will be announced publicly.
- 17) Where a complaint is sustained, a copy of the Bishop's decision shall be maintained in the respondent's personnel file. When a complaint is not sustained, there shall be no record of it in the personnel file. However, summary documentation of the case shall be maintained in the confidential file of the coordinator.

Discipline

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

Appeal

- 20) An appeal of the Bishop's decision may be made to the Metropolitan Bishop within thirty (30) days of the Bishop's decision by filing a written request with the reasons for the appeal. The Metropolitan shall respond within two (2) weeks of the written request for appeal.

3.2 The Process When the Complainant is an Adult

The Complaint

- 1) If a person notifies the Bishop and/or the Coordinator that he/she wishes to make a formal complaint of sexual misconduct, the Coordinator may assist the complainant in determining which of the procedures under this policy (that is, sexual harassment or exploitation or sexual assault) most fittingly apply. If the sexual activity forming the basis of the complaint may be defined as criminal under the Criminal Code of Canada, the Coordinator will encourage the complainant to report this matter to the police. The Coordinator may assist the complainant to do so. No report will 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. If the complainant chooses not to report the matter to the police, the complainant may be investigated according to the Sexual Harassment of Exploitation Procedures in this policy, beginning at the formal process stage. The complaint may be directed to mediation under that procedure only with the concurrence of the Coordinator, based on the nature of the complaint.

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 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 3.2 above.

Reporting and Cooperation 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 will report this immediately to the Bishop of his or her delegate (See Appendix 3 – flowchart)
- 4) The diocese will offer to cooperate fully with authorities who are investigating reports of sexual assault.
- 5) The respondent will be notified of the report unless there are concerns that such notification will impede the progress of the investigation.
- 6) The Coordinator, in consultation with the Bishop, will contact 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.
- 7) The Coordinator shall ensure notification to the diocesan insurers of a potential claim.
- 8) Where a member of staff or clergy, or a volunteer is accused of sexual assault that person shall normally be removed from church related duties until all investigations and legal proceedings are completed, and the Bishop is satisfied 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.
- 9) All public communications, including parish and media contacts, are to be made only by the Bishop or his or her designate. All public statements will have due regard to confidentiality of the affected parties and the principle of innocence until guilt is proven.
- 10) If the abuse allegedly occurred in a place of ministry in the diocese, the Bishop, having regard for the pastoral needs of that place of ministry during and following the investigation, may request the Coordinator to appoint a Crisis Response Team to provide appropriate short term support.
- 11) 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 bishop shall appoint a Committee of Review to conduct an internal enquiry and advise the bishop as to whether the respondent shall be reinstated in any duties having to do with children or vulnerable persons. The status of the respondent shall be determined according to the Canons of the Diocese. Persons who have been found in a criminal proceeding to have committed a sexual offence against a child shall, under no circumstances, be given duties where they may be in contact with children or vulnerable persons.

In the case of acquittal of a person charged with criminal sexual activity, or where charges have not been 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.

- 12) Where a respondent is fully exonerated of the accusation, this determination will be announced publicly.
- 13) Where a complaint is sustained, a copy of the Bishop's decision shall be maintained in the respondent's personnel file. When a complaint is not sustained, there shall be no record of it in the personnel file. However, summary documentation of the case shall be maintained in the confidential file of the Coordinator.

Discipline

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

Appeal

- 16) An appeal of the bishop's decision may be made to the Metropolitan Bishop within thirty (30) days of the bishop's decision by filing a written request with the reasons for the appeal. The Metropolitan Bishop shall respond within two (2) weeks of the request for appeal.

SECTION 4: PREVENTION

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

- 1) The Bishop of Niagara and the Diocesan Synod Council will take responsibility for education both about sexual exploitation, harassment and assault, and for the general implementation of this policy.
- 2) The Bishop and Diocesan Executive Staff will strive to make their places of work for diocesan volunteers and staff, free from sexual exploitation, harassment and assault.
- 3) The incumbents and churchwardens of each parish will strive to ensure that their congregations are free from sexual exploitation, harassment and assault.

