

Diocese of Antigonish

Nova Scotia

**Policy for Responding to Complaints of
Misconduct**

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ITEM 1: RATIONALE FOR POLICY

1.1 The Diocese of Antigonish is committed to creating an environment where the clergy and those responsible for diocesan activities maintain the highest ethical standards of mutual respect, responsibility and caring. Accordingly, the Diocese has established this Policy in order to deal with complaints of Misconduct made against clergy or anyone employed by the Diocese. To create this safe environment, the Bishop has appointed a Bishop's Delegate and an assistant delegate to work with the Diocesan Professional Standards Committee.

1.2 This Policy incorporates the following legislation:

- a) *Children and Family Services Act, SNS 1990, c5*
- b) *Adult Protection Act, RSNS 1989, c2*
- c) *Criminal Code, RSC 1985, c C-46*

1.3 The objectives of this Policy are:

- a) to ensure that the concerns of all individuals and groups affected by allegations of misconduct are dealt with properly and fairly, and in a manner consistent with the exercise of compassion and understanding;
- b) to establish the truth while maintaining the principle of innocent until proven guilty;
- c) to focus Diocesan concern for victims and their families; and
- c) to heal the parish or Diocesan communities affected.

ITEM 2: APPLICATION

2.1 This Policy applies to every bishop, priest, deacon, employee, and volunteer of the Diocese and any of its parishes.

2.2 Adherence to this Policy is mandatory.

ITEM 3: DEFINITIONS

In this Policy, the following words shall have the following meanings:

Abuse: means physical, mental, emotional, sexual, financial abuse;

Child Abuse: means Abuse of and/or Misconduct against a person who is under the age of 19 when the Abuse and/or Misconduct occurs, and/or abuse of a child as defined in the Nova Scotia *Children and Family Services Act*, SNS 1990, c 5, and/or offences against a person under the age of 18 in the Canadian *Criminal Code*, RSC 1985, c C-46. Under the *Children and Family Services Act*, a child is defined as a person under the age of 19 years, while under the *Criminal Code*, child abuse offences may occur against a person who is under the age of 18 years;

Committee: means the Professional Standards Committee;

Complainant: means a person who has made a complaint under this Policy alleging that they have been the victim of Misconduct;

Consent: means voluntary and non-coercive agreement to engage in a specific activity, as defined at common law and in the Canada *Criminal Code*. 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. Meaningful consent for sexual activity is not possible in a fiduciary relationship;

Diocese: means the Diocese of Antigonish;

Employee: means a bishop, priest, deacon, lay employee, or volunteer of the Diocese or one of its parishes;

Misconduct: means Abuse, Child Abuse, Sexual Exploitation, Sexual Harassment, or Sexual Assault as defined in this Policy, or deemed Misconduct as provided in the definition of "Pastoral Relationship" of this Policy;

Pastoral Relationship: means a relationship carried out in the name of or on behalf of the Diocese or parish between an Employee and any person to whom such Employee provides faith-based counselling or from whom the Employee has received confession or confidential information. In assuming responsibility for such a relationship, the Employee acknowledges responsibility for the well-being of the other person, intends to respect that individual's personal integrity and determines not to abuse the power inherent in the relationship. Any abuse of power, betrayal of trust, or exploitation of the imbalance of power that is inherent in the Pastoral Relationship, by the Employee, shall be deemed to be Misconduct. In addition, any sexual activity or conduct in which an Employee in a Pastoral Relationship takes advantage of the vulnerability of the other person in the Pastoral Relationship, regardless of who appears to have initiated it, shall be deemed to be Misconduct;

Policy: means this *Policy for Responding to Complaints of Misconduct*;

Respondent: means an Employee against whom allegations of Misconduct are made;

Sexual Assault: means any intentional use of force or threat of use of force involving some form of sexual activity against another person without his/her consent. Sexual Assault is an activity that may be defined either as abuse of a child under the Nova Scotia *Children and Family Services Act* or as criminal under the Canada *Criminal Code*. Sexual Assault also means other related offences including the possession, distribution or accessing of child pornography. Some examples of Sexual Assault include, but are not limited to:

- kissing;
- sexual contact;
- fondling or sexual intercourse;
- bodily harm or threats to harm, assault with a weapon;
- incest, bestiality and gross indecency; and
- 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; and
- other indecent acts;

Sexual Exploitation: means any form of sexual contact or invitation to sexual contact, with an adult by a professional person, cleric or anyone in a position of authority, trust or power over that adult whether or not there is Consent from the individual. Sexual Exploitation refers to the act of taking advantage of the vulnerability of an adult, with whom there is a fiduciary and/or faith-based relationship for one's own pleasure/gain;

