

**THE ANGLICAN CHURCH OF CANADA**

**SEXUAL MISCONDUCT POLICY APPLICABLE TO  
NATIONAL STAFF AND VOLUNTEERS**

As revised and adopted by the Council of the General Synod November 2005.

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## INTRODUCTION

In 2001 the General Synod of The Anglican Church of Canada adopted *A Call to Human Dignity: A Statement of Principles for the Anglican Church of Canada on Dignity, Inclusion and Fair Treatment*. The *Statement* includes this paragraph:

All persons seeking spiritual care and nurture, as well as those pursuing employment and those people employed by our church shall be treated with courtesy, compassion, fairness and integrity by our church and its representatives or officials, without discrimination on the basis of age, sex, sexual orientation, family or marital status, race, colour, ethnic (or place of) origin, ancestry, disability, creed or socio-economic status.

In keeping with *A Call to Human Dignity*, the Council of the General Synod of The Anglican Church of Canada adopts this Policy as part of its commitment to ensuring

- that all our work places and endeavours are free from violence, coercion, discrimination and sexual misconduct
- that no one is subjected to sexual misconduct of any kind
- that we deal promptly, seriously and systematically with all complaints of sexual misconduct
- that those who hold positions of trust or power in the church do not take advantage of, or abuse, that trust or power
- that we practice an ethic of mutual respect, responsibility and caring
- that we model wholeness and healthy sexuality in our relationships

Acceptance of and adherence to this Policy is a mandatory and vital component of the life and work of all General Synod employees and volunteers including, but not limited to, Officers and members of the General Synod, members of the Council of the General Synod, chairs and members of General Synod Standing Committees, councils, boards and commissions.

The General Secretary of the General Synod is responsible for overseeing the administration of this Policy.

## PREVENTION

All employees must, as a condition of employment, agree in writing to comply with this Policy.

All volunteers must, as a condition of voluntary service in any capacity, agree in writing to comply with this Policy.

Orientation of new employees and volunteers will include a review of this Policy.

The Officers of the General Synod and the Council of the General Synod are responsible for acquainting staff and volunteers with this Policy and for ensuring that the work places of both employees and volunteers are free from sexual misconduct.

The Human Resources Coordinator employed by the General Synod is responsible for the orientation of new employees and the ongoing training of all employees with respect to this Policy and related issues of discrimination, sensitivity and ethical behaviour. The Coordinator is available to employees and volunteers for advice respecting the application and operation of the Policy.

Orientation and training sessions for all employees shall be held at least once every three years and for new employees within six months of the start of employment. Training sessions for all volunteers shall be held during the first year following each regular meeting of the General Synod and at other times determined by the General Secretary and the Human Resources Coordinator.

## WHAT IS SEXUAL MISCONDUCT?

In this Policy the expression *sexual misconduct* includes *sexual harassment*, *sexual exploitation* and *sexual assault*.

*Sexual harassment* means any behaviour of a sexual nature

- that is unwanted or unwelcome or ought reasonably to be known to be unwanted or unwelcome
- that may create a poisoned psychological or emotional environment for those who work in, or participate in any activity of, the church

*Sexual harassment* may involve behaviour that is unintentional as well as intentional. It is defined by its impact on others rather than by the intent of the person engaged in the behaviour. It may consist of a single incident or persistent

and repeated behaviour. It may be only verbal innuendo or subtle suggestion. It includes telling or circulating offensive jokes or stories, displaying or circulating offensive material such as pictures or cartoons, the stereotyping of individuals or groups on the basis of gender or sexual orientation, or persistent unwanted or unwelcome contact after the end of a consensual relationship.

*Sexual harassment* does not include

- interactions between consenting adults
- consensual relationships
- expressions of affection between friends

*Sexual exploitation* may consist of

- conduct that places or that may reasonably be perceived as placing, or attempting to place, a condition of a sexual nature on employment, on any opportunity for training or promotion, or on any opportunity to participate in any church activity
- the making of an express or implied promise of reward for complying with a sexually oriented suggestion
- a reprisal or denial of opportunity, or an express or implied threat of reprisal or denial of opportunity, for a refusal to comply with a sexually oriented suggestion
- taking advantage, or attempting to take advantage, of the vulnerability of a person under one's pastoral care or other guidance or leadership
- taking advantage, or attempting to take advantage, of the vulnerable party in a power relationship for pleasure or gain

*Sexual assault* is a term used in Canadian criminal law. A synopsis of some aspects of the criminal law is included here to emphasize the seriousness of sexual assault. In law the word "assault" means an intentional application of force to another person *without that person's consent*. It also includes an attempt or a threat to apply force to another person. The Criminal Code makes *sexual assault* an offence but does not define it. The courts interpret it to mean an assault committed in circumstances of a sexual nature such that the victim's sexual integrity is violated. Kissing, fondling and sexual intercourse, in the absence of consent, are sexual assaults. The law provides more severe penalties if a sexual

assault causes bodily harm, wounding or disfigurement, if it endangers the victim's life, or if it involves use of a weapon or threats of bodily harm.