- 4) This sexual misconduct policy will be explained to existing clergy, staff and diocesan volunteers and their written agreement to comply with this policy will be required. (See Appendix 10 – Policy Acknowledgement Form)
- 5) When new clergy are appointed or diocesan and parish staff are hired, agreement to comply with all personnel policies of the Church, including this policy, is required in writing as a condition of employment or appointment.
- 6) When volunteers for diocesan boards or committees or other councils are chosen, a written agreement to comply with this policy is required.
- 7) Part of the orientation for all new clergy, staff or volunteers or diocesan boards or committees, as well as other key volunteers, will include a review of this policy and the procedure for making complaints.
- 8) Training for volunteers will take place at the beginning of their term in office, training for new clergy and staff will take place within the first six (6) months of their appointment, and at least once every three years for all clergy and diocesan staff together.
- 9) The Coordinator shall oversee the orientation and ongoing training of clergy and staff concerning the workplace issues of harassment, discrimination, sexual misconduct and ethical behaviour. The Diocesan Executive Staff shall be responsible for insuring that members of the boards and committees with which they work have received such orientation and ongoing training. Incumbents of parishes and those in charge of other diocesan ministries shall be responsible for ensuring that employees and key volunteers have been oriented and consent to adhere to this policy.
- 10) The Diocese of Niagara reserves the right to initiate an investigation under the procedures of this policy into any situation where there is reasonable suspicion of sexual misconduct as defined in this policy.

Appendix 1
Flow Chart of Response to Complaint of Harassment or Exploitation

Informal Process (optional)	
Complainant tells respondent to stop the unwelcome behaviour	
Complainant documents details	
Complainant may request the assistance of a diocesan resource person	
Case resolved with a resolution agreement	
Formal Process	
Case unresolved or complainant makes formal written complaint	
Complainant offered the assistance of a diocesan resource person	
Respondent given the written complaint, given policy and offered the assistance of a diocesan resource person	
Bishop informed of the complaint	
Investigating team appointed	Mediation (may be initiated at any point in the process)
Investigating team interview complainant, respondent and others deemed necessary	If mediation is rejected or fails, the investigation is resumed
Investigating team reviews a preliminary written report with the complainant and respondent; seeks further input	
Investigating. team submits written report to bishop	Mediation report presented to bishop
The Bishop makes a final decision and determines appropriate discipline; conveys decision to both parties	
An appeal may be made	

Appendix 2
Flow Chart of Response to Complaint of Sexual Assault against a Child

A person who suspects abuse of a child on reasonable grounds contacts the Children's Aid Society
The Co-coordinator is informed of the allegation, informs the bishop, confirms and documents that a report to CAS has been made
Diocese co-operates with the investigating child protection and/or police authorities
Bishop (after consultation with investigating authorities) contacts the child's family. Child and family offered the assistance of a diocesan resource person
Respondent advised of the report (on advice of investigating authorities) by Bishop or Co-coordinator and offered the assistance of a diocesan resource person
Insurers informed of the complaint
The respondent is normally removed from duties pending outcome of investigation
A crisis response team may be appointed to assist in the parish
The bishop may appoint a committee of review to conduct an internal investigation on completion of criminal or civil proceedings
The diocesan bishop determines appropriate Discipline

Appendix 3
Flow Chart of Response to Complaint of Sexual Assault against an Adult