Sexual Harassment: means

- i) Vexatious sexual conduct or a course of comment that is known or ought reasonably to be known as unwelcome;
- ii) A sexual solicitation or advance made to an individual where the other individual is in a position to confer a benefit on, or deny a benefit to, the individual to whom the solicitation or advance is made, where the individual who makes the solicitation or advance knows or ought reasonably to know that it is unwelcome;
- iii) A reprisal or threat of reprisal against an individual for rejecting a sexual solicitation or advance; or
- iv) Comments, gestures or physical conduct of a sexual nature, or actions or comments with a sexual connotation or component that are directed at no person in particular but that create an intimidating, demeaning or offensive work environment, where an individual knows or ought to reasonably know that the behaviour is unwelcome;

Superior: means the person to whom an Employee reports;

Vulnerable Adult: means a person aged 16 years or older who, in the premises where he resides, is a victim of Abuse and refuses, delays, or is unable to protect himself from the Abuse by reason of physical

disability or mental infirmity, or who is not receiving adequate care, is incapable of caring adequately for himself by reason of physical disability or mental infirmity, and who refuses, delays, or is unable to make provisions for his adequate care, and/or an “adult in need of protection” as defined in the Nova Scotia *Adult Protection Act*, RSNS 1989, c 2.

ITEM 4: THE BISHOP'S DELEGATE

- 4.1** The bishop shall appoint a priest as the "Bishop's Delegate", who will represent him in receiving complaints of Misconduct and conducting investigations of alleged Misconduct, including Sexual Abuse.
- 4.2** The Bishop's Delegate shall be responsible, with the Committee, for the administration and implementation of this Policy.
- 4.3** Another priest who has been appointed by the bishop on the Committee, shall be selected to serve as the Bishop's Associate Delegate, who will have the same duties and functions as the Bishop's Delegate in the latter's absence or incapacity (i.e. where the Bishop's Delegate may have heard the sacramental confession of the Respondent).
- 4.4** The Judicial Vicar shall not be the Bishop's Delegate or the Bishop's Associate Delegate. This is to ensure that if a process of canonical adjudication is initiated, the Judicial Vicar will not have been directly involved in the preliminary procedures.
- 4.5** If the Bishop's Delegate has any questions or concerns in relation to his/her duties under this Policy, or in relation to any complaint of Misconduct, then the Bishop's Delegate may seek assistance from the legal counsel of the Diocese.
- 4.6** The responsibilities of the Bishop's Delegate shall include:
- Collaborating with the Committee on all matters and informing the Committee of all actions taking place;
 - Being the contact person for the Diocese in all matters relating to an allegation of Misconduct against a Respondent;
 - Managing the Diocesan response to a complaint of Misconduct from the time a complaint is received until it is resolved;
 - Ensuring any applicable child and Vulnerable Adult laws are complied with and cooperating with law enforcement and judicial authorities conducting their separate investigations;
 - Designating persons to do the internal investigation of the complaint. These persons will be provided with the necessary resources;
 - Notifying the appropriate insurance carriers concerning a potential claim after consulting with Diocesan legal counsel;

- Making use of consultants as may be considered necessary, such as medical doctors, psychologists, mental health professionals, and canonists. This will be done through the assistance of the Committee;
- Managing the communication plan for the Diocese regarding a Misconduct case;
and
- Being responsible for maintaining all records of the Diocese. In the area of Misconduct in particular, it is required that the Diocese maintain full and complete records of all allegations and investigations of misconduct. This includes keeping detailed and accurate records and logs of all activities undertaken in response to a complaint. These records are to be kept indefinitely in a safe and secure area in the Chancery Office.

ITEM 5: SPECIFIC DUTIES OF EMPLOYEES PURSUANT TO THIS POLICY

- 5.1** All Employees must report any complaint of Misconduct, based on reasonable grounds. All Employees are to make such a report without fear of retaliation or reprisals.
- 5.2** All Employees must report suspected Child Abuse and/or neglect or past Child Abuse pursuant to the procedure set out in Item 8 of this Policy.
- 5.3** All Employees must report suspected abuse or neglect of Vulnerable Adults pursuant to the procedure set out in Item 9 of this Policy.
- 5.4** No Employee can absolve themselves from these requirements to report by rationalizing they have no “first-hand information”, that the information is “hearsay”, or that someone else will make the report. Failure to report promptly on such complaint risks exposing the Complainant to harm and exposes the Employee who fails to report to prosecution.