Generally speaking, if a person is charged with a sexual offence involving a victim under the age of 14 years, it is not a defence that the victim consented to the activity.

The law also creates some specific offences with respect to victims who are under 14 - touching any part of the body for a sexual purpose, or inviting, counselling or inciting one who is under 14 to touch the body of another person for a sexual purpose. The offence is treated more seriously if the person committing it is in a position of trust or authority toward the young person or is someone with whom the young person is in a relationship of dependency. Exposure of one's genital organs to a child under 14, for a sexual purpose, is also an offence.

## **PRINCIPLES APPLICABLE TO COMPLAINTS**

A complaint of sexual misconduct by an employee or volunteer may be made with respect to any incident that occurs in the course of their work for the church or during any church related activity.

A complaint shall be made within six months after the incident giving rise to it in order that it may be fairly and thoroughly considered and investigated. The General Secretary may extend the time for making a complaint if no one will be prejudiced by the extension.

A person against whom a complaint is made will be presumed innocent of the alleged misconduct until it is admitted or substantiated by clear and convincing evidence.

Every complaint will be taken seriously and will be processed as quickly as possible.

**All persons involved with a complaint are expected to maintain confidentiality unless the law requires otherwise, there are safety issues or the parties waive confidentiality. Employees or volunteers who learn of complaints or investigations must not engage in gossip or rumour and must retain the information as confidential.**

Complaints of sexual assault or abuse of children or other vulnerable persons must be reported to the appropriate authorities as required by law. Other complaints of sexual assault may be reported to the appropriate police authorities and nothing will be done to interfere with a criminal investigation.

Everyone is entitled to pastoral care which will, so far as is possible and appropriate, promote healing, repentance, forgiveness, justice, amendment of life and reconciliation among all persons involved in or affected by any sexual misconduct.

No one shall knowingly make a false or vexatious complaint of sexual misconduct. To knowingly do so is itself sexual misconduct.

Complainants and those against whom complaints are made are entitled to seek legal or other counsel.

This Policy does not preclude a complainant from proceeding under any secular Human Rights laws.

The Officers of the General Synod will cooperate in any investigation of a complaint of sexual misconduct by the police or any other external authority.

## **COMPLAINT PROCEDURES**

### **How a complainant may proceed**

Anyone who believes they have been a victim of sexual misconduct by an employee or volunteer

- should inform the person responsible for the misconduct that it is unacceptable and must stop
- may make a written request for assistance in
  - communicating with the person responsible for the misconduct
  - resolving the matter informally
  - preparing a formal complaint
- may make a formal complaint and request a formal investigation

A written request for assistance shall be made

- by an employee to the employee's immediate supervisor or the Human Resources Coordinator

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- by a member of the General Synod or the Council of the General Synod to the General Secretary or the Prolocutor
- by a Chair of a General Synod Standing Committee, council, board or commission to the General Secretary or a staff member assigned to the Committee, council, board or commission
- by a member of a General Synod Standing Committee, council, board or commission to the Chair of, or a staff member assigned to, the Committee, council, board or commission
- by the General Secretary to the Primate or the Prolocutor
- by the Primate to the Officers of the General Synod or to the senior provincial Metropolitan
- by any other person to the General Secretary

### **Informal resolution**

The person who receives a written request for assistance shall

- promptly provide assistance and, if no formal complaint is made, shall endeavour to resolve the matter between the complainant and the person against whom the complaint was made
- shall make a written report of the factual circumstances of the complaint, of the action taken and the result of such action

A person, other than the General Secretary, who makes a written report shall deliver it to the General Secretary who will retain all such reports.

