

Diocese of St. Catharines



Responding to Allegations of Sexual Abuse of Children or Vulnerable Persons



OFFICE OF THE BISHOP

March 2021

My dear brothers and sisters in Christ,

In his letter to the Corinthians, St. Paul tells us that we are members of the Body of Christ. He reminds us that, “If one member suffers, all suffer together with it; if one member is honoured, all rejoice together with it” (1 Cor. 12:26). We share this unity in Christ and in His Church, which is His body.

Today, the Church continues to suffer from the self-inflicted wounds of sexual misconduct by some of her clergy. As Christ’s body, we are hurting because of the injuries that have been inflicted by those who were supposed to bring healing rather than harm.

It is a tragedy when a person who is called to represent the Church commits sexual abuse and harms the innocent. It can shake our faith. When bishops cover up these acts and show little empathy for victims, it can destroy our trust. The harm that is done is devastating, and its effects will remain with us for many years. This indeed will be seen as a dark period in the history of the Catholic Church; however, the God of mercy can bring healing and hope.

In his Apostolic Letter on the protection of minors and vulnerable persons, Pope Francis states: “(the Church) recognizes the sins of some of her members: the sufferings, the experiences and the pain of minors who were abused sexually by priests. It is a sin that shames us. Persons responsible for the protection of those children destroyed their dignity. We regret this deeply and we beg forgiveness. We join in the pain of the victims and weep for this sin. The sin of what happened, the sin of failing to help, the sin of covering up and denial, the sin of abuse of power. The Church weeps bitterly over this sin of her sons and she asks forgiveness.”

In the same letter, Pope Francis states, “Let us find the courage needed to take all necessary measures and to protect in every way the lives of our children, so that such crimes may never be repeated.” The Diocese of St. Catharines is committed to doing this. We cannot erase the past; but we can learn from it and build a better future. This document is a step in achieving that end.

The revised Diocesan Policy for Responding to Allegations of Misconduct and/or the Abuse of Children or Vulnerable Adults is presented to you for your information. You are asked to familiarize yourself with the policy whether you are clergy, an employee or a volunteer in the Diocese.

Yours sincerely in Christ, -

Most Reverend Gerard Bergie, D.D.
Bishop of St. Catharines

INTRODUCTION

The Roman Catholic Diocese of St. Catharines respects and upholds the dignity of every person as a child of God. We hold as a sacred responsibility the protection of every person within our sphere of influence, with particular concern for children and vulnerable persons. Abuse of another person is always wrong. When abuse is perpetrated by a Church representative - clergy or layperson, employee or volunteer, it is especially abhorrent since it violates not only the person but the sacred trust which the Church discharges.

The Diocese is committed to the United Nations Convention on the Rights of a Child (November 20, 1989), volume 1577, 3: Article 3: "In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration," and Article 19: "1. States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s), or any other person who has the care of the child. 2. Such protective measures should, as appropriate, include effective procedures for the establishment of social programs to provide necessary support for the child and for those who have care of the child; as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate for judicial involvement."

Any abuse of power, betrayal of trust, or exploitation of the imbalance of power inherent in a ministerial relationship between a Church representative and the person with whom a ministerial relationship exists. The apparent consent of a possible victim does not in itself determine whether there has been an abuse of power, breach of trust, or exploitation. Abuse could also include abuses which transpire between one Church representative and another for whom there is an imbalance of power. The Criminal Code of Canada sets the age of consent for sexual activity at sixteen years; however, when there is a relationship of trust, authority or dependency, the age of consent is eighteen years (R.S.C. 1985, c.C-46, s. 153).

The Diocese holds to the principle of zero tolerance so that when it has been determined that sexual abuse has occurred there will be no re-entry to ministry for any priest, deacon or lay person. If there is doubt about whether abuse has occurred, re-entry to ministry may be possible. It is for the Bishop to determine any eventual return to ministry. The Diocese's firm commitment to ensuring safe environments is the overriding consideration and no one will be permitted to return to public ministry if such ministry is a potential danger for children or vulnerable persons, or a cause of scandal for the community.