Complainant contacts the Co-coordinator or the Bishop		
Co-coordinator encourages complainant to report the matter to the police	If complainant chooses not to report to police, follow "Sexual Harassment or Exploitation" procedures	If complainant was a minor at the time of the alleged abuse, proceed according to "process when the complaint involves a child."
Co-coordinator informs the bishop of complaint	Complainant offered the assistance of a diocesan resource person; given policy	
Diocese co-operates with investigating authorities	Complaint put into writing; consent to release information form signed	
The complainant offered support of a diocesan resource person	Respondent advised of the complaint, given policy and the written complaint; and offered the assistance of a diocesan resource person	
Respondent advised of the complaint by Co-coordinator (after consultation with the authorities), and offered support of a diocesan resource person	Bishop or his or her delegate informed of the complaint	
The Secretary of Synod informed of the complaint	Investigating team appointed	Mediation (may be initiated only with the Co-coordinator's concurrence)
The respondent is normally removed from duties pending the outcome of the investigation	Investigating team reviews their report of facts with complainant and respondent, seeks further input.	If mediation fails, the investigation continues
A crisis response team may be appointed to assist in the parish	Investigating team submits a written report to the bishop	Mediation report presented to bishop
The Bishop may appoint a committee of review to conduct an internal investigation on completion of criminal or civil proceedings	The Bishop makes a final decision; convey decision to both parties.	
The Bishop determines appropriate discipline	The Bishop determines appropriate discipline	

Appendix 4 CONFIDENTIALITY

As a first principle, information will be held in confidence unless required to disclose by law, or where safety issues exist, or where confidentiality is waived by the parties.

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 offense 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 should be admonished against gossip and rumor, and be required to hold such information as confidential.

Appendix 5
CO-ORDINATOR and DIOCESAN RESOURCE TEAM

The diocesan resource team (DRT) will be established to be composed of the Co-coordinator and a number of diocesan resource persons.

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

- (a) provide assistance to all 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 shall be responsible to the Bishop.

The Co-coordinator shall be appointed by the Bishop for a term of three (3) years. The Co-coordinator shall be responsible for:

- (a) the administration of 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 Executive Officer and Chancellor in the implementation of the policy;
- (h) consulting with the bishop in respect to complaints arising in their areas under the policy;
- (i) assignment of a crisis response team under the policy at the request of the Bishop;

Appendix 6 MEDIA RELATIONS

- i) Allegations of a breach of the policy of sexual ethics and professional conduct are issues which reflect upon the alleged offender, the alleged victim and the Church as a whole
- ii) If public statements are made which prove to be false, exaggerated or inaccurate, they can bring serious damage to the reputation of any of the involved persons, and there can be serious legal repercussions
- iii) There shall be only one media spokesperson for the Diocese, namely the Bishop or his/her designate. As investigations are pursued, not all person involved may have the same knowledge of the allegations or facts. Inconsistencies, if stated in the public forum, may lead to misrepresentation of the facts or may even be deliberately exploited. It is not appropriate, at any level, to make "off the record" statements to the media. This can harm not only the persons involved, but also the Church and the investigative process
- (iv) The names of an alleged victim(s), respondent(s), or party who brought the incident to the church's attention shall not be revealed to the media unless these individuals waive their privacy by written release or by their conduct. Privacy is vital for complainants and respondents. So as not to compromise the integrity of an investigation, the names of any party involved must not be revealed to the media
- (v) The identification of the media spokesperson should be communicated to the wider church as soon as possible, so that any inquiry can be readily referred
- (vi) The spokesperson should be sufficiently available to the media so that it is clear that there is no attempt to hide information from the public. Comments can be made to the effect that "we are very concerned by the allegations, and have taken appropriate steps"