### **Formal procedure**

A complainant may make a formal written complaint giving particulars of the alleged sexual misconduct and requesting an investigation. The complaint shall be delivered to the General Secretary except that

- if the complaint is made by or against the General Secretary it shall be made to the Primate who shall carry out the responsibilities hereinafter assigned to the General Secretary
- if the complaint is made against the Primate it shall be made to the senior provincial Metropolitan who shall carry out the responsibilities hereinafter assigned to the General Secretary

The General Secretary may refer a complaint made against a bishop to the Metropolitan of the province in which the bishop resides and the Metropolitan shall carry out the responsibilities hereinafter assigned to the General Secretary.

The General Secretary may refer a complaint made against any other ordained person to the diocesan bishop who licensed that person and the Bishop shall carry out the responsibilities hereinafter assigned to the General Secretary according to (a) this Policy, (b) the sexual misconduct policy of the Bishop's diocese or (c) the sexual misconduct policy of the diocese where the incident occurred. If neither the Bishop's diocese nor the diocese where the incident occurred has a sexual misconduct policy, the Bishop shall follow this policy.

### **Investigation of complaint**

The General Secretary shall provide a copy of the complaint to the person against whom it is made together with a copy of this Policy and shall either (a) refer the complaint to mediation or (b) direct the Human Resources Coordinator or an independent investigator or investigators to investigate the complaint and report within two weeks or such further time as the General Secretary allows. The General Secretary may direct that the complaint be investigated by two investigators, one of each gender.

The investigator(s) shall interview the complainant, the person against whom the complaint has been made and other persons as appropriate and shall report in writing to the General Secretary summarizing the information received and clearly outlining

- the alleged misconduct
- the response of the person against whom the complaint was made



- admitted and established facts
- unestablished allegations
- a finding as to whether or not the alleged misconduct occurred
- any recommendations the investigator considers appropriate

The General Secretary shall provide copies of the report to the complainant and the person against whom the complaint was made.

If the complainant withdraws the complaint at any time the investigation shall cease and the General Secretary shall retain a record of the withdrawal.

The General Secretary shall, promptly after receiving the report of an investigation and after considering any further submissions from the parties, determine whether the complaint has been substantiated or not or may, if the parties agree, refer it to mediation.

The General Secretary may, if the complaint has been substantiated, take appropriate disciplinary and remedial actions.

The General Secretary may, if a complaint of sexual misconduct amounting to sexual assault has been substantiated, refer the matter to the appropriate police authority for criminal investigation.

The General Secretary shall inform the complainant and the person against whom the complaint was made, in writing, of any determination made or action taken under any of the three preceding paragraphs.

When a criminal charge has been laid with respect to sexual misconduct about which a complaint has been made under this Policy, no proceedings under the Policy shall be commenced or continued until the criminal charges have been finally disposed of.

The General Secretary, the investigator and any other person involved with the processing of a complaint shall inform the complainant and the person against whom the complaint is made that they are entitled to seek legal or other counsel and that the procedures under this Policy are not a substitute for criminal, civil, human rights or other administrative remedies available outside the Policy.

## **Mediation**

The General Secretary shall maintain a list of qualified investigators and mediators to assist with complaints.

When a complaint is referred to mediation

- the mediator shall be selected by agreement of the parties or, failing such agreement, by the General Secretary
- the parties and the mediator shall enter into a written mediation agreement in the form set out in Appendix A with such variations as the circumstances may require or in such form as is agreed to by the parties and the mediator
- the General Secretary and the mediator shall inform the parties that they are entitled to independent legal advice and to have their legal or other advisors present during the mediation

The General Secretary shall determine the appropriate action to be taken to implement a resolution achieved by a successful mediation.

If a mediation is not successful the General Secretary shall determine the appropriate action to be taken.

### **CHILDREN AND OTHER VULNERABLE PERSONS**

Anyone who receives a request for assistance or a complaint with respect to a sexual assault or sexual exploitation of a child, i.e. a person under the age of 18 years, or other vulnerable person must comply with any law requiring that the assault or exploitation be reported to a child protection agency or other authority.

No investigation or mediation will be commenced or continued under this Policy if an investigation is made by an external authority.

The General Secretary may suspend, with or without pay, a staff member whose conduct is being investigated by an external authority.

The General Secretary may suspend, on such terms and conditions as the General Secretary deems appropriate, a volunteer whose conduct is being investigated by an external authority.

The General Secretary shall promptly offer therapeutic or pastoral support to a child or vulnerable person, and to their family, during any investigation by an external authority.