ITEM 6: POLICY STATEMENT ON EMPLOYEE MISCONDUCT

- 6.1** Complainants and Respondents are expected to proceed in a timely way to address issues of Misconduct under this Policy. Fairness to the Complainant and the Respondent requires that the complaint be initiated and processed as soon as practicable. The timelines are generally followed but extensions for significant cause may be allowed by the Bishop's Delegate.
- 6.2** The Bishop's Delegate, after consultation with the Committee, may decline to deal with a complaint at any stage if, in his opinion, the initiation or processing of the complaint has been unreasonably delayed and substantial prejudice will result to the Complainant or Respondent.
- 6.3** All information regarding a complaint and any resulting investigation under this Policy is to be treated as confidential and will be disclosed on a "need to know basis" only. All confidential information gathered pursuant to this Policy shall be stored in a secure location. 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.
- 6.4** 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 Nova Scotia *Human Rights Act*. However, if there is notice that civil proceedings have commenced or may be commenced, any procedures under this Policy will be suspended, except for the provision of emotional support and pastoral care as outlined in the Policy.
- 6.5** No person or persons is to knowingly make a false or malicious complaint. If it is determined that there was no 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, as provided in this Policy. The Bishop's Delegate, 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. Further, in these circumstances, the Bishop's Delegate shall take measures to restore the reputation of the wrongly accused, which measures shall depend upon the publicity given to the accusation.
- 6.6** Every effort will be made by the Diocese to ensure that the victims of Misconduct and their families receive pastoral support during their time of crises.
- 6.7** The Respondent's Superior shall ensure the Respondent has access to pastoral support.
- 6.8** This Policy shall be reviewed every four years.

ITEM 7: GENERAL PROCEDURE FOR REPORTING MISCONDUCT

1. Any person who wishes to take action under this Policy must notify the Bishop's Delegate of the complaint of Misconduct.
2. Once the Bishop's Delegate has been informed of the complaint, he must then determine which of the procedures under this Policy (Sexual Harassment, Sexual Exploitation, or Sexual Assault) most fittingly applies. As facts emerge, a complaint may be reclassified as Sexual Harassment, Sexual Exploitation, Sexual Assault, or other Misconduct, and the Bishop's Delegate has the right to redirect the management of the response accordingly.
3. The Bishop's Delegate may then initiate an investigation under the relevant procedures of this Policy where there is reasonable suspicion of Misconduct, whether or not a Complainant wishes to make a complaint under the Formal Process of this Policy.
4. The Bishop's Delegate must then advise the Bishop when he has been given information that may lead to a reasonable suspicion of Misconduct. In the case of an investigation initiated by the Bishop's Delegate, a signed Consent Form by the Complainant to release his/her information is not required.

ITEM 8: PROCEDURE FOR COMPLAINT OF CHILD ABUSE

The following steps must be followed when dealing with suspicion of Child Abuse:

1. If a person has reasonable grounds to believe that a person, who at the time, was under 19 years of age, is, has been, or could be the subject of Child Abuse and/or neglect, then that person must report this suspicion and the information on which it is based immediately to the local agency or district office of the Department of Community Services, whether or not the information is confidential or privileged. After reporting this suspicion to the Department of Community Services, then that person must then report the suspected Child Abuse to local law enforcement for investigation. If the person learned of the suspected Child Abuse and/or neglect from another person (the "Referral Source"), then in addition to the above-noted steps the person must take, the person must also advise the Referral Source to immediately report the suspected Child Abuse and/or neglect and the information on which it is based to the local agency or district office of the Department of Community Services.
2. Immediately after reporting the suspicion of Child Abuse to the Department of Community Services and local law enforcement, the person must advise the Bishop's Delegate of the suspected Child Abuse.
3. The Bishop's Delegate will then assist the person in compiling a report containing all the information upon which the report was made, and all actions taken to report the suspicion.
4. The Bishop's Delegate will also inform the person that the services of legal counsel to the Diocese are available for his/her general advice and counsel.
5. After having reported the suspected Child Abuse to the appropriate authorities, the Bishop's Delegate will then determine which of the procedures under this Policy (Sexual Harassment, Sexual Exploitation, or Sexual Assault) most fittingly applies, and will then follow the appropriate steps under that procedure.

ITEM 9: PROCEDURE FOR COMPLAINT OF ABUSE OF VULNERABLE ADULTS

The following steps must be taken when dealing with a complaint of Abuse and/or neglect of a Vulnerable Adult:

1. Any person who has reasonable grounds to believe that a Vulnerable Adult is, has, or may be suffering from Abuse and/or neglect must immediately report such information to the local agency representing the Minister of Community Services, regardless of whether the information is confidential or privileged. If the person learned of the suspected Abuse and/or neglect from another person (the "Referral Source"), then in addition to the above-noted steps the person must take, the person must also advise the Referral Source to immediately report the information to the local agency representing the Minister of Community Services.
2. After reporting the suspicion to the Minister of Community Services, the person must then report the suspicion to local law enforcement for investigation.
3. Immediately after making these reports, the person must advise the Bishop's Delegate of the report.
4. The Bishop's Delegate will ensure that the appropriate authorities have been notified, then will determine which of the procedures under this Policy (Sexual Harassment, Sexual Exploitation, or Sexual Assault) most fittingly applies, and will then follow the appropriate steps under that procedure.

