

SEXUAL MISCONDUCT POLICY AND PROCEDURE

Applicable to Clergy and Laypersons, including Officers, Members and Volunteers

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NOTE: It is intended that the policy and procedure will comply with the laws of Canada and the Province of New Brunswick. Where this policy and procedure are in conflict with the law, that appropriate section is severable from the rest of the document.

1. PREAMBLE

- i) We affirm that every human being is created in the image of God who has made us for loving, covenantal relationships with our Creator, others and the world. We believe that our peace arises out of right relationships. Our personal dignity, freedom and bodily integrity are ensured by faithfulness to just covenants of mutual entrustment, care and respect. Such covenants undergird the moral framework of our communal life, responsibilities and entitlements.
- ii) We further acknowledge that children, adolescents, the infirm and elderly are particularly vulnerable to the tragic consequences of broken covenants and abusive treatment. Special care must be taken to protect their individual rights and personal integrity.
- iii) There is universal agreement that respect, reverence and mutuality are necessary in all human relationships. This agreement about the fundamentals of human relations, including sexual relations, leads to a firm judgment and condemnation of sexual abuse and exploitation ...

Sexual abuse is self-gratification by exploitation. It makes an impersonal object of the other person, abusing both the person and sexuality itself. Abuse occurs in a wide range of sexual activities: always in rape and child molestation, usually in adultery and prostitution and sometimes even in marriage. Sexual abuse also occurs in the socially subtle aspects of sexism and in sexual harassment of employees in the workplace. The Church must be clear about these violations of sexual intimacy. It must be explicit in its teaching about these particular aberrations of sexual relations, aggressively proactive about its social policy and action touching on these areas, and forthright in dealing with violations in its own community. (Lambeth Conference Report, 1988)

2. POLICY

- i) The Diocese of Fredericton undertakes to ensure that all activities, work and pronouncements with which it is engaged uphold the values of love, truth and justice and are demonstrably free from violence, coercion, and discrimination.
- ii) It is our policy that sexual assault, sexual harassment, or sexual abuse of any kind, whether to an adult, adolescent or child, male or female, by or to any clergy and lay persons, including officers, members and volunteers, will not be tolerated.
- iii) We will actively try to prevent such occurrences and deal with any accusations promptly, seriously and systematically, in cooperation with proper authorities where appropriate.
- iv) Because clergy and lay persons, including officers, members and volunteers, work and deal with people in and from a variety of ecclesiastical and civil jurisdictions, both within and outside of Canada, attention will be paid to the need of differing situations, where possible.
- v) Particularly in relationships of trust where power and authority and confidentiality are dynamic, the greatest of care will be expected to be

exercised to avoid taking advantage of trust, or abusing power and the responsibility of authority.

- vi) At all times an ethic of mutual respect, responsibility and caring, as well as modeling wholeness and healthy sexuality in relationships, will be the goal. We will practice, advocate and educate to that end.
- vii) Adherence to this policy is seen and understood as a mandatory and vital component of our life and work together as clergy and lay persons, including officers, members and volunteers of the Diocese of Fredericton. This policy applies to, but is not limited to, the following: The Diocesan Synod of Fredericton, including its officers and employees, members of the Diocesan Council and its committees, parishes and Parish Corporations, including Rectors, Church Wardens and Vestries, and Parish corporation officers, members, employees and volunteers.

3. DEFINITIONS

a) Sexual Harassment

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

b) Sexual Assault

- i) For the purposes of this policy, a "sexual assault" is an assault, which happens in circumstances of a sexual nature and violates the sexual integrity of the person who is assaulted.
- ii) These definitions and principles shall be considered when applying this definition and this policy:
 - 1 An 'assault' happens when one person intentionally applies force or threatens to apply force to another person without that other person's consent
 - 2 The assault will be "aggravated" if the person who is assaulted is wounded, maimed or disfigured or his or her life is endangered.
 - 3 In deciding if an assault is sexual, many factors may be considered including the part of the body touched or threatened to be touched, the situation in which it occurred, the words and gestures of the person

alleged to have committed the assault and any words and gestures of the person alleged to have been assaulted.