The General Secretary may seek professional advice with respect to ensuring a balance of protective action, correct legal response, pastoral care and confidentiality with respect to any misconduct directed toward a child or vulnerable person.

A staff member or volunteer who is found guilty of a criminal sexual offence involving a child or vulnerable person may be dismissed from employment or removed as a volunteer.

The General Secretary, in consultation with the Officers of the General Synod, shall determine whether any action is required when an external investigation of a complaint of misconduct toward a child or vulnerable person is inconclusive or when a staff member or volunteer is found not guilty of a criminal sexual offence involving a child or vulnerable person.

### **THIRD PARTIES**

Anyone who knows of an incident of sexual misconduct has a responsibility to assist in keeping the workplace and church activity free from such misconduct and may encourage a victim of misconduct to make a complaint or may report the matter to the Human Resources Coordinator or the General Secretary.

### **DISCIPLINE**

The General Secretary is responsible for determining whether disciplinary action is required when a complaint of sexual misconduct is admitted or substantiated or an employee or volunteer is convicted of a criminal sexual offence.

Discipline may include caution, warning, censure with probation or rehabilitation or both, suspension with or without terms, dismissal from employment or removal from a volunteer position.

The General Secretary shall give disciplinary decisions in writing with reasons and a copy shall be given to the disciplined person and to anyone who made a complaint of the misconduct that resulted in the discipline.

The General Secretary may impose discipline on anyone who makes a false or vexatious complaint under this Policy.

When an employee has been disciplined under this Policy, any subsequent letter of reference provided to the employee will include reference to the discipline and the reason for it.

When a complaint of sexual misconduct against an ordained person is substantiated or admitted, or results in a conviction for a criminal sexual offence, the General Secretary shall formally notify the diocesan bishop who licensed that person.

## **APPEALS**

A complainant or a person against whom a complaint has been made may appeal in writing to the Primate, giving reasons for appealing, from any decision of the General Secretary

- determining whether a complaint has been substantiated or not
- imposing discipline or remedial action
- made following a mediation whether or not the mediation was successful

The Primate may appoint an Appeal Panel to review and advise the Primate with respect to an appeal from a decision of the General Secretary

The Primate or the Appeal Panel shall allow the parties a reasonable time to make written submissions with respect to the appeal. The Primate shall, promptly after receiving submissions or after receiving the advice of the Appeal Panel, give his or her decision in writing. The decision of the Primate is final.

## **PASTORAL CARE**

### **For complainants**

Victims of misconduct require compassion and support. Pastoral care for complainants is a corporate responsibility and care must be taken to ensure that they are not further victimized.

The General Secretary will appoint a pastoral care provider for a complainant and the complainant's family and will, if necessary, assist a complainant to find a qualified therapist and financial assistance for therapy.

### **For respondents**

Confronting a person against whom a complaint has been made should be undertaken as a pastoral act that includes the possibility of restoration and healing. Pastoral care for respondents is a corporate responsibility.

The General Secretary will appoint a pastoral care provider for a respondent and the respondent's family and will, if necessary, assist a respondent to find a qualified therapist and financial assistance for therapy.

## **RECORDS**

The General Secretary shall maintain a central confidential record of

- reports made with respect to requests for assistance
- complaints made or referred to the General Secretary
- reports of investigations
- informal resolutions of complaints
- mediations
- disciplinary actions

The General Secretary shall destroy a confidential record when five years have elapsed after both the complainant and the person complained against have ceased to be either employees or volunteers.

Anyone who is or has been an employee or volunteer is entitled to access to any records with respect to complaints made against them.

## **MEDIA RELATIONS**

Allegations of sexual misconduct reflect upon the complainant, the alleged offender and the Church as a whole.

Public statements about a complaint of sexual misconduct are a breach of the principle of confidentiality and may compromise the processes of investigation and mediation. Inconsistent public statements may misrepresent the facts and may be deliberately exploited. It is inappropriate for anyone to make “off the record” statements to the media.

Public statements which may be false, exaggerated or inaccurate can seriously damage the reputations of involved persons and can have serious legal repercussions.

The names of persons involved in any way with a complaint of sexual misconduct will not be revealed to the media unless those persons waive their privacy in writing or by their conduct.

The General Secretary or someone designated by the General Secretary shall be the only media spokesperson for the Church with respect to any incident of sexual misconduct. If any information about a complaint becomes public the identity of the spokesperson shall be made known to the wider Church in order that inquiries can be directed to the spokesperson. The spokesperson shall be reasonably available to the media in order to prevent any suspicion that there is an attempt to hide information from the public. The spokesperson should, so far as possible, communicate with the media in writing.