This Diocesan procedure does not replace, nor is it intended to eliminate, the legal obligation of the Diocese to report to civil authorities, where such a requirement exists. The Diocese recognizes its duty to cooperate with civil authorities when allegations of crimes are made. Where the law requires it (for example, when the abuse involves a person under the age of sixteen), an immediate report will be made to the appropriate children's aid society.

Any person who comes forward with an allegation of sexual misconduct will be treated with respect and compassion, and the Diocese will offer meaningful assistance to those who have suffered abuse perpetrated by one of its representatives. The Diocese will intervene promptly and investigate thoroughly when an allegation of sexual misconduct is made. Adult complainants of abuse (past or present) sometimes wish to preserve their privacy and would not report abuse if it were to be disclosed to civil authorities.

Since they have the right to privacy (Canon 220), the decision to approach civil authorities is left to the adult complainant.

This diocesan policy, along with our Responsible Faith Ministry protocol, is an integral part of the Diocese of St. Catharines' commitment to provide safe environments for the pastoral activities of our Christian community where all persons can feel confident to live their faith.

The policy and procedures set out in this document will help to ensure that we fulfill our responsibility to provide for the just and timely resolution of complaints of sexual misconduct, giving priority to the protection of children and vulnerable individuals, while maintaining the principle that a person is innocent until proven guilty.

We encourage all people to share in the responsibility of curbing all forms of violence and in particular the sexual abuse and exploitation of children and vulnerable people.

Fourth Edition, March 2021

STATEMENT OF POLICY

1. The policy is to be applied in accord with the civil laws of Ontario and Canada, and with the provisions of the Code of Canon Law. The policy applies to priests, deacons, employees and volunteers of the Diocese of St. Catharines, as well as sisters and brothers in religious communities serving and/or residing in the Diocese.
2. It is the responsibility of the Diocesan Bishop first and foremost to deal with allegations of sexual abuse of children or vulnerable persons by a cleric, employee or volunteer of the Diocese. In the Diocese of St. Catharines, this responsibility is carried out through the Bishop's Delegate(s) with the assistance of an Advisory Committee.
3. Any allegation will be addressed in a manner which reflects the Church's pastoral concern for
 - a) the victim against whom an offense has taken place, and that individual's family;
 - b) the person against whom a complaint has been made;
 - c) the church and/or parish community where an offense is reported to have occurred, and/or where the person against whom a complaint has been made is currently ministering or employed;
 - d) fellow clerics and co-workers of the person against whom a complaint has been made, and any others who may be particularly affected by the allegations.
4. All steps taken in accordance with this procedure shall be documented by written and dated memoranda which shall be kept confidential to the extent possible. In view of privacy issues, access to diocesan records requires police to execute a search warrant.

5. The diocese will maintain permanent records of all allegations of sexual misconduct made against any bishop, priest, deacon, employee or volunteer, as well as members of religious orders who have served in the diocese. Records of allegations are not cleaned or destroyed subsequent to the death of a person accused of sexual misconduct or abuse.
6. All persons carrying out any responsibilities in this procedure will cooperate with civil authorities carrying out their statutory responsibilities, subject to the inviolability of the seal of sacramental confession.
7. The diocesan policy and procedures are updated regularly. Additionally, the policies and procedures, and their implementation are independently audited every five years.

PROCEDURE FOR CASES OF ALLEGED SEXUAL ABUSE

REPORTING ABUSE

8. Contact the Bishop's Delegate(s) by

Email: bishopsdelegate@saintcd.com

Phone: 905-684-0154

Mail: P.O. Box 875, St. Catharines, ON L2R 6Z4

to make a confidential report of sexual abuse by a priest, deacon, employee or volunteer of the Diocese that is known or suspected. A person may also make a report through any priest, deacon, employee or volunteer of the Diocese. Only the Bishop's Delegate(s) should interview a complainant. Anyone else receiving a complaint should limit him/herself to listening with compassion, without attempting to interview or offer comment, and without attempting to resolve the matter. The complainant should be encouraged to contact the Bishop's Delegate(s).