4 Gender is not relevant to a determination of whether a sexual assault has occurred.

5 Sexual Offences are described in Part V and Part VIII of the Criminal Code of Canada and some of those offences are:

- aggravated sexual assault;
- bestiality;
- incest;
- inviting a person under the age of sixteen to touch for a sexual purpose;
- sexual assault;
- sexual assault with a weapon or sexual assault causing bodily harm;
- sexual exploitation which is sexual interference or invitation by a person in a position of trust or authority;
 - a. towards a young person,
 - b. towards a person in a relationship of dependency or
 - c. towards a person with a mental or physical disability; and
- sexual interference which is sexual touching of a person under the age of sixteen

NOTE:

Consent is understood to be non-coercive. It is not consent if a complainant consents, under threat, to be involved in an activity of a sexual nature or one, which affects the sexual integrity of the person. It is not consent if the consent of a complainant is obtained by fraud or by the influence of a person in authority (such as a counselor, pastor or guardian) over the complainant. Also, the law may prevent a person from consenting because of mental or other incapacities or age. It is not consent if the complainant is under the age of 16 years unless certain legal exceptions apply, including a defined closeness in age between the complainant and the person alleged to have committed the sexual assault. However, if a person alleged to have committed a sexual assault is able to show he or she had an honest belief of consent, he or she might not be convicted of sexual assault.

(Criminal Code of Canada, R.S., 1985, c. C-46)

- c) Sexual Misconduct
 - i) For church workers (lay or ordained, paid or volunteer), sexual misconduct is defined as sexual harassment, sexual assault, sexual exploitation, sexual abuse or any other sexual activity or conduct (including but not limited to sexual intercourse) in which the church worker takes advantage of the vulnerability of a person under her or his pastoral care or other guidance or leadership. Such behaviour, whether it appears to be initiated by the church worker or by the person under care or leadership, shall be deemed to be sexual misconduct.
- d) Sexual Exploitation
 - i) Sexual exploitation is a term to describe behaviour which may incorporate sexual harassment, assault or abuse, and sexual misconduct. It focuses on the power of the perpetrator in relation to the vulnerability of the victim and refers to the act of taking advantage of such vulnerability for one's own pleasure/gain.

4. PRINCIPLES

- i) Confidentiality will be respected, except where the law demands otherwise, or where others are at risk.
- ii) An accused person will be presumed innocent until proven guilty.
- iii) Both complainants and respondents have the right to be represented by legal counsel or other representative of their own choice.
- iv) All complaints will be taken seriously and will be investigated as quickly as possible. All time frames specified in this policy shall be strictly adhered to unless an extension is consented to by the Secretary of Synod, the complainant and the respondent, such consent not to be unreasonably withheld.
- v) Nothing must be done to interfere with a criminal investigation.
- vi) A complaint of sexual assault or abuse of children shall be reported to civil authorities immediately and in accordance with the laws of the appropriate jurisdiction.
- vii) Preserving the safety and well-being of a complainant, or others who might be affected, will be a priority.
- viii) The Diocese of Fredericton will do all it can to preserve the safety of the places of work for clergy and lay persons, including officers, members and volunteers.
- ix) Any action taken will be done with pastoral sensitivity, upholding confidentiality, unless required to disclose by law or where safety issues exist, or waived by the parties.
- x) Everyone is entitled to pastoral care.
- xi) No person or persons shall knowingly make a false or vexatious complaint. To intentionally make such a complaint will be treated in itself as a form of harassment subject to this policy.

5. PREVENTION

- i) The Officers of the Synod and the Diocesan Council will take responsibility for education both about sexual assault and sexual

- harassment and about this policy among clergy and laypersons, including officers, members and volunteers.
- ii) The same groups will strive to make the place of work for clergy and lay persons, including officers, members and volunteers, free from sexual assault and sexual harassment.
 - iii) This policy and any other policies addressing harassment will be explained to clergy and laypersons, including officers, members and volunteers. The members of the clergy, lay officers of Synod and the lay members of the Diocesan Council are required to sign a written agreement (Appendix G) in compliance with this policy.
 - iv) When clergy and lay officers of Synod and lay officers of the Diocesan are hired, agreement to comply with all personnel policies of the church including those about sexual assault and sexual harassment is required in writing as a condition of employment.
 - v) When volunteers for the Diocesan Council, or Diocesan or Parish Corporation committees and other senior offices are chosen, a written agreement to comply with this policy is required.
 - vi) Part of the orientation for Parish Corporations, the Cathedral Chapter, Synod officers and staff, and the Diocesan Council will include a review of this policy and the procedures for making complaints.
 - vii) Training for understanding of acceptable and unacceptable behaviours and orientation to the policy will take place within six months of the adoption of this policy, and thereafter at least once every two years. Special training will take place for chairs of committees and task forces each triennium.
 - viii) The Secretary of the Synod shall have the responsibility to oversee the orientation of new staff and ongoing training of staff concerning the workplace issues of harassment, discrimination, gender sensitivity, sexual misconduct and ethical behaviour.