ITEM 10: PROCEDURE FOR COMPLAINT OF SEXUAL HARASSMENT BY AN EMPLOYEE

10.1 Anyone who believes s/he is experiencing Sexual Harassment by an Employee, may choose to proceed by an Informal or a Formal Process. If the Complainant chooses the Informal Process and is not satisfied with the result, the Complainant may then choose to proceed with the Formal Process.

10.2 Informal Process

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.

The following are steps in the Informal Process for a complaint of Sexual Harassment by an Employee:

1. The Complainant may choose to speak directly with the Respondent(s) and inform them that their behaviour is unwelcome and must stop. The Complainant may:
 - i. confront the Respondent in person, and inform the Respondent that s/he considers the Respondent’s behaviour to be offensive behaviour, and that it must stop. The Complainant may wish to have another witness present during this meeting; or
 - ii. inform the Respondent in writing that s/he considers the Respondent’s behaviour to be offensive behaviour, and that it must stop. The Complainant should keep a copy of the letter for her/his records.
2. The Complainant may request the Bishop’s Delegate to assist with communications between the parties in an effort to reach a mutually satisfactory resolution.
3. If the Complainant involves the Bishop’s Delegate, then the Bishop’s Delegate must determine whether the Informal Process or the Formal Process is appropriate in the circumstances, and may in their discretion appoint a person to facilitate this.
4. If the sexual activity forming the basis of the complaint may be defined as criminal under the Canada *Criminal Code*, the Bishop’s Delegate must encourage the Complainant to report this matter to law enforcement. In addition, the Bishop’s Delegate may assist the Complainant to do so.
5. The Bishop’s Delegate must then decide whether the complaint should be reported to the appropriate legal authorities. The Bishop’s Delegate shall receive assistance from the Diocese legal counsel in making this determination. If it is determined that the complaint should be reported to the appropriate authorities, then the Diocese legal

counsel will assist the Bishop's Delegate in taking the appropriate steps to notify the authorities and the Complainant.

5. 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; and/or
 - d) referral to other resources or appropriate authorities as appropriate.
6. The Informal Process ends with a Resolution Agreement signed by both parties and ratified by the Bishop's Delegate, and with a copy given to each party. A memo summarizing the process will be placed on the file of the Bishop's Delegate. No record is placed in the Respondent's personnel files.
7. In the event that an Informal Process is unsuccessful, the Bishop's Delegate may commence an investigation into the complaint, normally within thirty (30) days.

10.3 Formal Process

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's Delegate 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 to be paid by the Diocese. The parties are responsible for their own legal expenses, if incurred. Those persons appointed in the Formal Process to provide support and pastoral care, or to investigate, cannot have acted in the Informal Process. Upon mutual agreement of the parties, a resolution may be agreed upon at any point in the Formal Process.

The following are steps in the Formal Process for a complaint of Sexual Harassment by an Employee:

I. The Complaint

1. The Complainant must notify the Bishop's Delegate in writing that s/he wishes to make a complaint of Sexual Harassment by an Employee under the Formal Process of this Policy. If the sexual activity forming the basis of the complaint may be defined as criminal under the Canada *Criminal Code*, the Bishop's Delegate must encourage the Complainant to report this matter to law enforcement. In addition, the Bishop's Delegate may assist the Complainant to do so.

2. Alternatively, the Bishop's Delegate may initiate an investigation under the Formal Process if s/he has a reasonable suspicion that Misconduct has occurred.
3. The Bishop's Delegate must then provide the Complainant with a copy of this Policy, and ask the Complainant to put the complaint in writing. The written complaint must include an account of the incident(s), date(s), time(s), name of the Respondent(s), name of witness(es), if any, and must be signed and dated by the Complainant. The form of the Written Complaint is found in Schedule "A" of this Policy. The Complainant is then asked to sign a Consent Form to release his/her information, if necessary. This is normally accomplished within two (2) weeks of first contacting the Bishop's Delegate about the complaint.
4. The Bishop's Delegate must then decide whether the complaint should be reported to the appropriate legal authorities. The Bishop's Delegate shall receive assistance from the Diocese legal counsel in making this determination. If it is determined that the complaint should be reported to the appropriate authorities, then the Diocese legal counsel will assist the Bishop's Delegate in taking the appropriate steps to notify the authorities and the Complainant.
5. The Bishop's Delegate then offers the Complainant and his/her family with the support of a diocesan resource person.
6. The Bishop's Delegate must then consult with the Diocesan legal counsel to determine whether to advise the professional insurer of the potential claim. If the Diocesan legal counsel so advises, the Bishop's Delegate must provide the professional insurer with all required information regarding the potential claim.
7. After consulting with the Committee, the Bishop's Delegate must then advise 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 s/he is the Respondent, in which case the final decision is made by the Bishop's Delegate).
8. The Bishop's Delegate must also consult with the Committee to determine whether any restrictions or limitations in relation to the use of residence or facilities of the Diocese, or any other restrictions, should be imposed upon the accused during the investigation. If it is decided that any such limitations or restrictions are to be imposed, then the Bishop's Delegate must so advise the accused as well as those persons responsible for monitoring the particular facilities of the Diocese to which the restrictions apply. These restrictions imply no inference of guilt and may be reviewed periodically.