To report sexual misconduct or abuse by a bishop, a person may contact the Metropolitan Archbishop OR the Papal Representative to Canada OR the Holy See. Any investigation of a bishop will be undertaken by a third-party outside the diocese where the bishop holds/held office. Contact information and general information about procedures can be provided by the Bishop's Delegate(s).

9. Any priest, deacon, employee or volunteer of the Diocese who receives or is made aware of an allegation shall promptly report to the Bishop's Delegate(s) the substance of the allegation, the identity of the complainant and any other relevant information in his/her possession, even if an adult complainant does not wish to pursue an investigation
10. Anonymous complaints will be documented and investigated to the extent possible.
11. If the person against whom a complaint has been made is ministering in another Diocese, the Bishop or his Delegate(s) will inform the counterpart in that Diocese that an allegation has been made.
12. If the person against whom a complaint has been made is deceased or unable to speak in his/her own defense, an investigation will proceed as far as possible.

13. In instances where a complaint has been reported to the police, the Bishop's Delegate(s) may defer, suspend or terminate a preliminary investigation.
14. When an allegation has been made against a non-incardinated cleric (that is, a priest or deacon ministering in our Diocese but belonging to another Diocese) or a member of a religious community, the Bishop's Delegate(s) will advise the competent Bishop or Superior immediately. That Bishop or Superior will promptly invoke their own procedures, or consent to this diocesan procedure being undertaken.

PRELIMINARY INVESTIGATION

The Bishop's Delegate(s) shall

15. as a matter of urgent priority, carry out or direct a discreet investigation of a reported allegation. Discretion is called for to safeguard the privacy of the alleged victim and to protect the presumed innocence of the person against whom a complaint has been made.
16. meet personally or correspond directly with the individual making the allegation to inquire about the facts and circumstances of the alleged incident. The Bishop's Delegate(s) shall commit to providing a timely response to the alleged victim and/or the complainant.
17. meet or correspond directly with the person against whom a complaint has been made. This person will be instructed not to contact the complainant or any family member or possible witnesses.
18. meet or correspond directly with any other persons deemed necessary for clarification of the matter. Archival material and other sources of information may be sought.
19. During the course of the preliminary investigation, the Bishop's Delegate(s) shall take one of the following actions:
 - a) Report to police or children's service agency when the allegation involves a minor and requires that such a report be made under Ontario's Child, Youth and Family Services Act.
 - b) When appropriate, notify the caregiver of an alleged victim.
 - c) If the alleged victim is an adult, advise that he/she may be within their rights to report the incident to the police. The Bishop's Delegate(s) may consider reporting if requested by the alleged victim or if it may concern a serious crime.
20. When a report of sexual misconduct or abuse is made, or at any time following, to protect the interests of all concerned, the Diocesan Bishop may take any or all of the following actions:
 - a) The cleric or employee against whom a complaint of sexual abuse has been made may be placed on administrative leave. Volunteers may be suspended from ministry.
 - b) In the case of a priest, an appropriate residence may be assigned pending the outcome of the investigation.
 - c) In the case of a cleric, the faculty to preach may be removed (Canon 764), and if he is a priest, the faculty to hear confessions may also be removed (Canon 974). He may be forbidden the

exercise of any public ministry including the public celebration of the Eucharist. He may be instructed to cease wearing clerical garb.