6. HOW TO PROCEED WITH COMPLAINTS OF SEXUAL ASSAULT OR SEXUAL HARASSMENT OF ADULTS

a) Informal Process:

- i) In the case of sexual harassment, it is expected that the person responsible for the harassment be informed simply and clearly that it is unacceptable behaviour and must stop. Where there is an allegation concerning the abuse or harassment of children, this process is precluded and all complaints are referred to the appropriate external authorities. (See Appendix "A")
- ii) During this informal process stage, a person who feels that he/she is being harassed may request help from the first line designate listed below to assist with the communication to the person responsible for the harassment. Decisions about future action of any sort will be made by the person complaining in a confidential atmosphere, except if the person hearing the complaint believes that the individual complaining or anyone else is at risk. (See Appendix "B")

Complainant

Parish level: parish clergy or layperson

Archdeacons

Synod Officers

Members of the Diocesan Council and committees

Diocesan employees

Secretary of Synod

First Line Designate

- Archdeacon

- Secretary of Synod

- Senior Archdeacon

- iii) The first line designate shall complete a written record of the concern raised, action taken, and the outcome of the contact. This record shall be sent to and/or retained in confidence by the Secretary of the Synod. The Secretary of the Synod shall retain in a central record all informal complaints made or referred to him/her under the policy.

b) Formal Process

i) Diocesan Sexual Misconduct Committee:

The Diocesan Council shall appoint a Diocesan Sexual Misconduct Committee (hereinafter referred to as "the Committee") that shall consist of four members as follows, two being a quorum:

- (a) two lay persons; and
- (b) two clergy members.

The Diocesan Council shall designate the Chair of the Committee. The Committee may enlist the services of an experienced investigator and/or mediator from a Panel of Independent Fact Finders and/or a Panel of Mediators appointed by the Diocesan Council. The Diocesan Council will appoint a Panel of Investigators each triennium to assist with any complaint filed during that triennium.

- ii) If the complainant wishes to proceed to the Formal Process, the complaint shall be made in writing to the first line designate (listed above) with a copy to the Secretary of the Synod. The help of the first line designate may be sought to assist with this initial stage of the formal process. The complaint letter needs to contain some particulars of the behaviour, but need not be exhaustive in its level of detail. The letter should request that the complaint be investigated.
- iii) If a complaint is made against the Secretary of the Synod, it should be filed with the Senior Archdeacon who does not hold the office of Secretary of the Synod.
- iv) If a complaint is made against the Bishop, it should be filed with the Metropolitan.
- v) All first line designates are to advise the Secretary of the Synod of the complaint immediately upon its receipt, and the Secretary of the Synod will immediately advise the accused person of the complaint and its

- particulars, no later than three (3) working days after receiving the complaint.
- vi) The Secretary of the Synod will ensure an investigation is commenced immediately by the Committee.
 - vii) Any and all written complaints shall be forwarded to the Secretary of the Synod's office and the Secretary of the Synod shall retain in a central record all written complaints made or referred to him or her under the policy. All employees shall have full access to a written complaint filed against them and retained in the Secretary of the Synod's records.
 - viii) The Secretary of the Synod may refer a matter falling under the scope of this Policy to the Committee on his or her own motion; i.e., notwithstanding that no complaint has been filed.
- c) Investigation process:
- i) The Committee will complete the investigation on its own or through an independent fact finder and a written fact finding report shall be prepared within four weeks of the written complaint being filed.
 - ii) Pastoral care and counseling assistance will be offered to the complainant and the respondent. However, the person(s) doing the investigation cannot be a person(s) who will provide pastoral care and counseling to the complainant or respondent.
 - iii) The investigation report will record the specific details of the incident(s). The written fact finding report will contain information gathered from the complainant, the respondent and others, party to the alleged incident(s):
 - the allegation - clearly described
 - the response to the allegation - clearly described
 - identified and confirmed facts related to the incident(s)
 - alleged but unconfirmed statements related to the incident(s)
 - a factual conclusion, if possible
 - deductions from existing facts
 - recommendations from verified facts
 - iv) The process may be halted at any point during the investigation by the person complaining and upon the withdrawal of the complaint.
 - v) The Committee shall submit its fact finding report and recommendations for remedial action, to the Secretary of the Synod, within six weeks of its receipt of a written complaint.
- d) Decision Making Process
- i) The Secretary of the Synod, within one week of the receipt of the written fact finding report and recommendations, will make a finding on whether the complaint is substantiated or not, or, if appropriate, refer it to mediation.
 - ii) If the Secretary of the Synod determines the complaint has been substantiated, appropriate discipline and/or remedial actions are to be taken at his or her discretion, which could include referral to criminal proceedings. If criminal proceedings result the procedure contained in these guidelines shall come to a halt until the criminal matter is resolved.