Appendix 7
PASTORAL CARE

- a) Pastoral Care for the Complainant:
- i) Pastoral care to the complainant is a community responsibility and shall be given priority and attention from the beginning of the process onward. The complainant will be informed of the process of the investigation including the commitment to confidentiality.
 - ii) The Bishop will offer to appoint a pastoral care giver for the complainant during an investigation. In most situations, a complainant will be very upset by what is alleged to have happened, and will require compassion and support. Extreme care must be taken to ensure that the complainant is not further victimized.
 - iii) In addition, the Bishop shall insure that pastoral care is offered to the complainant's family.
 - iv) Assistance to find a qualified therapist and/or financial assistance for the purpose of therapy may also be offered.
- b) Pastoral Care for the Respondent:
- i) It is understood that a person is innocent until proven otherwise. Confronting any person with an accusation which can lead to disciplinary action should be undertaken as a pastoral and caring act, providing for the common good of the church and also offering the possibility for restoration and healing.
 - ii) A pastoral care provider will be appointed by the Bishop to the respondent and for his or her family for the purpose of support from the beginning of the process forward. The respondent will be informed of the process of the investigation including the commitment to confidentiality.
 - iii) Assistance to find a qualified therapist and/or financial assistance for the purpose of therapy may also be offered.

**Appendix 8
MEDIATION AGREEMENT**

THIS IS A MEDIATION AGREEMENT made this day of ,200__.

BETWEEN:

OF THE FIRST PART

-and-

OF THE SECOND PART

-and-

THE DIOCESE OF NIAGARA

THE MEDIATOR

1. AGREEMENT

The parties agree:

- (1) To attempt to settle a controversy through the mediation process on the terms contained in this agreement;
- (2) That the parties will be present at mediation or will have a representative present who will have authority to settle the case on the spot;
- (3) That the parties-enter in this mediation with the intent to work towards a mutually acceptable settlement and will conduct themselves in good faith at all times;
- (4) The mediator will not disclose to anyone who is not a party to the mediation except:
 - (a) with the consent of all parties;
 - (b) where required by law;
 - (c) where the information suggests an actual or potential threat to human life or safety.
- (5) NO SUMMONS OR SUBPOENA
 - (1) It is agreed that none of the parties will call the mediator as a witness to testify as to the fact of a mediation or as to any oral or written communication made during mediation. Nor will the parties summon, subpoena, or seek access to any document prepared for or in connection with mediation including any records, notes or work product of the mediator.

MEDIATION SESSIONS

- (1) The mediator will schedule the time and place for the mediation sessions in consultation and with the consent of the parties.

COSTS OF MEDIATION

- (1) To be undertaken by the Diocese of Niagara, which will include costs of mediator, facilities, and any out -of-pocket expenses.

REPORT BY MEDIATOR

- (1) In the event that an agreement has been mediated, the mediator will prepare interim minutes of settlement respecting agreements reached on issues of dispute.
- (2) In the event that no agreement is reached on the issues, the mediator will prepare reports stating only whether or not mediation was successful and outlining the process followed.

CLOSED MEDIATION

- (1) The parties understand and acknowledge that their discussions are confidential and on a “without prejudice” basis and that neither party will use any disclosures and/or discussion against the other in any subsequent legal proceedings. Further, this paragraph may be pleaded as a complete bar to disclosure of any discussions, documents, interim agreements, notes or materials relating to this mediation, with the exception of a full and final agreement executed by the parties and confirmed by counsel for each of them or a report stating only that no agreements was reached.

TERMINATION

- (1) This agreement will continue in force from the date of the signing until an agreement is reached or the mediation process is terminated or the mediation process is extended with the mutual consent of both parties for a further period,
- (2) The parties acknowledge that he or she has read this agreement and agrees to proceed with mediation in accordance with the terms and voluntarily enters into the execution of this agreement.

Date

Date

Date

Mediator

Appendix 10
SEXUAL MISCONDUCT POLICY (as of October the 19, 2000)
ACKNOWLEDGMENT FORM

Name

Title
(Clergy/employee/volunteer)

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

_____ I understand the contents of the Diocese of Niagara Misconduct Policy

_____ I understand that to function as an ordained or lay person in ministry implies a fiduciary trust and responsibility.

If you cannot check off any of the above statements or if you have questions about this, please contact the Bishop or the Co-coordinator prior to signing off on this document.

Signature:

Please type or print name

Date:

Instructions: all ordained and lay staff are expected to comply with the Diocese of Niagara Sexual Misconduct Policy. 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.

/ad