PRELIMINARY FINDINGS

21. If an allegation of sexual misconduct has a semblance of truth, the Bishop's Delegate(s) will provide a report of the preliminary findings to the Advisory Committee, asking for their recommendations for the Bishop on how he might proceed, especially about whether a formal canonical process ought to be initiated.
22. If, after hearing the preliminary findings of his Delegate(s), the Bishop considers that an allegation has a semblance of truth, he will direct the Delegate(s) to
 - a) meet personally or correspond directly with the alleged victim to convey the Church's compassion and concern for them
 - b) consult with the alleged victim and possibly his/her family about appropriate professional, certified counselling services which the Diocese may fund, on a "without prejudice" basis.
23. The Bishop's Delegate(s) will also meet personally or correspond directly with the person against whom the complaint had been made.
 - a) If this person is a cleric or employee, advise that he/she is placed on administrative leave immediately until the matter is resolved; if a lay employee, caution that he/she may be dismissed for cause, according to the terms of the diocesan Personnel Policy.
 - b) The person who is the subject of a complaint will be encouraged to consult with a lawyer and to cooperate with any police investigation.
 - c) The subject of a complaint will continue to receive their salary and benefits pending a resolution of the matter. If a priest, he may be afforded the opportunity for counselling or be referred to a treatment facility.
 - d) If he is a cleric, advise him of his obligation, where possible, to contribute to the financial cost of a defense against a civil or criminal action arising from an allegation of sexual misconduct or abuse.
24. If the Bishop concurs with his Delegate(s) that an allegation is entirely without substance, and unless the Bishop directs some further inquiry:
 - a) the complainant and the person against whom a complaint has been made will be advised that the investigation is closed; the complainant retains the right to pursue the matter civilly;
 - b) the person deemed to have been falsely accused will be returned to ministry or employment, if possible;
 - c) if the allegation has become public, appropriate steps must be taken to repair damage done to the reputation of a person falsely accused.

25. When there is a credible allegation against a cleric of sexual misconduct/abuse involving a person under the age of eighteen the local Bishop is obligated to refer the matter to the Holy See's Congregation for the Doctrine of the Faith (CDF). The CDF will determine whether or not a formal canonical inquiry is to be undertaken, and will direct the Bishop on how to proceed.
26. In cases pertaining to clerics, the CDF will make the definitive canonical judgment on the innocence/guilt of the cleric and his suitability/unsuitability for ministry, as well as the consequent imposition of canonical penalties, the most grave being dismissal from the clerical state.
27. In cases pertaining to a lay employee or volunteer of the Diocese, the Bishop will determine whether or not a formal canonical inquiry is to be undertaken. Canonical proceedings should not be pursued at the same time as civil or criminal proceedings.
28. The Bishop's Delegate(s) is to arrange for a representative of the Diocese to monitor any criminal or civil trial involving a member of its clergy, employee or volunteer, when this is deemed appropriate.
29. When requested, or when he believes it would be beneficial, the Bishop and/or his representative may meet personally with an abuse victim. Such a meeting will be deferred if civil and/or criminal proceedings are underway or may be imminent.
30. When requested, or when he believes it would be beneficial, the Bishop or his representative may make a pastoral visit to a parish to offer encouragement and assistance to those affected by an allegation of sexual abuse. It may not be possible to provide information if this could interfere with present or future civil and/or criminal proceedings.
31. The Bishop and/or the Diocesan Spokesperson at the Bishop's direction will make a public statement when this is deemed necessary. Such a statement will not interfere with, nor offer comment on any civil or criminal proceedings.
32. A newly-appointed Diocesan Bishop is to be informed by the outgoing or former Diocesan Bishop or his Delegate(s) of all allegations of sexual misconduct or abuse allegedly or actually perpetrated by any diocesan priest, deacon, employee or volunteer.

RELATED MATTERS

33. The sacramental seal of confession is inviolable in any and all circumstances. What is revealed in confession is subject to the seal and cannot be revealed. What is revealed outside of sacramental confession may be subject to the Ontario Child, Youth and Family Services Act.
34. At no time should the Bishop or any priest involved in an investigation hear the sacramental confession of a complainant or a person against whom a complaint has been made.
35. The Diocese of St. Catharines does not initiate the use of settlement documents that contain a confidentiality clause.
36. No priest will be accepted for ministry or residence in a parish in the Diocese of St. Catharines without full disclosure by his Bishop or Superior of any allegation of sexual misconduct in the cleric's past.