- iii) The Secretary of the Synod, the Committee or any independent fact finder or mediator, shall not in any circumstances advise the complainant that the procedure under this policy is a substitute for proceeding with criminal, civil, or administrative proceedings outside the policy. The complainant will be advised of rights to counsel in order to take outside action.
- e) Mediation Process
- i) The Diocesan Council each triennium will appoint a Panel of Mediators to assist with any complaint filed during that triennium.
 - ii) If the matter is referred to mediation both parties will be advised of their right to independent legal advice and the right to have their counsel or advisor attend at mediation. The Diocese of Fredericton shall be responsible for the costs of the mediation including the mediator and the parties shall be responsible for their own legal expenses.
 - iii) If the matter is referred to mediation no action shall be taken by the Secretary of the Synod and both parties agree not to initiate any civil procedure or human rights complaint until the mediation process is completed. If civil procedures have been commenced, both parties agree to suspend further action until the mediation process is completed.
 - iv) The mediation process is to be expedited as quickly as possible and shall be completed no longer than one month after the investigation report was filed with the Secretary of the Synod.
 - v) If the mediation process fails, the Secretary of the Synod shall take whatever action s/he deems appropriate. This action may include dismissing the charge or imposing appropriate discipline.
 - vi) After mediation is completed either party to the complaint may take their complaint at their own expense for adjudication with the appropriate secular authorities. (See Appendix "B")
 - vii) An appeal of the Secretary of the Synod's decision may be made to the Bishop within thirty (30) days of the Secretary of the Synod's decision by filing a written request with reasons for the appeal. The Bishop shall respond within two (2) weeks of the receipt of the written request for appeal.
 - viii) Following the mediation, the Secretary of the Synod will then determine the course of action. This may include imposing appropriate discipline.
 - ix) Written records will be kept for a minimum of ten (10) years in confidential files.
 - x) All the deliberations will be kept confidential within the stated guidelines as outlined in Appendix "C."
- f) External Process:
- i) A report of the incident(s) may be made to the human rights commission, police, or other civil authority.
 - ii) The Role of a Third Party:
 - iii) Those who observe or know of incidents of sexual harassment or sexual assault have the responsibility to assist in making the workplace free from sexual assault and sexual harassment. Anyone having knowledge of or observing such incidents may encourage the person harassed or

assaulted to begin the process of complaint, or share their concerns with a first line designate or the Secretary of the Synod to discern any further steps that may be appropriate.

7. SEXUAL ASSAULT OR SEXUAL HARASSMENT OF CHILDREN, VULNERABLE ADULTS OR ADOLESCENTS (aged 16-18) - SPECIAL CONCERNS

a) Children and vulnerable adults:

- i) The law requires that complaints of sexual assault or sexual harassment of children must be reported immediately to the appropriate child protection agency in the Province. Complaints concerning vulnerable adults must be reported immediately to the appropriate body.
- ii) Suspicion of assault or harassment requires similar reporting if there are "reasonable grounds".
- iii) The Diocese of Fredericton will co-operate with authorities in their investigation.
- iv) No further internal investigation by the Diocese will proceed at this time in order to not jeopardize the criminal investigation. However, legal and counseling help may be offered.
- v) Pastoral care for the respondent and the respondent's family will be offered. Pastoral care for the church community affected will be provided.
- vi) A staff person under investigation under this section may be immediately suspended, with or without pay, which decision shall be in the complete discretion of the Secretary of the Synod.
- vii) A volunteer under investigation under this section may be immediately suspended from such volunteer activity, with the terms of that suspension to be determined at the discretion of the Secretary of the Synod.
- viii) Therapeutic or pastoral help will be offered quickly to the child's or vulnerable adult's family and the vulnerable adult or child, in person, by the Secretary of the Synod.
- ix) Balancing protective action, correct legal response, pastoral care and confidentiality will be challenging and will require consultation with experts.
- x) A clergy, layperson, employee or volunteer found guilty of sexual assault of a child or vulnerable adult in the criminal or civil court process will be dismissed from employment and/or removed as a volunteer with the Church.
- xi) If the investigation is inconclusive, or if the accused is found not guilty, other appropriate action may still be considered by the Secretary of the Synod in consultation with the Committee.

b) Adolescents:

- i) Care will be taken to determine whether the involvement of parent(s) or guardian(s) is appropriate.

- ii) If it is determined that section 7(a) does not apply, the adolescent complainant may follow the procedures outlined in section 6.

8. DISCIPLINE

- i) Appropriate discipline and/or remedial actions may include: caution, warning, censure with probation and possibly rehabilitation, suspension with or without terms, dismissal from employment, or removal from a volunteer position with the Diocese of Fredericton.
- ii) The Secretary of the Synod shall render his/her decision in writing on the discipline to be invoked and provide a copy to the complainant and respondent, and give reasons for the discipline invoked.
- iii) Should a complaint be found to be falsely made and malicious in nature, discipline may be imposed on the complainant.
- iv) Records of formal proceedings and discipline will be retained for at least ten (10) years.
- v) Recommendations for future employment elsewhere will include reference to the cause of dismissal for sexual misconduct.