9. The Bishop's Delegate must also consult with the Committee and the Bishop to determine whether the Diocese should issue a public statement concerning the allegations, and if so, to determine the content of the Diocesan response and the spokesperson for the Diocese. All public statements must have due regard to the confidentiality of the parties as well as the principle of innocent until proven guilty.
10. If the alleged Misconduct occurred in a place of ministry of the Diocese, the Bishop's Delegate must consult with the Committee to determine whether to appoint a crisis response team to provide appropriate short term support for the pastoral needs of the place of ministry.

II. Mediation

1. If both parties and the Bishop's Delegate agree to mediation, the Bishop's Delegate makes the arrangements for the mediation. If any of the parties do not agree to participate in mediation, the complaint proceeds directly to the Formal Investigation stage.
2. If mediation is initiated during the Formal Investigation, the Formal 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 .
3. The results of the mediation are reported by the mediator to the Bishop's Delegate. The Bishop's Delegate considers the mediation agreement, if any, in making his final decision.
4. If mediation fails, the Formal Investigation continues and the Bishop's Delegate makes a final decision.

III. The Investigation

1. The Bishop's Delegate appoints an investigating team and informs the Complainant of the names of the investigating team members.
2. The investigating team meets with the Complainant within one week of receipt of the complaint and interviews the Complainant.

3. The investigating team documents the complaint in writing, creating a “Complaint Report”.
4. The investigating team then reviews the Complaint Report with the Complainant who signs it to indicate agreement with its accuracy. The investigating team then gives this signed Complaint Report to the Bishop’s Delegate.
5. After receiving the Complaint Report, the Bishop’s Delegate contacts the Respondent and informs him or her that s/he is the subject of an investigation under the Formal Process of this Policy. (In some circumstances, the Bishop’s Delegate may notify the Respondent of the complaint prior to receipt of the Complaint Report).
6. The Bishop’s Delegate then provides the Respondent with a copy of this Policy and the Complaint Report. At the same time, the Bishop’s Delegate describes the complaint process, explains limitations on confidentiality and advises the Respondent of his/her right to seek independent legal counsel.
7. The Bishop’s Delegate then advises the Respondent of the names of the investigating team who will be requesting a meeting. The Bishop’s Delegate also advises the Respondent that s/he has two weeks in which to respond to the allegations in the Complaint Report.
8. The Bishop’s Delegate may offer the assistance of a support person to the Respondent.
9. The investigating team meets with the Respondent within two weeks after the Respondent has received the written documentation of the complaint, to interview the Respondent and/or to receive the Respondent’s written reply to the complaint.
10. If the Respondent declines to reply to the complaint, the investigating team completes the investigation without the Respondent’s response.
11. The investigating team interviews any other person or reviews any other documentation that may be relevant to the complaint.
12. The Bishop’s Delegate monitors the work of the investigating team and support persons, ensuring required deadlines and other procedural requirements are met.
13. The Bishop’s Delegate receives the report of the findings of the investigating team, (the “Final Report”), which shall contain findings of fact on any significant factual disputes with respect to the complaint.

14. The Complainant and Respondent each have the right to request a separate, but not confidential, meeting with the Bishop's Delegate during the period of investigation prior to the "Final Decision" of the Bishop's Delegate.

IV. Decision-Making Process

1. The Bishop's Delegate meets with the Respondent, within three (3) weeks of receiving the Final Report of the investigating team, to inform him/her of the Final Decision of the Bishop's Delegate. The Final Decision must be in writing.
2. The Bishop's Delegate must also inform the Complainant of decision in writing. The Bishop's Delegate will meet with the Complainant at this time unless the Complainant advises the Bishop's Delegate that s/he does not wish to meet.
3. Where a complaint is sustained, a copy of the Final Decision of the Bishop's Delegate is maintained in the file of the Bishop's Delegate and the Respondent's personnel file.
4. When a complaint is not sustained, there is no record of it in the Respondent's personnel file. However, summary documentation of the case is maintained in the confidential file of the Bishop's Delegate.