APPENDIX 1

Reporting Child Abuse and Neglect: It's Your Duty

*** The following excerpts are from the Government of Ontario's Child, Youth and Family Services Act 2017. For the complete text go to: <http://www.children.gov.on.ca/>*

The Child, Youth and Family Services Act (CYFSA) recognizes that we all share a responsibility to protect children from harm. Members of the public, including professionals who work with children, must promptly report any suspicions that a child is or may be in need of protection to a children's aid society (CAS). The Act defines the phrase "child in need of protection" and explains what must be reported. It includes physical, sexual and emotional abuse, neglect, and risk of harm.

Who is a "child in need of protection"?

The CYFSA defines a child in need of protection as a child who is or may be suffering from abuse and/or neglect.

Who is responsible for reporting a child in need of protection?

Anyone who has reasonable grounds to suspect that a child is or may be in need of protection must promptly report the suspicion and the information upon which it is based to a CAS. If you think the matter is urgent and you cannot reach the CAS, call your local police.

What are "reasonable grounds" to suspect child abuse or neglect?

It is not necessary for you to be certain a child is or may be in need of protection to make a report to a CAS. "Reasonable grounds" refers to the information that an average person, using normal and honest judgment, would need in order to decide to report.

What is the age of the children to whom the "duty to report" applies?

The duty to report applies to any child who is, or appears to be, under the age of 16 years. On January 1, 2018, Ontario raised the age of protection from 16 to 18. A professional, or member of the public, who is concerned that a 16- or 17- year-old is or may be in need of protection may, but is not required to, make a report to a society and the society is required to assess the reported information.

What does an "ongoing duty to report" child abuse or neglect mean?

Even if you know a report has already been made about a child, you must make a further report to the CAS if there are additional reasonable grounds to suspect that the child is or may be in need of protection.

Can I rely on someone else to report to a CAS?

No. You have to report directly. You must not rely on anyone else to report on your behalf.

Do professionals and officials have any special responsibilities to report?

Professionals and officials have the same duty as the rest of the public to report their suspicion that a child is or may be in need of protection. The Act recognizes that people working closely with children have a special awareness of the signs of child abuse and neglect, and a particular responsibility to report their suspicions. Any professional or official, including clergy and youth and recreation workers (not volunteers) who fails to report a suspicion is liable on conviction to a fine of up to \$5,000, if they obtained the information in the course of their professional or official duties. Reporting is not mandatory in the case of 16- and 17- year-olds and the offence/penalty provisions do not apply.

Family and Children's Services Niagara

Phone: 905-937-7731

Toll Free: 1-888-937-7731

82 Hannover Drive
St. Catharines, ON L2W 1A4

7900 Canadian Drive
Niagara Falls, ON L2E 6S5

654 South Pelham Road
Welland, ON L3C 3C8

The Children's Aid Society of Haldimand & Norfolk

Phone: 519-587-5437

Toll Free: 1-888-CAS-KIDS
(1-888-227-5437)

70 Town Centre Drive
Townsend, ON N0A 1S0

GLOSSARY

ABUSE – any physical, verbal, emotional, or sexual behaviour which a) causes a person to fear for his or her physical, psychological or emotional safety and well-being; b) the alleged perpetrator knew or ought to have reasonably known would cause that person to have concern or fear for his or her physical, psychological or emotional safety and well-being. Such behaviour may or may not be criminal in nature.

ADMINISTRATIVE LEAVE – temporary suspension of faculties for the exercise of ordained ministry. This may include restrictions in relation to residence, and a prohibition against any public exercise of official ministry.

ADVISORY COMMITTEE – a committee appointed by the Bishop, under the authority of the Bishop's Delegate(s), comprised of at least three individuals with expertise in various disciplines, possibly including the fields of counselling and civil law, and any other persons whose personal qualities and qualifications the Bishop deem appropriate and useful.

The Advisory Committee shall advise the Bishop's Delegate(s) when requested on matters relating to the prevention of sexual abuse of minors, and in responding to allegations of sexual abuse, proposing informed decisions on the probability of the facts and the likelihood of an allegation. They are also to provide advice on updating the diocesan policy and procedures related to allegations of sexual abuse, as well as to their interpretation and proper application in compliance with the norms of the Holy See, the Canadian Conference of Catholic Bishop's 2018 document, Protecting Minors from Sexual Abuse: A Call to the Catholic Faithful in Canada for Healing, Reconciliation, and Transformation, and relevant federal and provincial statutes, insurance requirements and best practices.