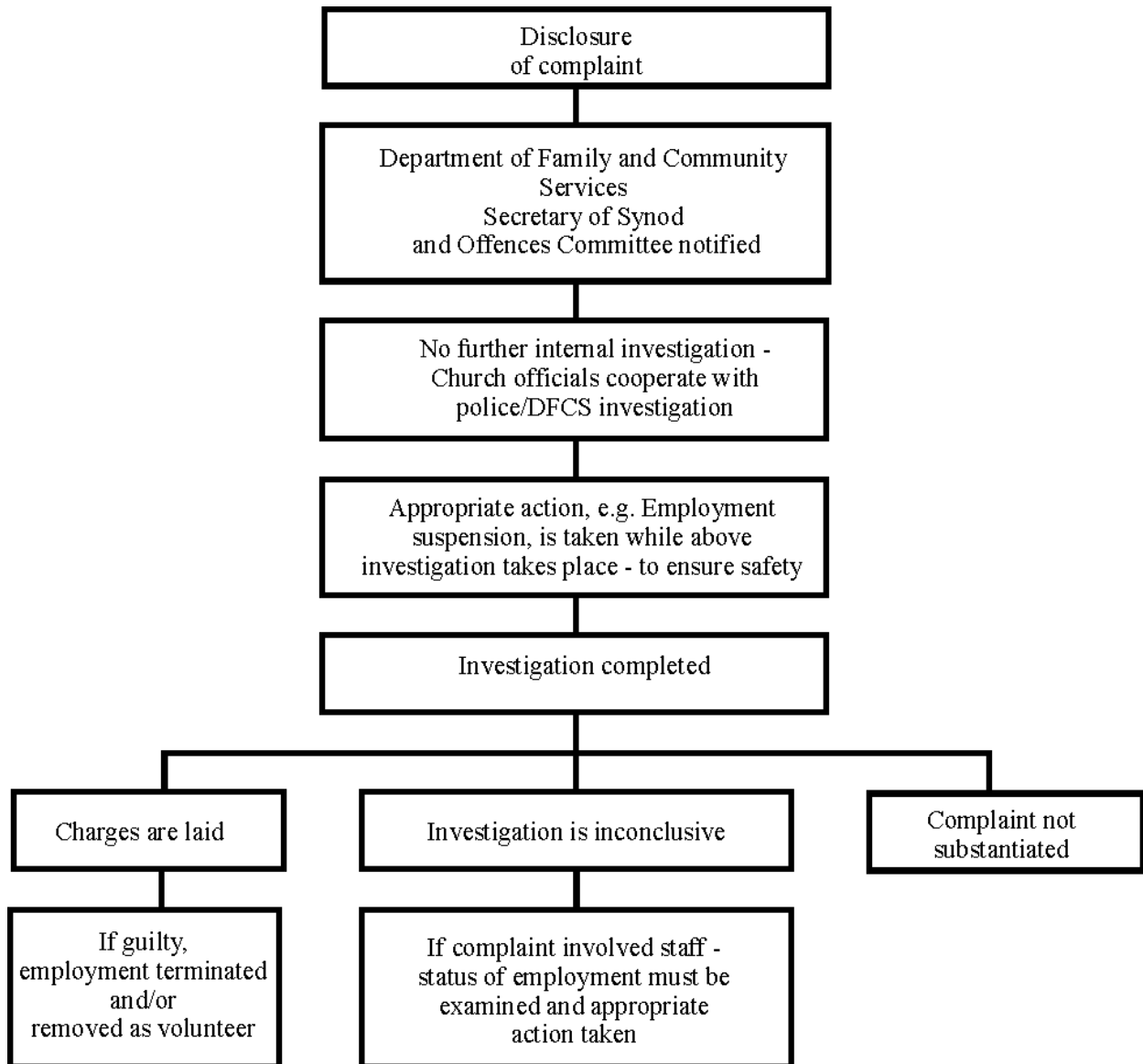
9. UPDATING AND REPORTING PROCESS

- i) The Secretary of the Synod shall report on the use of this policy at each regular meeting of the Synod. The report shall include statistics on the number of complaints made pursuant to this policy since the last report, the number of complaints resolved and in what manner they were resolved. The report may include recommendations from the officers of the Synod regarding any proposals to modify this policy.
- ii) These procedures will be monitored by the Diocesan Council, on an as needed basis, but at least every two (2) years.

Revised and Adopted 17 September 2008

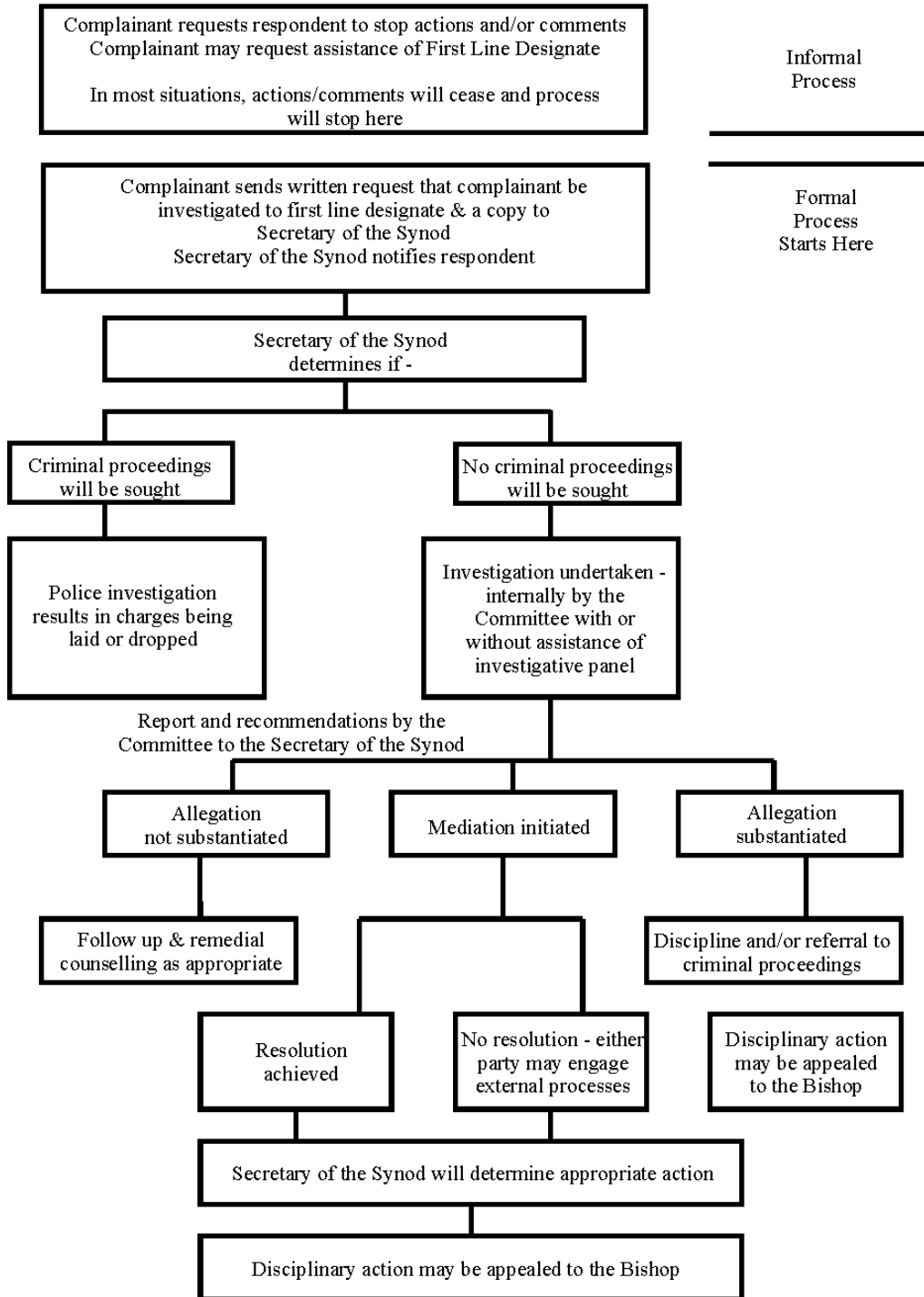
Appendix "A"