V. Discipline

1. The nature and type of discipline is determined by the Bishop's Delegate 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 appropriate in the circumstances, as determined by the Bishop's Delegate in consultation with the Committee.
2. If it is determined that there was no Sexual Harassment and that the complaint was initiated maliciously, appropriate disciplinary action is taken by the Bishop's Delegate.

VI. Appeal

1. An appeal of the Final Decision of the Bishop's delegate may be made to the Bishop within thirty (30) days of the receipt of the Final Decision by filing a written request with

the reasons for the appeal. The consent of the Bishop will be sought in advance to hear the appeal or to nominate someone to act in his/her place to hear the appeal.

VII. Committee Review

1. Where an Employee is suspended or relinquishes his/her license 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 the Committee which reports its recommendations to the Bishop's Delegate, who makes the ultimate determination as to whether to change the Respondent's limitations.

ITEM 11: PROCEDURE FOR COMPLAINT OF SEXUAL EXPLOITATION BY EMPLOYEE

Anyone who makes a complaint under the Sexual Exploitation procedure of this Policy must do so pursuant to the Formal Process. This means that the Informal Process is not available for a complaint of Sexual Exploitation under this Policy.

The following are steps in the Formal Process for a complaint of Sexual Exploitation by an Employee:

I. The Complaint

1. The Complainant must notify the Bishop's Delegate in writing that s/he wishes to make a complaint of Sexual Exploitation by an Employee under the Formal Process of this Policy. . If the sexual activity forming the basis of the complaint may be defined as criminal under the Canada *Criminal Code*, the Bishop's Delegate must encourage the Complainant to report this matter to law enforcement. In addition, the Bishop's Delegate may assist the Complainant to do so.
2. Alternatively, the Bishop's Delegate may initiate an investigation under the Formal Process if s/he has a reasonable suspicion that Misconduct has occurred.
3. The Bishop's Delegate must then provide the Complainant with a copy of this Policy, and ask the Complainant to put the complaint in writing. The written complaint must include an account of the incident(s), date(s), time(s), name of the Respondent(s), name of witness(es), if any, and must be signed and dated by the Complainant. The form of the Written Complaint is found in Schedule "A" of this Policy. The Complainant is then asked to sign a Consent Form to release his/her information, if necessary. This is normally accomplished within two (2) weeks of first contacting the Bishop's Delegate about the complaint.
4. The Bishop's Delegate must then decide whether the complaint should be reported to the appropriate legal authorities. The Bishop's Delegate shall receive assistance from the Diocese legal counsel in making this determination. If it is determined that the complaint should be reported to the appropriate authorities, then the Diocese legal counsel will assist the Bishop's Delegate in taking the appropriate steps to notify the authorities and the Complainant.
5. The Bishop's Delegate then offers the Complainant and his/her family with the support of a diocesan resource person.
6. The Bishop's Delegate must then consult with the Diocesan legal counsel to determine whether to advise the professional insurer of the potential claim. If the Diocesan legal counsel so advises, the Bishop's Delegate must provide the professional insurer with all required information regarding the potential claim.

7. After consulting with the Committee, the Bishop's Delegate must then advise 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 s/he is the Respondent, in which case the final decision is made by the Bishop's Delegate).
8. The Bishop's Delegate must also consult with the Committee to determine whether any restrictions or limitations in relation to the use of residence or facilities of the Diocese, or any other restrictions, should be imposed upon the accused during the investigation. If it is decided that any such limitations or restrictions are to be imposed, then the Bishop's Delegate must so advise the accused as well as those persons responsible for monitoring the particular facilities of the Diocese to which the restrictions apply. These restrictions imply no inference of guilt and may be reviewed periodically.
9. The Bishop's Delegate must also consult with the Committee and the Bishop to determine whether the Diocese should issue a public statement concerning the allegations, and if so, to determine the content of the Diocesan response and the spokesperson for the Diocese. All public statements must have due regard to the confidentiality of the parties as well as the principle of innocent until proven guilty.
10. If the alleged Misconduct occurred in a place of ministry of the Diocese, the Bishop's Delegate must consult with the Committee to determine whether to appoint a crisis response team to provide appropriate short term support for the pastoral needs of the place of ministry.

II. The Investigation

1. The Bishop's Delegate appoints an investigating team and informs the Complainant of the names of the investigating team members.
2. The investigating team meets with the Complainant within one week of receipt of the complaint and interviews the Complainant.
3. The investigating team documents the complaint in writing, creating a "Complaint Report".
4. The investigating team then reviews the Complaint Report with the Complainant who signs it to indicate agreement with its accuracy. The investigating team then gives this signed Complaint Report to the Bishop's Delegate.