BISHOP'S DELEGATE(S) – a priest or lay person appointed by the Bishop, to act on his behalf, to receive and investigate any reported allegation of sexual abuse against any cleric, employee or volunteer who is or was ministering or employed in the Diocese of St. Catharines. The Bishop may appoint another person, even someone from outside the Diocese to assume this role in a particular case.

CHILD – In the context of this Diocesan policy, a person under the age of sixteen (16).

CHILD PORNOGRAPHY – Any representation of a minor, regardless of the means used, involved in explicit sexual activities, whether real or simulated, and any representation of sexual organs of minors for primarily sexual purposes.

CLERGY/CLERIC – ordained priest or deacon. An incardinated cleric is ordained for a particular Diocese; a non-incardinated cleric may live or minister in this diocese, but officially belongs to, and is under the authority of the diocese/religious community for which he was ordained.

GROOMING - is behaviour that usually precedes sexual abuse of children and vulnerable adults.

The purpose of grooming is to manipulate the perceptions of other adults around the child/vulnerable adult and to manipulate the child/vulnerable adult into becoming a cooperating participant, reducing the likelihood of a disclosure and of detection. Grooming is often a pattern of observable behaviour that may signal possible future sexual or other abusive activity, and should be challenged and/or reported. Grooming behaviour might include: paying inordinate attention to an intended victim; spending time alone in unsupervised situations; providing gifts or favours; showing inappropriate interest in the person's friendships and relationships; physical contact that may at first be only casual or playful; encouragement to break rules and keep secrets; inappropriate discussion of sexual matters; access to pornography. Any one of these behaviors is a cause for concern. More than one would warrant reporting the behavior to the appropriate authorities.

MINOR – a person under the age of eighteen (18), as stipulated in the Ontario Child, Youth and Family Services Act, R.S.O. 1990, Chapter C-11.

MISCONDUCT – wrongful, improper or unlawful conduct motivated by premeditated or intentional purpose or by obstinate indifference to the consequences of one's actions; unacceptable and/or criminal behaviour; culpable neglect of duties.

SEXUAL ABUSE – is always an abuse of power. In this document, sexual abuse refers to actual or threatened physical intrusion of a sexual nature against [a minor or vulnerable person], whether by force or under unequal or coercive conditions. This is a broad term which includes a number of acts, including rape, sexual assault, sex with a minor, sexual activity with a minor. Mistaken belief in the age of the minor is not a defense. Sexual abuse can also be "non-contact abuse", for example sexual exploitation, sexual harassment, indecent exposure and lascivious acts.

Sexual abuse (in this document) includes any misconduct or act deemed a sexual offence according to the Criminal Code of Canada, the laws of the province, and canon law.

VULNERABLE PERSON – anyone in a state of infirmity, of physical or mental deficiency, or of deprivation of personal liberty which, in fact, even occasionally, limits their ability to understand or to want or otherwise resist the offence. A person may also be vulnerable due to a ministerial or other relationship in which there is an inherent imbalance of power which may be exploited.

ZERO TOLERANCE – is a term used to convey clearly that no one who has sexually abused a minor or vulnerable person shall remain in active ministry.

PRAYER
for
the Victims and Survivors
of Sexual Abuse

FATHER,

*Since your mercy has been revealed
In the tenderness of your Son Jesus Christ,
who said to his disciples:
"Suffer the little children to come unto me",
we pray that your Church may be a secure home
where all children and vulnerable adults are brought closer to your Beloved Son.*

*May all those who have been abused
physically, emotionally and sexually by your ministers,
be respected and accompanied by
tangible gestures of justice and reparation so that
they may feel healed with the balm of your compassion.*

We ask this through Jesus Christ our Lord

Amen

<http://www.protectionofminors.va>



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Thorold, ON L2V 4Y6
905-684-0154

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