Flowchart of Procedures with a complaint involving sexual misconduct and a child



Appendix “B”

Flowchart of Procedures with a complaint involving sexual misconduct between adults



Appendix “C”

CONFIDENTIALITY

As a first principle information will be held in confidence unless required to disclose by law, or where safety issues exist, or where confidentiality is waived by the parties. Matters of confidentiality may bear directly not only upon the proper process of investigation, but on the well-being and recovery of victims and individuals involved. When an offense has been alleged and an investigation is in process, immediate colleagues may become privy to confidential information. To promote collegial support, thereby empowering one another with confidence and hope, those aware of allegations should be admonished against gossip and rumour, and be required to hold such information as confidential.

Appendix “D”

MEDIA RELATIONS

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

- vii) Preparation is important in talking to the media. Written statements are best as they require such preparation and give a clear message of cooperation.
- viii) All services of worship in the church are public. Members of the media are welcome to attend worship with every right and obligation that entails. However, cameras, recording devices or disruptive behaviour are prohibited.

Appendix “E”

PASTORAL CARE

a) Pastoral Care for the Complainant:

- i) In most situations, a complainant will be very upset by what is alleged to have happened, and will require compassion and support. Care must be taken to ensure that the complainant is not further victimized. Pastoral care to the complainant is a corporate responsibility and shall be given priority and attention from the beginning of the process onward. The complainant will be informed of the process of the investigation including the commitment to confidentiality.
- ii) A pastoral care provider will be appointed by the Secretary of the Synod to the complainant and to the complainant’s family for the purpose of support from the beginning of the process forward.
- iii) Assistance to find a qualified therapist and/or financial assistance for the purpose of therapy may also be offered.

b) Pastoral Care for the Respondent:

- i) It is understood that a person is innocent until proven otherwise. Confronting any person with an accusation which can lead to disciplinary action should be undertaken as a pastoral and caring act, which also offers the possibility for restoration and healing. Pastoral care to the respondent is a corporate responsibility and shall be given priority and attention from the beginning of the process onward. The respondent will be informed of the process of the investigation including the commitment to confidentiality.
- ii) A pastoral care provider will be appointed by the Secretary of the Synod to the respondent and for the respondent’s family for the purpose of support from the beginning of the process forward.
- iii) Assistance to find a qualified therapist and/or financial assistance for the purpose of therapy may also be offered.
- iv) Where allegations have been substantiated, confession and acknowledgment of responsibility by the offender should be regarded as the necessary first step in any possible restoration. Therapeutic evaluation as well as treatment if deemed necessary are required for restoration to the ministry.

(c) Sacramental Confession

Sacramental Confession shall not be heard by any person who has responsibility under these guidelines to deal with the complaint at hand.

Appendix “F”

THIS IS A MEDIATION AGREEMENT made this _____ day of
_____ 20 ____ .