5. After receiving the Complaint Report, the Bishop's Delegate contacts the Respondent and informs him or her that s/he is the subject of an investigation under the Formal Process of this Policy. (In some circumstances, the Bishop's Delegate may notify the Respondent of the complaint prior to receipt of the Complaint Report).
6. The Bishop's Delegate then provides the Respondent with a copy of this Policy and the Complaint Report. At the same time, the Bishop's delegate describes the complaint process, explains limitations on confidentiality and advises the Respondent of his/her right to seek independent legal counsel.
7. The Bishop's Delegate then advises the Respondent of the names of the investigating team who will be requesting a meeting. The Bishop's Delegate also advises the Respondent that s/he has two weeks in which to respond to the allegations in the Complaint Report.
8. The Bishop's Delegate may offer the assistance of a support person to the Respondent.
9. The investigating team meets with the Respondent within two weeks after the Respondent has received the written documentation of the complaint, to interview the Respondent and/or to receive the Respondent's written reply to the complaint.
10. If the Respondent declines to reply to the complaint, the investigating team completes the investigation without the Respondent's response.
11. The investigating team interviews any other person or reviews any other documentation that may be relevant to the complaint.
12. The Bishop's Delegate monitors the work of the investigating team and support persons, ensuring required deadlines and other procedural requirements are met.
13. The Bishop's Delegate receives the report of the findings of the investigating team, (the "Final Report"), which shall contain findings of fact on any significant factual disputes with respect to the complaint. The Bishop's Delegate may consult with the Committee on the findings of the Final Report. The Bishop's Delegate may also direct the investigating team to conduct further interviews or inquiries, as required.
14. The Complainant and Respondent each have the right to request a separate, but not confidential, meeting with the Bishop's Delegate during the period of investigation prior to the "Final Decision" of the Bishop's Delegate.

III. The Decision-Making Process

1. The Bishop's Delegate meets with the Respondent, within three (3) weeks of receiving the Final Report of the investigating team, to inform him/her of the Final Decision. The Final Decision must be in writing.
2. The Bishop's Delegate must also inform the Complainant of decision in writing, and where possible, in person.
3. Where a complaint is sustained, a copy of the Final Decision of the Bishop's Delegate is maintained in the file of the Bishop's Delegate and the Respondent's personnel file.
4. When a complaint is not sustained, there is no record of it in the Respondent's personnel file. However, summary documentation of the case is maintained in the confidential file of the Bishop's Delegate.

IV. Discipline

1. The nature and type of discipline is determined by the Bishop's Delegate 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 appropriate in the circumstances, as determined by the Bishop's Delegate in consultation with the Committee.
2. If it is determined that there was no Sexual Exploitation and that the complaint was initiated maliciously, appropriate disciplinary action is taken by the Bishop's Delegate. Further, in these circumstances, the Bishop's Delegate shall take measures to restore the reputation of the wrongly accused, which measures shall depend upon the publicity given to the accusation.

V. Appeal

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

VI. Committee Review

1. Where an Employee is suspended or relinquishes his/her license 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 the Committee which reports its recommendations to the Bishop's Delegate, who makes the ultimate determination as to whether to change the Respondent's limitations.

ITEM 12: PROCEDURE FOR COMPLAINT OF SEXUAL ASSAULT BY AN EMPLOYEE

Anyone who makes a complaint under the Sexual Assault procedure of this Policy must do so pursuant to the Formal Process. This means that the Informal Process is not available for a complaint of Sexual Assault under this Policy.

The following are steps in the Formal Process for a complaint of Sexual Assault by an Employee:

I. The Complaint

1. The Complainant may notify the Bishop's Delegate in writing that s/he wishes to make a complaint of Sexual Assault by an Employee under the Formal Process of this Policy. If the sexual activity forming the basis of the complaint may be defined as criminal under the Canada *Criminal Code*, the Bishop's Delegate must encourage the Complainant to report this matter to law enforcement. In addition, the Bishop's Delegate may assist the Complainant to do so.
2. Alternatively, the Bishop's Delegate may initiate an investigation under the Formal Process if s/he has a reasonable suspicion that Misconduct has occurred.
3. The Bishop's Delegate must then decide whether the complaint should be reported to the appropriate legal authorities. The Bishop's Delegate shall receive assistance from the Diocese legal counsel in making this determination. If it is determined that the complaint should be reported to the appropriate authorities, then the Diocese legal counsel will assist the Bishop's Delegate in taking the appropriate steps to notify the authorities and the Complainant.
4. Once it is determined that the complaint will be investigated pursuant to this Policy, the Bishop's Delegate must then consult with the Diocesan legal counsel to determine whether to advise the professional insurer of the potential claim. If the Diocesan legal counsel so advises, the Bishop's Delegate must provide the professional insurer with all required information regarding the potential claim.
5. The Bishop's Delegate must also consult with the Diocesan legal counsel to determine whether notifying the Respondent of the complaint would impede the progress of the investigation of law enforcement. If it is determined that it would not impede the investigation, then after consultation with the Respondent's Supervisor, the Bishop's Delegate must notify the Respondent of the complaint.
6. The Diocese must fully cooperate with law enforcement who is investigating reports of the Sexual Assault.