## **REVIEW OF POLICY**

The Council of the General Synod shall review this Policy from time to time.

APPENDIX A

This is a **MEDIATION AGREEMENT** made the       day of       , 20

**BETWEEN**

**the First Party**

**and**

**the Second Party**

**and**

**the Mediator**

*(Name of the First Party)* has made a complaint under the Sexual Misconduct Policy of the Anglican Church of Canada alleging sexual misconduct by *(Name of the Second Party)*, the complaint has been investigated, and the General Secretary of the General Synod (the General Secretary) has, with the agreement of the Parties, referred the complaint to mediation and *(Name of Mediator)* has been selected as Mediator.

**The Parties and the Mediator agree as follows:**

1. The purpose of the mediation is to achieve a mutually acceptable resolution of the complaint.
2. The Parties acknowledge that the Mediator is an impartial third party and that the role of the Mediator is to assist the Parties to voluntarily reach their own resolution of the complaint. The Parties acknowledge that the primary responsibility for resolving the complaint rests with them and not with the Mediator who acts only as a facilitator. The Mediator will not represent either Party in any subsequent legal proceedings between the Parties.

3. The Parties acknowledge that the Mediator will not provide any legal advice or a legal opinion with respect to their rights, obligations or entitlements under any law.
4. The Parties acknowledge that they understand that they are entitled to independent legal advice and to have their legal or other advisors present during the mediation.
5. The Parties will meet with the Mediator at mutually agreed times and places, will conduct themselves in good faith, and will comply with the Mediator's reasonable requests to promote an efficient and expeditious resolution.
6. The Parties will fully disclose all relevant information reasonably required for the Parties and the Mediator to understand the issues.
7. Each Party will be present during the mediation or will have a representative present with authority to agree to a resolution.
8. The Mediator may make decisions about the mediation process but will not impose substantive decisions on the Parties.
9. The Mediator may meet with the Parties and their advisors together or with either Party and that Party's advisors alone.
10. The mediation will be closed and all discussions between the Parties or between the Parties and the Mediator are confidential.
11. The Mediator will not disclose to any person (including a Party) information disclosed to the Mediator alone, without the consent of the disclosing Party.
12. The Mediator will not disclose to any person information obtained during the mediation without the consent of the Parties, unless compelled by law to do so or unless the information suggests an actual or potential threat to human life or safety.
13. Neither Party will disclose to any person other than that Party's professional advisors for the purposes of the mediation, information obtained or statements made during the mediation without the written consent of the disclosing Party, unless required by law to do so.
14. The Parties will not at any time before, during or after the mediation call the mediator as a witness in any legal or administrative proceeding concerning the subject matter of the complaint.



15. Either Party may withdraw from the mediation at any time by giving written notice to the other Party and the Mediator.
16. If the Mediator believes that the mediation is no longer productive the Mediator may terminate the mediation by giving written or verbal notice to the Parties and written notice to the General Secretary.
17. If the Parties do not resolve the complaint during, or as a result of, the mediation the rights of the Parties shall remain unaffected in any subsequent court, administrative or arbitral proceeding.
18. For the purpose of any subsequent proceeding the mediation shall be regarded as a without prejudice conference and nothing said or done during the course of the mediation may be given in evidence in any proceeding and no documents created solely for the purpose of the mediation may be tendered in evidence or required to be produced in any proceeding.
19. The Parties will commit to writing any resolution or agreement reached during the mediation and the Parties and the Mediator will sign the same.
20. If the mediation does not result in a resolution of the complaint the Mediator shall report that fact to the General Secretary.
21. The Parties agree that they are responsible for any legal or professional fees they incur with respect to the mediation.
22. The Mediator acknowledges that the General Synod of the Anglican Church of Canada is responsible for the Mediator's fees and expenses.
23. This Agreement will be governed by and construed according to the laws of the Province of .....
24. Any invalid or unenforceable provision of this Agreement will not affect the validity or enforceability of the other provisions and invalid or unenforceable provisions are severable.
25. This Agreement will continue in force from the date of signing until a resolution is achieved or the mediation is terminated.

26. The Parties acknowledge that they have read this Agreement and that they enter into it voluntarily.

.....  
Date First Party

.....  
Date Second Party

.....  
Date Mediator