B E T W E E N: _____

_____ OF THE FIRST PART

- and -

_____ OF THE SECOND PART

- and -

The Diocese of Fredericton

_____ THE MEDIATOR

1. AGREEMENT

The parties agree:

- (1) To attempt to settle a controversy through the mediation process on the terms contained in this agreement;
- (2) That the parties will be present at mediation or will have a representative present who will have authority to settle the case on the spot;
- (3) That the parties enter in this mediation with the intent to work towards a mutually acceptable settlement and will conduct themselves in good faith at all times;
- (4) That the mediation will be closed and all discussions between the parties will be confidential and no communication made by the parties or by the mediator will be admissible in evidence at any subsequent proceeding except as mutually agreed upon.

2. IMPARTIALITY OF THE MEDIATOR

- (1) The parties acknowledge that the mediator is an impartial third party and that the mediator's role is to assist the parties to negotiate a voluntary settlement of issues arising between them. As such, the parties acknowledge that the primary responsibility for resolving their disputes rests with them and not with the mediator who acts as a facilitator only. It is understood by the parties that the mediator will not represent either of the parties in any subsequent legal proceedings between them.

3. ACKNOWLEDGEMENTS BY THE PARTIES

- (1) The parties acknowledge that the mediator will not give legal advice or a legal opinion with respect to individual rights, obligations and entitlements under the laws of the Province or any other jurisdiction.
- (2) The parties further acknowledge that they have been specifically advised by the mediator to obtain independent legal advice during the course of mediation.
- (3) In the event that one of the parties refuses to obtain independent legal advice, he or she hereby agrees to indemnify and save the mediator harmless from any and all liabilities arising out of or related to any mediated settlement.

4. MEDIATOR'S CONFIDENTIALITY

- (1) During the mediation process the mediator may disclose to either or both parties any information provided by the other party unless the disclosing party has specifically requested the mediator to keep the information confidential.
- (2) The mediator will not disclose to anyone who is not a party to the mediation except:
 - (a) with the consent of all parties;
 - (b) where required by law;
 - (c) where the information suggests an actual or potential threat to human life or safety.

5. NO SUMMONS OR SUBPOENA

- (1) It is agreed that none of the parties will call the mediator as a witness to testify as to the fact of a mediation or as to any oral or written communication made during mediation. Nor will the parties summon, subpoena, or seek access to any document prepared for or in connection with mediation including any records, notes or work product of the mediator.

6. MEDIATION SESSIONS

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

7. COSTS OF MEDIATION

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

8. REPORT BY MEDIATOR

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

9. TERMINATION OF MEDIATION

- (1) All of the parties have the right to withdraw from the mediation process at any time during mediation on notice to the mediator and the other party.
- (2) The mediator has the right to suspend or terminate the mediation process at any time when in his or her opinion continuation of the process would result in harm or prejudice to one or both parties.

10. UNDERTAKINGS

- (1) The parties hereby undertake to make full disclosure of all relevant information reasonably required by the mediator to understand the outstanding issues.
- (2) No party or anyone acting on their behalf, will initiate or take any fresh steps in any legal proceeding between them while the mediation is in process.

11. GOVERNING LAW

- (1) This agreement will be governed by and construed according to the laws of the Province of New Brunswick, in the Country of Canada.

12. SEVERABILITY

- (1) The invalidity or enforceability of any provision of this agreement will not affect the validity or enforceability of the other provisions and any invalid provision will be severable.

13. CLOSED MEDIATION

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

14. TERMINATION

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

_____	_____
Date	
_____	_____
Date	
_____	_____
Date	Mediator

10/2006

Appendix "G"
B-4 Sexual Misconduct Policy and Procedure
Diocese of Fredericton
Anglican Church of Canada

Name: _____

Office / Position: _____

I have ...

- I have read the Diocese of Fredericton Sexual Misconduct Policy, completed the training workshop and agree to comply with this policy.

Signature _____

Date _____

10/2006



Appendix "G"
B-4 Sexual Misconduct Policy and Procedure
Diocese of Fredericton
Anglican Church of Canada

Name: _____

Office / Position: _____

I have ...

- I have read the Diocese of Fredericton Sexual Misconduct Policy, completed the training workshop and agree to comply with this policy.

Signature _____

Date _____

10/2006