7. The Bishop's Delegate must offer the Complainant and the Respondent and their families the support of diocesan resource persons, but only after law enforcement indicates that it is acceptable to do so (and will not impede the investigation).
8. Financial support and considerations related to the housing of families of Respondents who are clergy are dealt with in accordance with appropriate Diocesan Policies.

II. The Investigation

1. Where an employee is accused of Sexual Assault, that Employee is to be removed from church-related duties until all investigations and legal proceedings are completed and the Bishop's Delegate is satisfied that the Respondent poses no risk to children or Vulnerable Adults. This removal implies no inference of guilt and may be reviewed periodically.
2. The Bishop's Delegate must also consult with the Committee to determine whether any restrictions or limitations in relation to the use of residence or facilities of the Diocese, or any other restrictions, should be imposed upon the accused during the investigation. If it is decided that any such limitations or restrictions are to be imposed, then the Bishop's Delegate must so advise the accused as well as those persons responsible for monitoring the particular facilities of the Diocese to which the restrictions apply. These restrictions imply no inference of guilt and may be reviewed periodically.
3. The Bishop's Delegate must consult with the Committee and the Bishop to determine whether the Diocese should issue a public statement concerning the allegations, and if so, to determine the content of the Diocesan response and the spokesperson for the Diocese. All public statements must have due regard to the confidentiality of the parties as well as the principle of innocent until proven guilty.
4. If the alleged Sexual Assault occurred in a place of ministry of the Diocese, the Bishop's Delegate must consult with the Committee to determine whether to appoint a crisis response team to provide appropriate short term support for the pastoral needs of the place of ministry.
5. 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 Adults. The status of the Respondent is determined according to the Code of Canon Law or applicable Church Law.

6. Under no circumstances shall persons who have been found in a criminal proceeding to have committed sexual assault be given duties of any kind (low, medium, or high risk) in the Diocese.
7. 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 Adults.
8. Where a Respondent is fully exonerated of the accusation, this determination is announced publicly.
9. Where a complaint is sustained, a copy of the Final Decision of the Bishop's Delegate is maintained in the file of the Bishop's Delegate and the Respondent's personnel file.
10. When a complaint is not sustained, there is no record of it in the Respondent's personnel file. However, summary documentation of the case is maintained in the confidential file of the Bishop's Delegate.

III. Discipline

1. Individuals found guilty of Sexual Assault are to be disciplined. The nature and type of discipline is determined by the Bishop's Delegate and depends on the severity and frequency of the incident(s).
2. If it is determined there was no Sexual Assault and that the complaint was initiated maliciously, appropriate disciplinary action will be taken by the Bishop's Delegate. Further, in these circumstances, the Bishop's Delegate shall take measures to restore the reputation of the wrongly accused, which measures shall depend upon the publicity given to the accusation.

IV. Appeal

1. An appeal of the Final Decision of the Bishop's Delegate may be made to the Bishop within thirty (30) days of the Final Decision by filing a written request with the reasons for the appeal.

ITEM 13: PROCEDURE FOR COMPLAINT OF ANY OTHER MISCONDUCT BY AN EMPLOYEE

If a person experiences any type of Misconduct by an Employee other than Child Abuse, Sexual Harassment, Sexual Exploitation, or Sexual Assault, then that person may report such complaint to the Bishop's Delegate. In addition, any Employee who has reasonable grounds to believe that Misconduct has occurred must report the complaint to the Bishop's Delegate.

After receiving the complaint, The Bishop's Delegate must then decide whether the complaint should be reported to the appropriate legal authorities. The Bishop's Delegate shall receive assistance from the Diocese legal counsel in making this determination. If it is determined that the complaint should be reported to the appropriate authorities, then the Diocese legal counsel will assist the Bishop's Delegate in taking the appropriate steps to notify the authorities and the Complainant.

The Bishop's Delegate will then determine which of the procedures under this Policy (Sexual Harassment, Sexual Exploitation, or Sexual Assault) most fittingly applies, and will then follow the appropriate steps under that procedure.

SCHEDULE "A"

THE DIOCESE OF ANTIGONISH

WRITTEN COMPLAINT OF MISCONDUCT

Name of Complainant: _____

Address of Complainant: _____

Telephone Number of Complainant: _____

Date Complaint is Filed: _____

Describe the incident(s) that occurred. Please make sure to include the **date, time, and location(s)** of the incident(s), as well as the **name(s)** of the person(s) accused. If you require more space than the space provided below, you may use additional pages:

Please provide the name(s) of anyone who witnessed or may have witnessed the incident(s):

Signature of Complainant